



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 9 February 2016

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JUSTICE COMMITTEE
6th Meeting 2016, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)
*Roderick Campbell (North East Fife) (SNP)
*John Finnie (Highlands and Islands) (Ind)
*Margaret McDougall (West Scotland) (Lab)
*Alison McInnes (North East Scotland) (LD)
*Margaret Mitchell (Central Scotland) (Con)
*Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Walter Drummond-Murray (Scottish Government)
Michael Matheson (Cabinet Secretary for Justice)
Colin McConnell (Scottish Prison Service)
Denise Swanson (Scottish Government)
Paul Wheelhouse (Minister for Community Safety and Legal Affairs)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Committee

Tuesday 9 February 2016

[The Convener opened the meeting at 10:06]

Decision on Taking Business in Private

The Convener (Christine Grahame): I welcome everyone to the sixth meeting in 2016 of the Justice Committee and ask those present to switch off mobile phones and other electronic devices, as they interfere with broadcasting even when they are switched to silent. We have received apologies from Margaret McDougall.

I ask the committee whether we can move to agenda item 9, on the Armed Forces Bill, which is United Kingdom legislation, and whether we can discuss that item in private. Does the committee agree?

Members indicated agreement.

The Convener: We now move into private session.

10:07

Meeting continued in private.

10:22

Meeting continued in public.

Commission on Women Offenders

The Convener: Now that we are back in public session, we move to our main item of business today, agenda item 2, which is our annual evidence session on the progress on implementing the recommendations of the commission on women offenders. I welcome to the meeting Michael Matheson, the Cabinet Secretary for Justice; Colin McConnell, chief executive, Scottish Prison Service; and Kerry Morgan, community justice division, Scottish Government.

We will go straight to questions from members, and Alison McInnes is first.

Alison McInnes (North East Scotland) (LD): Good morning, cabinet secretary.

The Cabinet Secretary for Justice (Michael Matheson): Good morning.

Alison McInnes: I was interested to read the update on the progress that has been made over the past year on the issues relating to women offenders. At the heart of that was a service redesign, particularly with regard to community justice centres, and I would be grateful if you could update us on the progress that has been made. There has, of course, been some divergence from the report's recommendation that similar types of centres be rolled out across the country, with the Government deciding, I think, to have very localised and locally responsive centres. Could you give the committee some more information on that matter?

Michael Matheson: Sure. You are correct to say that we sought to give local partners a level of flexibility to design services in a way that they thought would best reflect local need. All in, 12 different projects were taken forward, some of which—for example, the tomorrow's women centre in Glasgow—went down a justice centre-type route. In other areas, such as Forth Valley, a different approach was taken of redesigning services that were already being delivered, but with the same intention of working with women to divert them from the prison system.

Over the past year, those projects have been evaluated, and that evaluation has shown that a range of them have been effective in reducing the need for women to go into the custodial estate and in helping to support women who come out of that environment or who might be on remand in the community. The evaluation that highlighted the progress that has been made in the different project areas was published last autumn, and we

intend to continue to work with some of those partners in the months and years ahead as they continue to develop delivery of those services at a local level.

It is fair to say that we did not take the route of everyone having to have a justice centre; we wanted to allow local partners to design what they felt best reflected their particular circumstances. A justice centre might not be the most appropriate route for rural areas. A more bespoke approach will allow such areas to take forward a model that they think is appropriate.

Alison McInnes: I accept the need for flexibility, but are you comfortable that there is a consistent service available across Scotland?

Michael Matheson: It would be going too far to say that there is a consistent service. I would like there to be greater consistency of service, but we are not there yet. Part of the redesign is also about changing community justice provision in Scotland and the Community Justice (Scotland) Bill is about seeking to achieve that.

One of the ways in which we can achieve greater consistency is with the creation of community justice Scotland, which will have a national overview of what is happening at local level in community justice provision and will drive improvements in those areas. As well as allowing a flexible approach to be taken in local areas that reflects local needs and circumstances, it will help to achieve greater consistency through a collective effort.

I would not go as far as to say that we have consistency at this stage, but we are making progress towards that point while reflecting local circumstances.

Alison McInnes: Could I turn to alternatives to remand?

The Convener: I will let somebody else come in as I have a bit of a queue, but I will let you back in.

Gil Paterson (Clydebank and Milngavie) (SNP): Cabinet secretary, I want to ask about electronic tagging. How extensively has it been used to date on female offenders? Has it proved to be effective in enabling women to maintain family relationships, particularly with their children?

Michael Matheson: I will give you some statistics on electronic tagging for female offenders, if that would be helpful. During 2015, we had 1,806 restriction of liberty orders that involved electronic tagging. Of those, 86 per cent were for males and 14 per cent were for females.

Of those who came out of prison, 1,426 had a home detention curfew licence that used electronic tagging. In that case, 89 per cent were male and 11 per cent were female. I suspect that there will

be a question about the fact that that appears to be quite a low number of women compared to the number of men—

The Convener: Take care in reading my mind, cabinet secretary; it is a dangerous place to go.

Michael Matheson: I have known you too long, convener.

However, the female prison population is around 4.5 to 4.7 per cent of our overall prison population and 15 per cent of electronic tagging is done on women, so the proportion is much higher than it is for the male prison population.

It would be fair to say that compliance with electronic tagging curfews has been fairly good. There have been broad similarities between males and females; there have been slight differences but not significant ones.

The Convener: What are the compliance rates?

Michael Matheson: In 2015, the compliance rate was more than 82 per cent for women and around 85 per cent for males, so males are slightly more compliant by about 2 or 3 per cent, which is not a great margin given that the proportion of women who are electronically tagged is greater.

As far as specific efforts to keep women closer to their families are concerned, there is no doubt that the use of electronic monitoring can help to support that. However, I am not aware of any specific research that has been conducted into the use of electronic monitoring and helping to maintain family relationships. Instinctively, I think that we would say that, if someone has been given a tag and a home detention curfew and they still have their family there, that will clearly help them to maintain those family links.

Members will be aware that detailed work is being undertaken on the use of electronic monitoring. The expert advisory group is due to report in the next couple of months with its findings. The international evidence shows that electronic monitoring is most effective when it is used alongside a range of other measures to address some of the underlying causes that drive offending behaviour and family issues. The expert advisory group is looking at that type of issue.

10:30

Gil Paterson: Perhaps the Government will look at those statistics. We know that, particularly for women, family relationships break down, because husbands and partners go AWOL and children go into care and things like that. That is my general interest. Will you look at that impact? The thought process is that there is benefit for children if they are looked after better by their mums, with

support. Will you do some research and come up with figures on that?

Michael Matheson: At present, we do not have any research planned specifically on the use of electronic monitoring and family links, but the expert advisory group is looking at not only our experiences in Scotland but international experience. Last year—it may have been in the autumn—we hosted an event in Perth at which one of the leading experts in electronic monitoring came over from the Netherlands. He is a judge in the Netherlands, where a very sophisticated system has been designed that makes better use of electronic monitoring and that helps to drive better outcomes in addressing offending behaviour. A lot of detailed work has been put into developing the model there, which he presented to us. I attended the meeting, which was organised by the expert advisory group, and found it interesting. That is the sort of thing that the group is looking at in considering how we move forward with electronic monitoring in Scotland.

It is fair to say that we can get more out of electronic monitoring, but we need to ensure that the right safeguards are in place. I am often asked why we do not use global positioning systems much more. There are technical issues with GPS. For example, as has been highlighted, there are technical ways in which individuals can get round it.

The Convener: Do not tell us in public.

Michael Matheson: I will not. Rather than just saying, “Yes—let’s use more of it,” that is the sort of thing that the expert advisory group is looking at before we decide what further areas we can use it in.

Gil Paterson: My last question is in the same vein. You have recently consulted on reoffending. For women in prison, the reoffending rate is 60 per cent, which is high. Could electronic tagging have an impact and steady the ship so that women do not reoffend? Is that another tool that is being considered?

Michael Matheson: That goes back to the point that I made that the international evidence suggests that electronic monitoring is one part of the jigsaw and that it can be used in helping to work with individuals in addressing their offending behaviour. Experience suggests that electronic monitoring on its own is not an effective tool to address offending behaviour and that it should be seen as part of a package of measures to obtain better outcomes. That is exactly the sort of experience that there has been in places such as the Netherlands, where electronic monitoring is used in a much more sophisticated way.

I have no doubt that, once the expert advisory group has published its report, the evidence from

places such as the Netherlands would be of real interest to the committee. There, in effect, the judge decides what outcome he is trying to achieve and a system has been developed that demonstrates how electronic monitoring can be used to achieve that outcome, so it is a much more outcome-focused approach. International evidence suggests that that is the most effective way in which to use electronic monitoring and the expert advisory group is looking specifically at that type of approach, so that we can understand how we can make better use of electronic monitoring and use it in a way that helps to achieve the better outcomes that we all seek.

Gil Paterson: I was a bit careless in my question to you, and I am glad that you are focusing on the provision of support and not only on electronic tagging. Thanks very much.

The Convener: Members of the committee are well aware from many years of experience in Parliament that many of the women in question are damaged, so it is heartening to look at the outcomes. It is helpful if electronic tagging is seen as a way not just of not having people incarcerated but of ensuring that they have support systems to get them off drugs or alcohol or to address their mental health and other health issues, as there are all sorts of complexities.

How are our judiciary looking at this? It is not really for you to speak for the judiciary, but can you comment on whether our judiciary are working on that cultural change by asking, “What am I trying to achieve with this woman offender?”? I ask that question in light of the fact that the Community Justice (Scotland) Bill that is going through Parliament is trying to ensure that support is more integrated.

Michael Matheson: It would be fair to say that there have been changes in the way in which the judiciary look at some of the issues around alternatives to custody. You are right that we should ask whether electronic monitoring can help us to address other issues and prevent the need for someone to go into custody when that is not necessarily the most effective route to deal with those issues. There is a body of work for us still to do in understanding that. You may be aware of a couple of pathway projects that we have started in three sheriffdoms. This is baggage that I have brought with me from my time in health.

The Convener: That is not a bad thing.

Michael Matheson: It is not a bad thing.

The Convener: A lot of this is also about health issues.

Michael Matheson: The projects involve the idea of using the improvement methodology to help to effect change and to improve the way in

which the system responds to what it is trying to achieve. That methodology underpins the patient safety programme that operates extensively throughout our national health service in Scotland.

The three pathway projects that we have established in three sheriffdoms use the improvement methodology to consider what needs to be done to achieve specific objectives such as reducing the number of individuals who go into remand by, say, 10 or 20 per cent. The improvement methodology helps the teams that have been established to strip back the system, to ask, "What do we now need to put in place to achieve that objective?", and to consider what changes need to be put in place to achieve the desired outcomes.

The three sheriffs principal who agreed to participate in the projects can see the potential value in the approach. We now have a team of leads, which includes the Judicial Institute for Scotland, which has oversight of and responsibility for taking forward the three pathfinder projects using the new approach. Although it is completely new to the criminal justice system, it is an approach that I think could lend itself to driving some of the change that we need to see in the system, so that it becomes much more outcome focused rather than process driven. The improvement methodology can assist and support us in trying to achieve that aim.

The Convener: In fairness to sheriffs, many of them do not want to see people coming up before them time and again. They realise that if that keeps on happening the system has failed, and that the route that you are taking by focusing on outcomes—I presume that the approach will include training for sheriffs—will be better for the individuals concerned and for society.

Michael Matheson: That is a shared objective.

The Convener: Margaret Mitchell, Elaine Murray and John Finnie have questions, after which Alison McInnes will come back in.

Margaret Mitchell (Central Scotland) (Con): Good morning, cabinet secretary. Although it is early days, are you in a position to provide any information about the uptake of fiscal work orders since they were rolled out to the 32 local authorities in April last year and about the number that are being completed successfully?

Michael Matheson: You are correct to say that it is early days for the fiscal work orders, which came into play on 1 April last year. The use of fiscal work orders was one of the key recommendations that the commission made, and they are available, for both men and women, in cases where the fiscals think that they are appropriate. Experience tells us that when a new disposal is introduced, it takes time for it to bed in

and become established. Fiscals need to get used to it and to understand its implementation effectively.

We have seen a gradual increase in the use of fiscal work orders over the past year—it has been less than a year. The criminal justice social work statistics for 2015-16 will have figures on the first full cohort of fiscal work orders that have been issued. The returns that we have for June to November 2015 may provide you with some insight into the numbers: 393 fiscal work orders were assessed during that reported period. The rest of the statistics will start to come through as we move forward. That statistical bulletin is publicly available, so it is available to committee members.

Margaret Mitchell: Will it be possible to tailor the figures by gender? It has been an issue that community service orders are not friendly for women, who for various reasons default on them. The next stage, by default, is imprisonment.

Michael Matheson: The guidance that was issued in advance of the fiscal work orders coming into play addressed some gender issues. For example, it advised taking into account that certain types of activities might not be appropriate for women, that certain groups might be appropriate for women offenders only and that timings should take account of whether the person has childcare issues. Therefore, there is guidance that certain gender issues should be taken into account when fiscals are looking at making a work order. There is a level of flexibility in the system to take account of such matters.

Margaret Mitchell: For what types of offences would a fiscal work order be deemed appropriate?

Michael Matheson: We have not specified types of offences to fiscals. The orders are largely for minor offences, but we have not specified to them which offences those might be. It is for them to use their judgment based on the nature of the offence and whether they believe that it is in the public interest for it to be pursued through the courts or through a fiscal work order. We have not defined the types of offences in order to give fiscals the flexibility that they need to consider matters.

The Convener: Would it not be inappropriate for you, as cabinet secretary, to start telling the Crown Office anything like that?

Michael Matheson: That is very true. If I started specifying offences, fiscals might feel obliged to apply the orders in those cases, as though that was the Government's intention. We set out very clear guidance for them on how they should apply fiscal work orders, but we have not specified the types of offences that they should be used for.

Margaret Mitchell: Is any information coming forward on what kind of offences they have been set out for? You said that they have been used 393 times.

Michael Matheson: I do not know whether the criminal justice social work statistics will have that figure broken down by offence, but we can check that for you. Off the top of my head, I cannot remember whether it is broken down by offence.

The Convener: Perhaps the committee could have that in writing.

Elaine Murray (Dumfriesshire) (Lab): Mr McConnell, last year when we were developing the new model, I attended a regional meeting at which you gave a presentation that included an indication of when you hoped that the new model would be in place. Can you give the committee an update on when the new facility at Cornton Vale and the five other regional centres will be fully functional?

10:45

Colin McConnell (Scottish Prison Service): As you would expect, we are working hard on that. The current plan, which we have approved with the cabinet secretary and the Government, would see us running a programme right through until final completion in 2021. That would anticipate not only the new national unit coming to fruition but all the other elements that the cabinet secretary laid out to Parliament earlier. The cabinet secretary and the Government rely on me and the Prison Service, along with justice policy colleagues, to deliver on those things, and I give the committee an assurance that we are on track to do that as we speak.

Elaine Murray: In some of the plans there will be fewer places and a reduction in the female prison population will therefore be required. Have you done any modelling around that? When might parts of the current Cornton Vale prison be decommissioned?

Colin McConnell: Rather than focus on a number or a date, it is important to engage with the committee on what we are doing. This is a creative and innovative approach. Nowhere else internationally is doing this, so Scotland is in the lead and at the cutting edge of developing integrated, consistent services for women who come into contact with the justice system. Quite a bit of modelling is going on but, as ever, failing to plan is planning to fail. There are lots of considerations and discussions going on, but there is still a wee bit to go before we finally settle on a particular approach and configuration.

As was previously set out in the public domain, it is only right that, as we develop our new

approach, we keep some flexibility in the system just to make sure that we do not break it as we are trying to make it. I reassure the committee that, as we move forward, we are absolutely on track, consistent with what the cabinet secretary set out to Parliament last year, and that we will be really cautious and careful that we can cope with any challenge that we might be presented with along the way.

Elaine Murray: Can I also ask about—

The Convener: Before you move on, Alison McInnes would like to ask a supplementary question about the estate.

Alison McInnes: Do you think that you are being ambitious enough with regard to the planning, Mr McConnell?

Colin McConnell: I can speak about the planning, but it might be for others to speak about the ambition. We need to keep reminding ourselves just how innovative Scotland is being. We have looked internationally for an off-the-shelf solution, but there is no such thing. In fact, with the Scottish Government's support and leadership, last year we held an international symposium on women in custody and what the future should hold at which we got international recognition and support for the direction of travel that Scotland is moving in. At the end of the symposium, an expert from Canada said that she wished that she was working in Scotland, given our ambition.

Are we ambitious enough? For sure. Is what we are doing creative and innovative? For sure. However, as the head of the Prison Service, I must make sure, on the Government's behalf, that, as we move our ambition forward, we deliver on that ambition. That is why we are paying attention to detail as we move the whole concept forward to achieve that ambition.

Alison McInnes: It seems to me that we need to push that a bit further. In the middle of July last year, 414 women were in custody. The capacity that you are building for in the new estate is 397. That is not really the kind of reduction that I had hoped that we would be building for.

Colin McConnell: Would you like me to clarify that, convener?

The Convener: Yes. It is up to you and the cabinet secretary to decide who responds.

Michael Matheson: I am happy for Colin McConnell to answer that question.

Colin McConnell: Our objective is actually far more ambitious than that, Ms McInnes. If you look at what is contained in the proposal, you will find that we are being hugely ambitious, because at the end of this journey, we will have a model comprising a national centre at Cornton Vale for

80 people, five regional units dealing with 20 people each and, of course, the facility at Grampian. Let us do the math: it is 80 plus 100 plus 50—

Alison McInnes: What about Edinburgh and Greenock?

Colin McConnell: That will happen at some point in the future. If you look at the discourse that we have put out, you will see that we are on a journey, and part of my job is to advise the Government on ensuring that we cope with capacity and stress issues as we move towards that eventual model. As things happen, we will have capacity in the system that we can use, but ultimately the challenge is to operate a system comprising a national centre dealing with 80 people, five regional units and the facility at Grampian. Going back to your original challenge, I think that that is hugely ambitious. We must ensure that everything that we do balances with that, which means that we will need some flexibility in the system.

Alison McInnes: Can the cabinet secretary give us some assurances on the timetable for decommissioning Edinburgh and Greenock or the ambition to move in that direction?

Michael Matheson: That is part of the challenge, and it brings us back to the ambition that has been set. I have been interested in some of the commentary out there on this matter, which has been telling us about the approach that we should take in Scotland and telling us that we should look at what is happening in other jurisdictions to inform our future model of the female custodial estate. As a result of the international symposium and the literary review that we conducted on the area, I have been struck by the sheer lack of alternative models out there to inform our approach here in Scotland.

Colin McConnell is correct—we are actually leading from the front with the different approach that we are planning to take. The core aspect of our female custodial estate will be the national unit, the five community units and the current facility at Grampian. I have said on a number of occasions that the custodial environment sits not in isolation but alongside the other measures that we will have to take forward on, for example, ensuring that fewer women find themselves on remand; the use of short sentences, given that women are more likely to receive a short sentence than males; and our reform of community criminal justice provision. Collectively, all those measures can help to reduce the demand on our custodial estate. As that demand starts to recede and decline, we will be in a position to begin to turn off some of the provision in Edinburgh and elsewhere.

However, I cannot turn off demand like a tap. I have seen a number of people in the press saying, “You need to turn off the tap”, but I suspect that if it were that easy many of my predecessors would already have done so. That said, I am determined to stop the door revolving in this particular debate and to put in place things that will start to turn the tap in the right direction—

The Convener: I am getting lost in your metaphors of taps and revolving doors, cabinet secretary. I think that I am following the narrative, though.

Michael Matheson: In this morning’s press I read yet again about the need to turn off the tap. If only it were that simple.

My point is that as we take forward the other measures to help reduce demand on our custodial estate with regard to women, we can start to close down these facilities or no longer use them as part of the female custodial estate. The objective, then, is to get in place the core female custodial estate that has been set out as an ambition. Significant risks are attached to that, because if we were to drop the estate down to its core right from the very start, we could end up with overcrowding in some facilities as a result of not getting the balance right. The custodial element is only one part of the jigsaw. All the other elements can help us to achieve the ultimate objective, which is to reduce our female prison population and to have a custodial environment that reflects that. That is the core of our plans.

I do not underestimate the challenges that we face in getting to that point. Having looked at the international evidence, I am confident that our plans are very ambitious in comparison with other jurisdictions.

Elaine Murray: My point relates to that tap.

The Convener: I am counting your metaphors, minister—I am noting them in columns as we speak.

Elaine Murray: My question is on the provision of mental health support for people who have offended and are either in prison or on release. A pilot project in greater Glasgow that provided police officers with out-of-hours access to community psychiatric nurses seems to have been quite successful, given that 96 per cent of the people who were referred did not require further intervention.

Will you expand on that project? What will be the implications for the health service if that pilot is rolled out? Some 234 individuals were referred during the greater Glasgow project. Across the country, the numbers could be significant, and additional mental health professionals could be required in the health service to give the police

and indeed offenders the requisite amount of support.

Michael Matheson: That is an important issue and it underscores the need for better partnership working. You will be aware that we had the ministerial group looking at the reintegration of prisoners into the community, and a key part of that work was about looking at how we can ensure that the different components of Government and public service operate in a much more co-ordinated way from health through to housing, and including the Prison Service. The range of recommendations that came from that work are now being taken forward by the various departments, and Colin McConnell is leading on some of the areas. There were 18 recommendations in the report that we published last year, and they are all being taken forward to address some aspects of joined-up working.

The other side of the issue is about those individuals who end up in our criminal justice system when they are really more in need of health service support. The pilot that was run in Glasgow, which you mentioned, proved to be very successful. When the police identified an individual who was in distress or difficulty and they suspected that there was an underlying mental health issue, they were able to contact the out-of-hours service in order to check whether the team had any record of the individual or knew of them and so could give advice. In effect, the out-of-hours service was carrying out a triage of the person's circumstances based on information that was provided by the police.

That was not a new resource; it was just a different way of working. The out-of-hours mental health team has always been there, but the pilot involved making a link between the police and that service. We have taken forward the learning from that. An event was hosted last year at Tulliallan that looked at the experience in Glasgow, and a number of health boards are now working with local police commands to see how they can deliver that type of approach in their areas.

The Convener: Can you tell us which health boards are involved, given that the question was about the rolling out of the pilot? It seems a sensible idea and it would be helpful to know where it is being expanded.

Michael Matheson: Work is being taken forward in Lothian. I can get more details on the other health boards where such work is going on. Sometimes, people end up in our criminal justice system when that is not where they should have been in the first place, and the statistics show at first hand the real difference that such work can make.

I have a wee anecdote from when I was out with the British Transport Police a few months ago. Some of the officers at Glasgow Central station told me that they now have in their car a specific mobile phone to allow them to call the out-of-hours mental health service, and an officer gave me a good example of their use of it. They found someone near the railway lines who appeared to be in distress. The officer did not have any background on the individual, but they got the person's details and were able to contact the out-of-hours mental health service, which had knowledge of the individual. It was arranged for the police to take the person to their home, where the out-of-hours mental health team knew that they had family support to assist them, and that resolved the issue. In the past, the person would have been taken to an accident and emergency department or potentially into custody, but that was avoided.

Police Scotland is taking forward work at a national level to try to ensure that other health boards are ensuring that their out-of-hours mental health teams respond to the police when such issues arise. It is largely about a change in work practice rather than a big new project that requires additional funding.

11:00

The Convener: That seems extremely sensible. It will be very helpful if we can get details about how far that has been progressed with other health boards and whether any of them, without meaning it, are being tardy. The change of work practices seems extremely sensible, as so many of us know that people with mental health problems—whether they are permanent or temporary—end up in custody or in police stations. I think that we would all want that information.

Elaine Murray: The CPN service operates out of hours anyway, because a lot of people with mental health problems—

The Convener: It is about integrating with the police.

Elaine Murray: Yes. Do you anticipate that, in the longer term, there will be a requirement for some transfer of resource from criminal justice to mental health services in order to provide additional support?

Michael Matheson: The experience in Glasgow was that the vast majority of cases did not require any specialist response—people did not have to be admitted to hospital or taken into custody—so I am not entirely sure that there is a need for resource transfer.

Arguably—you would expect the justice secretary to say this—a lot of this has caused a lot

of cost in our criminal justice system over the years. When I was the Minister for Public Health, I sought to create a focus on the need for our health service to be much more effective in dealing with individuals who present in distress—not people who present with an obvious mental health issue, but individuals who present in distress. Our system is not good at responding to them.

If we look at the track record of many individuals who, sadly, go on to commit suicide, their contact with our health service and aspects of our criminal justice system can be quite extensive, and it can span an extended period of time. Why are we not picking up on those warning signs and intervening at an earlier stage? I am not saying that people are simply not interested but, by and large, when someone presents in distress at an A and E department, it will say, “As far as we’re concerned, you don’t have a mental health issue.” It might make a referral to social work, but the link will not really be followed up.

I do not think that it is about transferring resource from one area to another. It is more about trying to make sure that the gaps between some of the services are closed down and they can link up much more effectively so that, when the police have someone in front of them, an out-of-hours mental health team is available to advise that the person is known to them and they are not at risk, that the police should take them home because we know that they have support there or that they need to be admitted to hospital. Having someone on the line who can offer that type of clinical advice makes a big difference to the police and reduces the need for someone to be brought into custody. It also makes a big difference given all the resource that is tied up with someone coming into custody.

It is not about transferring resource. It is about making better use of the resource that we have and being much more effective in addressing individuals’ needs.

John Finnie (Highlands and Islands) (Ind): Thank you for that detailed response, cabinet secretary, and particularly for the section on healthcare.

I do not know whether I should direct this question to Colin McConnell or the cabinet secretary, but can you say more about the offender throughcare workstream in the national prisoner healthcare network, and particularly about the female offender health workstreams?

Colin McConnell: Is there any particular aspect that you are interested in, Mr Finnie?

John Finnie: I presume that, with the change that took place, there are better links between the NHS and the Scottish Prison Service, but are there still challenges with people securing a

general practitioner when they are released from prison, for instance?

Colin McConnell: Indeed—that is still a challenge, and we should not try to hide away from it. As you know, a number of disconnections occur when people move into custody, hence our issue about people moving into custody needlessly or for short periods, although that is another discussion. There are still particular challenges to overcome but, as the cabinet secretary said, there are undoubtedly significant improvements from the two big national organisations working together.

To give praise where it is due to healthcare colleagues, I note that we are seeing significant improvements generally across the service. There are still some hotspots—the chief inspector has commented on them, as he has conducted inspections and reviews of prisons—but there is no doubt that things are generally improving. However, there are particular issues, such as linking up with GPs or with particular services that were connected while the person was in the custodial space. Ensuring that there is consistent availability is still a challenge for us when people move back into the community.

Michael Matheson: A couple of months ago, I spent some time with throughcare officers in Barlinnie with Ian Whitehead, who is the governor there, and I was struck by the real potential that can be realised by greater use of throughcare officers in our prison system. The two individuals whom I met had extended careers in the Prison Service—they had 20-plus years’ service—and they were absolutely glowing about how they enjoyed working as throughcare officers on the links between prison and the community and supporting individuals who are moving back into the community.

However, one thing that those throughcare officers found dispiriting was the number of barriers that individuals can face when they move back into the community. A simple barrier that such individuals face is with being able to apply for benefits, because many benefits have moved to online applications and some will not be provided to someone who has no fixed abode. Some people cannot get a fixed abode until they are liberated from prison. Then, they cannot get accommodation because they do not have the benefit to pay for it, and they find themselves in difficulty.

The throughcare officers can help people to register with a GP and get to the first appointment, and I was particularly encouraged by the real enthusiasm among some of the prison officers who are involved in that work. The potential for prison staff to be engaged much more in helping to address such issues beyond the walls of the

prison gives us a really good opportunity in the future, but some changes are needed in the healthcare system to remove some of the barriers that, at times, can encourage people to fail rather than support their reintegration back into the community.

John Finnie: Can I ask about another workstream—

The Convener: Before you move on, John, I have a supplementary question. We have talked before at the committee about permeable or porous prison walls, which seems a practical and sensible idea—

Michael Matheson: Not too porous, I hope.

The Convener: No. That is my metaphor—I get to use that one.

As we are moving in that direction, is there anything about throughcare in the training of prison officers? You talked about the established officers who form a relationship with the prisoners and support them. They are not turnkeys; that is an old, long-gone expression.

Colin McConnell: Thank you for giving me an opportunity to assure the committee—and you in particular, convener—that that is a significant element of basic prison officer training. If I may blow our own trumpet about what Scotland is doing on that, we are learning from all the work that Professor Fergus McNeill is leading on desistance theory and desistance thinking.

With Government support, the Scottish Prison Service is actively developing the future training and qualification of prison officers in Scotland, and it is leading the way in that area internationally. We have engaged with Scottish universities and other sectors internationally on the training and qualifications of the people who will be working in prisons in the future. Linked to what the cabinet secretary was saying, I note that our vision of the future is that the prison workforce will not be confined to simply working with people who are in custody, but will become a workforce of true justice professionals who work across and throughout the justice system. The issues that you raise are at the core of that vision.

The Convener: Sorry, John. I thought that it would be useful to follow up that point.

John Finnie: I was delighted to see that one of the workstreams is related to brain injury. The committee received a fascinating presentation about the high incidence of brain injury among prisoners.

The Convener: We have moved off women offenders.

John Finnie: You may feel that, convener, but I am reading the cabinet secretary's report in the papers for this meeting, at paragraph 52—

The Convener: Go for it, then. I sit corrected. I am just making sure that we keep to the brief.

John Finnie: Clearly, we cannot prevent the incidence of people sustaining such injuries; the issue may be detection. Will you explain in more detail what that workstream involves?

Colin McConnell: Yes. It is about understanding much more the circumstances in which people get into trouble in the first place, and come into contact with justice services and the justice system. It may seem obvious, but it is a sort of counterpoint to the often-peddled view that folk who get into trouble are simply bad. There are a range of drivers and reasons why people, sometimes without being conscious of it, indulge in behaviours that ultimately get them into contact with the justice system.

The workstream is about helping us—along with other professional organisations and people—to understand how we can work together more intelligently, if and when that is appropriate, to keep people out of the justice system in the first place. It will also help us to understand what our responses should be when people come into contact with the system and how we should engage with them—from both a medical and a relationship point of view—to help them recover and, we hope, reduce or prevent their re-offending in the future. That is the core of the workstream.

John Finnie: There was a suggestion that many such injuries are not recorded at the time when they occur and that it was only through subsequent research that it was discovered that people had sustained significant head injuries that resulted in brain damage. What can be done about the earlier recording of such injuries?

Colin McConnell: That question moves us somewhat outside the justice system, but the point of the core workstream that you touched on is to raise awareness of the issue.

I go back to the point that I made earlier. Some of what the workstream is about is debunking myths and stereotypes. It is clear that an offender is not a homogenous thing. There are many reasons and causes for people having the behaviours that they have, and some of those behaviours may lead them into the justice system. Raising awareness and getting a better understanding of what the issues are, why they have come around and how to respond positively to them is the key to turning those things round.

The Convener: I apologise, John. I see paragraph 52, and you were right.

Roderick Campbell (North East Fife) (SNP):

Good morning, cabinet secretary. I will pick up on some of the themes that were discussed a few minutes ago in relation to throughcare. In the conclusions to the "Evaluation of Sixteen Women's Community Justice Services in Scotland", which was published last year, paragraph 11.4 says:

"The evaluation identified potential gaps in service provision that may be considered in future initiatives. Opportunities include developing more purposeful or rewarding activities for women (at an earlier stage) and forging women's links in the community, helping women to cope with the loss of children (into care) and support them in regaining or maintaining custody (where appropriate), and support for women leaving short-term prison sentences (throughcare)."

In your letter, you talked about the importance of mentoring. Can you add anything further to the themes that were in that conclusion?

11:15

Michael Matheson: Since the publication of the evaluation report, we have been working with organisations and service providers to find out how we can build on what the evaluation highlighted with regard to whether further improvements can be made or how their practices can be adapted. That work is on-going. Moreover, as you might be aware, we have provided on-going financial support to some organisations to allow them to develop their services over the past year.

If we look back at the commission's report, we see that the objective was not to create some centralised process in which someone says, "This is how you must do this and deliver this at a local level." Instead, it is all about helping to support services at a local level and allowing organisations to redesign and reconfigure those services in a way that achieves better outcomes. The evaluation report was meant to support the achievement of that aim, and the work that has been going on since then has focused on where further improvements might be made or where services can be adapted to achieve better outcomes. The evaluation report was not the end of the process; it was an opportunity to look at those services at a particular point and identify where further improvements could be made.

Roderick Campbell: Do you have any thoughts about initiatives to tackle the issue of women losing their children to care and to help them to regain custody?

Michael Matheson: We are talking about a big area that is not confined to such projects in any shape or fashion. At the heart of that is the question of what, according to the evidence base, is the most effective way of reducing the risk of someone committing offences in the future. Some

things that can create the potential for people to commit offences again are separation from family and the loss of their home or job. The approach that services have taken, the redesign of the custodial estate that we are looking to carry out and the additional investment that we are putting into alternatives to custody are all about taking a more evidence-based approach to dealing with individuals who have committed offences.

That work will involve looking at whether community disposals, for example, are much more effective at addressing an individual's behaviour and at helping them to maintain their housing situation, their family contacts and their employment, if they are employed. Those parts of the jigsaw have to come together if we are to deal with the very issues that you have highlighted of separation from family and, in particular, the impact of that on children. After all, the evidence shows that children who experience the trauma of a parent going into custody are at greater risk of going into custody themselves later in life.

How can we address that? We can address it through, for example, the work that the shine mentoring service is taking forward across the country on providing role models for individuals who are coming out of custody, who are on remand or who are in the community under a community disposal. All those elements have a part to play. The idea behind having regional community custodial units is to support individuals to maintain family links while they are in the custodial environment. We know that that has been lacking with our largely centralised approach to having a single female prison.

Roderick Campbell: You have talked about the pathfinder projects. You have also had a consultation on the presumption against short sentences, which closed in December. Do you have any initial thoughts on that consultation and the implications, particularly for women?

Michael Matheson: The consultation closed in the middle of December 2015. We are collating the 63 submissions that we received and drawing together the information. Once I have had an opportunity to consider the consultation findings, we will take a view on whether the presumption against short sentences should change.

It is important to bear it in mind that the presumption against short sentences may not have a big impact on the overall number of individuals in the prison system—although it will affect both men and women—but, if it is strengthened, it will help to address the churn of individuals who receive short sentences. The vast majority of individuals in our custodial estate have a sentence of two years or more. If the presumption were strengthened, it would help to reduce the churn of people who get short, six-

month or so sentences and would free up the resource that that takes up in our system, which would allow it to be used more effectively. The range of the impact will depend on the threshold at which we set the presumption.

Roderick Campbell: Will there be a differential impact on women, in contrast to men?

Michael Matheson: Potentially, yes, because women are more likely to get short prison sentences. However, as I said, changing the presumption could have a significant impact on the churn of short-term prisoners, rather than on the global number of people in the prison system.

Roderick Campbell: When will the analysis of the consultation responses be published?

Michael Matheson: The analysis is fairly advanced. I hope that I will see its outcome in the coming weeks, and then the Government will have to consider the approach that we want to take and any changes that we want to make in the presumption against short sentences. The consultation covered two areas: whether we should increase the threshold from three months and if so, to what; and whether we should take a radically different approach to short-term sentences. We have to look at both aspects of the consultation feedback.

I noticed that *The Herald* had a front-page splash on some of the views that were expressed in response to the consultation.

The Convener: You do read your newspapers, cabinet secretary.

You talked about resources that are wasted on short-term prisoners and I assume that those resources would otherwise go into the non-custodial part of the system for people who are being electronically monitored or supported outwith prison. If and when the presumption against short sentences is strengthened, what is the timeline for the resources to move from the custodial part of the justice system to the part for monitoring in the community?

Michael Matheson: We are back to the tap again.

The Convener: Sometimes you need a tap.

Michael Matheson: Colin McConnell will be able to give you more insight into the practical demand that the churn of short-term prisoners can have on the prison system.

The Convener: I hear that and we know that there is a revolving door, but I am interested in the transfer of the resources—I suspect that bucks are being passed.

Michael Matheson: No—I just wanted to give Colin McConnell the opportunity to explain the

position from the SPS's point of view but, if you know about that, that is fine.

The Convener: We know about that.

Michael Matheson: In the past two years, we have transferred a modest amount of resource—£3 million—from the Prison Service into the community. In the forthcoming financial year, we have identified a resource transfer from the Prison Service into community justice provision and alternatives to custody of £5.5 million.

We are gradually making the shift, but we have to recognise that there is still considerable demand in the prison system. If we strengthen the presumption and that saves a marked level of resource in the Prison Service, we can look at utilising that better in supporting areas such as community disposals.

The challenge is that, if the prison population is reduced through community disposals, the money is not released from the Prison Service until after that reduction has taken place. However, those individuals have to be receiving the alternatives to custody somewhere else.

We are starting that shift; we are putting £5.5 million into alternatives to custody and community justice provision this coming year, alongside the protected budget of more than £100 million for criminal justice social work. We are doing that while balancing the demand that there still is in the Prison Service.

The shift would be difficult at any time, but it has been made even more difficult by the present financial climate, in which budgets are reducing overall. However, we are starting the process, and in the coming financial year we will move a bigger chunk of money from the Prison Service into the community setting than ever before, while continuing to provide what the Prison Service needs.

The Convener: My question is in the context of women prisoners, many of whom, the committee would agree, should not be in custody. Those women need a huge amount of support from housing, medical and other services for a considerable time if they are not in custody. Laudable though it may be to stop short prison sentences for women—and not just for women—I want to be sure that resources are in place for those very vulnerable individuals.

Michael Matheson: Another point that it is worth keeping in mind, as recognised by the commission, is that dealing with the issues is not all about new money; sometimes it is about changing work practices.

The Convener: I accept that; for example, there are issues about mental health.

Michael Matheson: Dame Elish Angiolini's report recognised that this is not all about new money. It is about using existing resources much more effectively to address offending behaviour and provide alternatives. There is still work to be done to make sure that we achieve that.

One way in which we will support that work is through the Community Justice (Scotland) Bill. That reconfigures the way in which criminal justice provision is delivered locally, with a level of national oversight to get some consistency in how that is done across the country.

The Convener: Integration of services can be improved, but some funding will be required, will it not?

Michael Matheson: That is exactly what we have started this year, as I have outlined.

The Convener: That is fine—I thought that I would rattle that one through.

We move to Christian Allard. Are you cold, Christian?

Christian Allard (North East Scotland) (SNP): It is cold.

The Convener: This is revenge because we complained about a window being open last week. Are other committee members cold? Perhaps it is just a few of us. I agree that it is cold—I put that on the record again.

Christian Allard: I was not complaining; I was only making a statement.

Cabinet secretary, your letter to us said:

"When the Commission was established in 2012, the female prison population had steadily risen for more than ten years. Recent statistics ... show that ... the female prison population has reduced."

I remember you saying to the committee that you had had another great success in that young people were coming into our prison system less and less. To what extent is that success affecting the figures?

11:30

Michael Matheson: I suspect that it is probably still too early to say. There has been a marked reduction in Scotland's youth offending population, but it may be a couple of years before we see how that feeds into the adult population.

Over the past couple of years, the overall number of young offenders has reduced, and I expect that reduction to feed into the adult prison population. I am hesitant about bandying around too many figures—by saying, for example, that the present reduction will result in X reduction in our male or female adult prison population—until we move on in a few years' time. It is only in the past

couple of years that we have seen a marked reduction in young offenders.

In 2013-14 there were 566 young women offenders, and the figure so far for 2015-16 is 445. A clear reduction has taken place, which I expect to feed into the adult population, but it is too early to say what that will look like.

Christian Allard: It would be interesting to find that out, because the commission said in 2012 that the prison population was already decreasing for women under the age of 21, although it found that the prison population of women over the age of 30 was increasing. Is that population now decreasing?

Michael Matheson: Since 2011, the female prison population has declined by just over 6.5 per cent, so it is down to an average of 430. I do not know whether Colin McConnell has more information on the different age bands. If he does not, we can check whether we can get more detail on them.

Colin McConnell: From memory, I think that some of the detail produced by justice analytics showed that the general trend is that the peak in offending—regardless of gender—is moving to the right; the group is getting older. The custodial population is tending to get older, not just because of the increase in the age for peak offending but because of longer sentences for some offence types. As the cabinet secretary said, it is too early to know whether we can extrapolate much, from the early data that we have on trends for youngsters, to make the connections.

Christian Allard: It would be good to understand the situation, because the population of women over the age of 30 will have been very much affected by the great work that you have done. We are talking about not only young offenders but women of all ages. That is important.

Colin McConnell: I can certainly give you an assurance about that.

The Convener: We will stop there. Thank you very much. The session was long, but it was worth while, because the issue is important. Progress has been made, but I know that the committee wants to see more progress.

I thank Mr McConnell and Ms Morgan for attending. The cabinet secretary will stay for items 3 and 4.

11:33

Meeting suspended.

11:35

On resuming—

Subordinate Legislation

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No 2) Order 2016 [Draft]

The Convener: Item 3 on the agenda is consideration of the first of three affirmative instruments: the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No 2) Order 2016.

I thank the cabinet secretary for staying for this item and welcome to the meeting Scottish Government officials Keith Main, from the safer communities division, and Carla McCloy-Stevens, from the directorate of legal services. I remind everyone present that the officials can take part—under the cabinet secretary's direction, I suggest—because this item is an evidence-taking session.

I invite the cabinet secretary to make a brief opening statement if he wishes.

Michael Matheson: The Rehabilitation of Offenders Act 1974 allows individuals whose convictions are spent to say legally that they have not been convicted of a crime. The aim is to help to rehabilitate offenders by not making their past mistakes affect the rest of their lives if they have been on the right side of the law for some time. That means that a person who has a spent conviction does not generally have to disclose it and is protected from being prejudiced by that conviction or the failure to disclose it.

However, there are exclusions and exceptions to that protection, which are set out in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013. In particular, the 2013 order removes the protection in cases in which a person applies for a firearms or shotgun certificate. That permits the chief constable to elicit and consider information about spent convictions when assessing a person's suitability to hold such a certificate.

The draft order that is before the committee aims to add airgun licensing to the exclusion and exception in the 2013 order, thereby bringing airgun applications into line with those for other types of guns. That is necessary to protect public safety and prevent air weapons from falling into the wrong hands. In passing the Air Weapons and Licensing (Scotland) Act 2015, the Parliament agreed with the Scottish Government that airguns are potentially lethal weapons that should be subject to greater control. The draft order helps us to achieve that greater control by requiring a

person to disclose all spent and unspent convictions and allowing the chief constable to take that information into account when deciding whether to grant an air weapons certificate or permit.

It is worth emphasising that the existence of a past conviction does not necessarily mean that an application will be refused. The chief constable will take all the circumstances into account before deciding on each case. In addition, the chief constable's reliance on spent convictions information in any particular case must be justifiable and compatible with convention rights, and any refusal to grant an application is appealable to the sheriff.

The Convener: That is helpful. I clarify that the draft order applies not only to previous incidents involving air rifles or airguns; it can be any kind of conviction. I see that animal cruelty would be an issue. It could be disturbances of any kind—perhaps aggressive behaviour or assaults. It is not just connected to the possession of weapons.

Michael Matheson: No, it is not. It is any spent convictions.

The Convener: That is useful.

If there are no other questions from committee members, we move on to formal consideration of the motion on the draft order.

Motion moved,

That the Justice Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No. 2) Order 2016 [draft] be approved.—[*Michael Matheson.*]

Motion agreed to.

The Convener: I thank you and your officials for attending, cabinet secretary.

I suspend briefly to allow the next set of witnesses to come in for item 5.

11:39

Meeting suspended.

11:40

On resuming—

Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2016 [Draft]

The Convener: The next item is consideration of our second affirmative instrument today: the draft Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2016. I welcome to the meeting Paul Wheelhouse, Minister for Community Safety and Legal Affairs, and Scottish

Government officials Walter Drummond-Murray, civil law and legal system division, and Greig Walker, directorate for legal services.

This is an evidence session and I do not need to say all the usual stuff because members know all about it. I invite the minister to make a brief opening statement.

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): I am happy to waive that.

The Convener: Do members have any questions on the order?

Roderick Campbell: Is the minister able to advise how many stipendiary magistrates will be abolished? How many are there?

Paul Wheelhouse: I believe that there are two, but I will check with my colleagues.

Walter Drummond-Murray (Scottish Government): There are two full timers and seven part timers, who will transfer to being summary sheriffs on 1 April.

The Convener: They are not going; they are becoming something else.

Walter Drummond-Murray: Yes.

The Convener: They will be happy to know that.

We now move to the formal debate on the motion on the draft order. I invite— *[Interruption.]*

Paul Wheelhouse: Sorry, convener.

The Convener: Do not cut my part—it is not allowed.

Motion moved,

That the Justice Committee recommends that the draft Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2016 be approved.—*[Paul Wheelhouse.]*

Motion agreed to.

11:41

Meeting suspended.

11:42

On resuming—

Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016 [Draft]

The Convener: The next item is consideration of our third affirmative instrument today: the draft Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions)

(Scotland) Amendment Regulations 2016. The minister is staying with us and we have Scottish Government officials Denise Swanson, civil law and legal system division, and Alastair Smith, directorate for legal services.

Again, I remind everyone that this is an evidence session. Do you want to make an opening statement, minister?

Paul Wheelhouse: Again, I am happy to waive that.

Margaret Mitchell: Minister, can you comment on the concerns raised by the Law Society of Scotland—which is supportive of the instrument overall—on the fundamental difficulties regarding payment mechanisms for police station work?

Paul Wheelhouse: I recognise that the issue has been the subject of debate for some time. People who are questioned at a police station will no longer have to consider costs when accessing legal advice. I understand that the Law Society supports the removal of police station contributions. We think that that is also a positive step in reducing bureaucracy for solicitors, who will no longer have to assess and collect contributions for such work.

There is potential for significant efficiencies in and simplification of the current legal aid system to deliver savings while maintaining wide access to legal aid in both criminal and civil cases—that is a high priority, as I have said to the committee previously. We are committed to working with the legal profession, the Law Society and other stakeholders to deliver those efficiencies. The issue has also been flagged up with the justice board as an area in which practitioners and policy colleagues should try to work together to ensure that our system is as efficient as possible.

Some concerns have been raised about individual fee rates and so on. The Law Society has also focused on the elements of contributions and contracting. We are discussing all those issues with the Law Society in the context of how we take forward wider reform of the legal aid system. I hope that the instrument that we are dealing with today will simplify the process for solicitors, advocates and solicitor-advocates, and that it will make life easier for their clients, too.

11:45

Roderick Campbell: I refer to my entry in the register of members' interests as a member of the Faculty of Advocates.

In its paper, the Law Society talks about moving to a system of block fees. Could you comment on the implications of that?

Paul Wheelhouse: The comments made by the Law Society in its response will be taken into consideration as part of the implementation of the Criminal Justice (Scotland) Act 2015 and the wider review of criminal legal assistance, which we have committed to carrying out. As part of the review of the legal aid system to achieve a simpler, more efficient system, we have asked the Scottish Legal Aid Board to look at the management and administration of court duty schemes, including fee structures and the required standards of service.

As in any area of legal aid work, we will work with the Law Society of Scotland and justice partners to ensure that the system fairly rewards the work that is required in the round. I emphasise that point. There is a lot of focus on the individual elements of legal aid fees, but we are looking at the overall cost of and payment for taking forward a case on behalf of a client. We want to incentivise practices that promote clients' best interests and the effective operation of the wider justice system.

We have already made it clear to the Law Society that we plan to work with it and the Scottish Legal Aid Board to review legal aid provisions as a whole in order to achieve a simpler and, I hope, more efficient system. That is the theory at least—it is difficult to deliver in practice. We want to manage expenditure effectively, while maintaining access to justice and ensuring that Scotland has a sustainable legal aid system.

Block fees will feature in that discussion. There are advantages in terms of simplicity for the legal adviser because it cuts down on the bureaucracy and the need to specify the time committed to individual clients. However, we need to have as much evidence as possible to inform that discussion about what the appropriate block fee would be.

Perhaps I can bring in Denise Swanson to talk about the level of discussion that we have had with the Law Society on block fees.

Denise Swanson (Scottish Government): The Law Society and practitioners are broadly supportive of block fees, as mentioned in the Law Society's paper. The work that is currently under way initially focuses on criminal work and how the various elements of work that a solicitor might carry out to support a client in any aspect of criminal procedure—right from the police station through to the sheriff appeal court—might be structured.

It is important to say that, in our block fee arrangements, there is currently provision for exceptional case status. If there are exceptional cases that fall outwith the normal, routine work that a solicitor might do, they can apply for additional remuneration for the additional work. We are trying to balance block fees and the

desired simplicity and reduction in bureaucracy, ensuring that there is capacity in the system to deal with exceptional circumstances.

The Convener: As there are no other questions, we move on to the formal debate on the motion.

Motion moved,

That the Justice Committee recommends that the Advice and Assistance and Civil Legal Aid (Financial Conditions and Contributions) (Scotland) Amendment Regulations 2016 [draft] be approved.—[Paul Wheelhouse.]

Motion agreed to.

The Convener: As members are aware, we are required to report on all affirmative instruments. Is the committee content to delegate authority to me to sign off the report on the three instruments that we have considered today?

Members indicated agreement.

The Convener: As we have already dealt with item 9 on the agenda, that concludes today's meeting. Our next meeting will be on 23 February.

Meeting closed at 11:49.

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