The Committee will meet at 2 pm in Committee Room 6.

1. **Items in private:** The Committee will consider whether to take item 4 in private.

2. **Transport and Works (Scotland) Bill:** The Committee will take evidence on the general principles of the Bill at Stage 1 from—

   Tavish Scott MSP, Minister for Transport, Frazer Henderson Head of Bill Team, Andrew Brown, Solicitor OSSE, Catherine Wilson, Solicitor OSSE and Damian Sharp Head of Major Projects, Transport Scotland.

3. **Prostitution (Public Places) (Scotland) Bill:** The Committee will take evidence on the general principles of the Bill at Stage 1 from—

   Alison Douglas, Head of Corporate Killing & Prostitution Team and Patrick Down, Corporate Killing & Prostitution Team

   and then from—

   Margo MacDonald, MSP

4. **Transport and Works (Scotland) Bill:** The Committee will consider the possible contents of its Stage 1 report on the Transport and Works (Scotland) Bill.
Agenda Item 3

Submission from Margo MacDonald, MSP

LGT/S2/06/24/1

Agenda Item 4

Paper from the Clerk

LGT/S2/06/24/2(P)
Evidence to Local Government Committee from Margo MacDonald, MSP

Prostitution in Public Places Bill

Although the Committee will examine the provisions of the Bill itself, and although the Policy Memorandum has no legal standing and is not part of the Bill, its purpose is to establish and explain the context in which the Bill is set. Therefore, its tone and contents require to be neutral and accurate, simply recording and reproducing the intention and spirit of the proposed legislation.

The Policy Memorandum departs from this in Para 2.

The Expert Group established by the Executive produced a Report on the management of street prostitution aimed at reducing violent attacks on street prostitutes, and ensuring that the nuisance the practice is capable of generating is eliminated so that the public, residents, employees or visitors to the area unconnected with either buying or selling sexual services, will be able to go about their business without harassment. The Group also proposed an equality of treatment if either buyer or seller had a complaint against them upheld.

The Policy Memorandum fails to establish the context for these objectives, which rests on the Group’s acceptance that although the numbers of street prostitutes are shrinking, there will be a residual continuation of this form of buying and selling sex for the foreseeable future, even though policies are put in place to help women exit a very dangerous life-style. The Expert Group, drawing on the experience of the support given to prostitutes in Scotland’s three biggest cities, advised that these services must be located in the areas where prostitutes are known to work.

The Memorandum (in common with the draft guidance for local authorities) does not provide a clear picture of how the Expert Group intended the change in the law to dove-tail with the practical application of the policy objectives and guidelines for local agency partnerships instigated by local authorities.

At this point, it is important to stress that any law concerning the conduct, containment or management of street prostitution will in reality only affect Aberdeen, Glasgow, Edinburgh, and to a much lesser extent, Dundee. Therefore it is relatively easy to test the feasibility of the Expert Group’s recommendations regarding the new offence’s being complaint-led, and local agencies deciding on where and how to deliver the services needed by prostitutes.

Both the Policy Memorandum and the Guidelines for Councils omit to report the Expert Group’s observation that local partnerships should be free to choose to deliver these services in a zonal manner if that is appropriate to circumstances, and geography, in their areas, and if that is the way in which
they can best discharge their duty of care both towards a vulnerable group of their citizens and the general community.

The Group did not argue in favour of Tolerance Zones, which are a completely different concept. But it did record that women felt safer working in them, were attacked less frequently and, provided local geography allowed, were viewed as being much less of a nuisance by the wider community. The Expert Group stressed the importance of any managed zone being isolated from residential or 24hr commercial areas...such as in Aberdeen and Dundee, and was the case in Edinburgh until the red-light area changed by redevelopment and new housing.

As was shown during the Salamander St exercise in Leith, and is patently obvious in Aberdeen, if prostitutes know they are much less likely to be charged with soliciting if they operate in an area at a distance from, or screened from, the general public’s attention, they will confine their soliciting to that area. Consequently, the complaints from the public are minimised.

But if the new offence is not complaint-led, and prostitutes can be charged whether or not they have actually offended etc a third party, there is no incentive for them to solicit in a discreet area, where they will not normally encounter the general public.

**ABERDEEN**

Dropping the idea of a charge for an offence (alarm, offence or nuisance) being activated on the complaint by a third party, could have little effect on the present system of managing street prostitution in Aberdeen, as it is contained in a dockside area designated and policed by Grampian Police. The only change might be to charge noisy car-loads of young men, who sometimes cruise round the managed area, with creating a nuisance or causing alarm as per the new offence. Precisely whom they would be alarming could be problematic as the selling and buying of sexual services takes place after the factories etc are shut.

**DUNDEE**

In Dundee, a similar situation exists. Probably fewer than ten women work in the area where prostitutes are. This commercial area also has workplaces that are shut at night, and some years ago became the city’s de facto red light area when, following prompting from the Tayside police, the women moved there from their previous location that had become unsuitable due to new building developments.

**GLASGOW**

In Glasgow, the geography and history of managing street prostitution is different from the other three cities. The red light area used to be centred on Blythswood Square but some years ago moved down the hill towards the Waterloo St bus station. Enforcement of the old law on soliciting meant that Glasgow prostitutes commonly were imprisoned for non-payment of fines, unlike the women working in the managed areas in Aberdeen or Edinburgh,
who were seldom prosecuted. (Dundee also pursued a policy of enforcement, but the surprisingly high figure of convictions reflected the activities of only one lady.)

The policy for dealing with street prostitution in Glasgow in fact is very similar to the range of support and harm reduction services offered by voluntary and statutory services in Aberdeen and Edinburgh. The main differences are firstly, the sheer numbers of street prostitutes, the regularity with which many of them are goaled and the changing nature of the area in which they have worked and the advent of another area being used for soliciting.

Edinburgh

The Capital is the city most in need of clarity as regards the change in the law and the Executive’s guidelines on dealing with street prostitution. Due to the activity of soliciting being displaced from a relatively discreet location agreed between police, the prostitutes and their support agency, women moved to Leith Links, a residential area. This provoked the formation of a Residents’ group and much criticism of the idea of Tolerance Zones, quite incorrectly based on the idea that they could be imposed on a residential area. But as stated above, nobody is arguing for a re-instatement of the former Non-harassment or “Tolerance” Zone.

It’s likely most Edinburgh Councillors would opt for a managed area in which to deliver the health and support services if an out-of-the-way location can be identified. The Expert Group believed the Council should be able to decide this for itself.

It’s difficult to see any change in Edinburgh’s situation if there isn’t a complaint-led process to provide an incentive for prostitutes and their clients to frequent a discreet area: under the proposals as they stand, even if no member of the public is present to be offended etc, they can be charged as though they had given offence.

Also, if the prostitutes are scattered, or if they hide from the police (or residents), it becomes almost impossible to deliver the services recommended in the Guidance for Councils.

Conclusion

The change to the general thrust in the Expert Group’s Report on the need for a complaint-led process, locally-decided strategies of reconciling the different interests of street prostitutes and the general community, including managed areas in which services would be delivered, and an equalisation of treatment for the buyers and sellers of sexual services.

Unfortunately, there are some ambiguities in the proposed legal changes, and misleading inaccuracies in the Policy Memorandum and draft guidance for local authorities. But these can be amended on the recommendation of the Committee.