

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 23 June 2009

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2009.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR
Donnelley.

CONTENTS

Tuesday 23 June 2009

Col.

DECISION ON TAKING BUSINESS IN PRIVATE.....	1155
FEMALE OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM INQUIRY	1156

EQUAL OPPORTUNITIES COMMITTEE

11th Meeting 2009, Session 3

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Willie Coffey (Kilmarnock and Loudon) (SNP)

Bill Kidd (Glasgow) (SNP)

*Hugh O'Donnell (Central Scotland) (LD)

Elaine Smith (Coatbridge and Chryston) (Lab)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

Shirley-Anne Somerville (Lothians) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Tom Fox (Scottish Prison Service)

Sharon Grant (Scottish Government Criminal Justice Directorate)

Kenny MacAskill (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Terry Shevlin

ASSISTANT CLERK

Rebecca Lamb

LOCATION

Committee Room 6

Scottish Parliament

Equal Opportunities Committee

Tuesday 23 June 2009

[THE CONVENER *opened the meeting at 12:00*]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning and welcome to the 11th meeting in 2009 of the Equal Opportunities Committee—the final meeting before the summer recess. I remind all who are present, including members, that mobile phones and BlackBerrys should be switched off completely, because they interfere with the sound system even when they are switched to silent. We have received apologies from Elaine Smith and Bill Kidd.

Agenda item 1 is to agree to consider in private a first draft of the report on our inquiry into female offenders in the criminal justice system at the committee's first meeting after the summer recess, which is on 8 September. Are we agreed?

Members *indicated agreement.*

Female Offenders in the Criminal Justice System Inquiry

12:01

The Convener: Agenda item 2 is the final oral evidence session in our inquiry into female offenders in the criminal justice system. The remit of the inquiry is

“to assess the prison experience for, and background of, female offenders, particularly the extent to which prison helps to prevent women from re-offending.”

We are taking evidence from the Cabinet Secretary for Justice, Kenny MacAskill. He is accompanied by Tom Fox, who is the head of communications in the Scottish Prison Service, and Sharon Grant, who is the head of branch 2 of the Scottish Government's community justice services division. I am pleased to welcome the panel. I understand that the cabinet secretary gave evidence this morning to the Justice Committee as part of its consideration of the Criminal Justice and Licensing (Scotland) Bill at stage 1, so we appreciate his coming hotfoot from that meeting to give evidence to this committee.

As you will appreciate, cabinet secretary, because of the timing of the committee meetings, we do not know the details of the discussion at the Justice Committee meeting. If you feel that anything in your evidence to that committee is relevant to this evidence session, we would appreciate your highlighting it. I invite you to make an opening statement.

The Cabinet Secretary for Justice (Kenny MacAskill): It is fair to say that some Justice Committee members took a different view from mine on which offenders should be imprisoned and on other issues. However, I welcome this opportunity to explain our approach to women offenders in the criminal justice system, and I look forward to our discussions. If the committee agrees, I will first reiterate what I said in the covering letter to our submission.

I am in no doubt that initiatives and services that are designed to meet the needs of women offenders have developed positively in Scotland over the past 10 years. The work of the ministerial working group on women's offending, whose report was published in 2002, was the catalyst for a number of major initiatives, many of which were aimed at diverting women from prison. However, despite those efforts, the prison population continues to grow and women continue to be remanded or given short custodial sentences.

The staff of the Scottish Prison Service have done a commendable job in managing the substantially increased population in Cornton Vale,

which was originally designed to house lower numbers of women on longer sentences. However, one of the many downsides of the population pressure is that there has been little opportunity for the SPS to develop systems that are aimed specifically at supporting the progress of women through prison into the community.

Currently, there are a number of short-term opportunities to improve matters; in particular, the proposed new Grampian prison will allow consultation of partner agencies in the development of purpose-built prison provision for women that aims to house some of them closer to their home areas.

Additionally, our response to the Scottish Prisons Commission report "Protecting Scotland's Communities: Fair, Fast and Flexible Justice" sets out our plans to develop a more coherent approach. Our offender management programme will provide the opportunity to redesign the whole offender management system to make it fit for purpose.

There are now proposals in the Criminal Justice and Licensing (Scotland) Bill for a community payback order as a community disposal, and there are proposals to amend the Custodial Sentences and Weapons (Scotland) Act 2007 to make more transparent arrangements for the release and supervision of prisoners. In order to progress those plans, the Scottish Government has established the offender management programme board, which will oversee the five separate offender management work streams that will be taken forward jointly with the Convention of Scottish Local Authorities and other partners. The five work streams cover pre-sentence, community sentencing, custodial sentence management, young offenders and community reintegration.

The people who are involved in each of the work streams have an opportunity to shape and improve the way in which we deal with offenders, and the agencies that are involved will be given the impetus to make links with wider national strategies and frameworks on health, drugs, alcohol, employment skills and tackling poverty and inequality in Scotland. I welcome our close working relationship with COSLA, and we will take forward the offender management programme together with our criminal justice partner agencies, the third sector and health, learning and housing interests. That approach will ensure that all the agencies work together to achieve delivery, and that the responsibility for carrying out such work is not confined to agencies in the criminal justice system.

In the light of that, and to ensure that systems and services are designed to meet all offenders' specific needs, I have asked officials to apply the gender equality duty as an objective across all

aspects of the offender management programme. That move will allow us to address questions about how we deliver appropriate services to women offenders in a coherent and joined-up way.

I hope that that background helps to set the debate in the wider offender management context. I look forward to answering members' questions and to an interesting discussion.

The Convener: One of the major issues in our inquiry has been the impact of short-term sentences, on which—it is fair to say—there is conflicting evidence. Was a specific equality impact assessment carried out on the provisions on short-term sentences in the Criminal Justice and Licensing (Scotland) Bill and, if so, how did it inform the bill?

Sharon Grant (Scottish Government Criminal Justice Directorate): In response to that question, I should first lay on the table our apologies. An equality impact assessment on the provisions in the bill relating to short-term sentences and community payback orders was done in February. We had thought that the assessment had been posted on our website, but we have discovered through discussions with our clerk, and after making further inquiries, that it was posted instead on the Government intranet, which is the internal Government website. We are arranging for it to be published on the Government website along with other bill material. There is a statement, which we will get to the committee.

The Convener: You have had some logistical problems. Can you tell us how the impact assessment influenced or informed the bill?

Sharon Grant: As part of the impact assessment, we considered the benefits of bringing out into the community on community disposals a number of offenders who would normally receive short-term custodial sentences. For a start, outside agencies would have the opportunity to work with those people and to ensure that they were still integrated into their communities. Services for women offenders could be more holistically driven: women's complex needs could be met by different agencies rather than solely by the resources in the prison in which they had served their short-term sentences. Moreover, using community disposals for these offenders could help to tackle the problem—which has been highlighted in evidence to the committee—of women falling through the net when they leave prison. Health services and the like could actively engage with them for longer than a community disposal or, indeed, a short-term prison sentence would allow.

Kenny MacAskill: As a precursor to all this, the Government and the McLeish commission were driven by two questions. Who are we dealing with

and what do we do with them? As I said to your Justice Committee colleagues, it is clear that women offenders have greater needs, if I can put it that way. As the statistics that you will have received from other sources clearly show, they tend to be victims of abuse and to have greater mental health and addiction problems. As a result, they form a much more vulnerable category of prisoner.

I have said publicly—I make no apologies for saying it again—that given the lives that many of them have had to lead, and given that in many cases the abuse that they have suffered has led to mental health problems and then to addiction, these women are more to be pitied than punished. That is not to absolve them of what they have done, but we must recognise that women prisoners are, as a group, distinct from men in many ways, although some of them are in prison for serious crimes. This is about who they are and what we do with them, because it is clear that the needs and wants of women are significant—in relation to child care, for example. We do not want to do unto the next generation what has been done before, but people who commit serious offences have to go to prison even if they have children. However, dislocation and disruption can arise when a child is taken away and put into care because the mother has been given a short prison sentence.

Women prisoners have distinct needs and wants that need to be considered separately, along with the circumstances that the women face. It is perhaps not as easy for women to suffer the sweat of the brow that is involved in community payback orders—as I have seen in Falkirk and elsewhere—as it is for young male offenders. In many instances, the women require support to tackle addiction as well as their atoning for the crimes that they have committed.

The Convener: We will go into more detail on much of what you have just covered. In the evidence that you gave to the Justice Committee today, did you cover the aspect that you have just mentioned?

Kenny MacAskill: Yes—in part. The questions were different but I made it clear that, in the main, we want an end to the free-bed-and-board culture, and we want people to make reparation for the harm that they have done. It seems that on occasion—as will have been picked up from my evidence to the Justice Committee—women are sent to Cornton Vale because it is thought that it will be therapeutic and improving for them.

It is not the job of Cornton Vale prison to deal with offenders on short sentences. It exists to deal with women who commit serious offences and who have to be locked up. The prison can then work with those women to tackle their underlying

problems, whether they involve drugs, mental health issues or other issues. The prison is not there to provide a state version of Stobo castle, nor is it there to do up the women and send them out again. It cannot do that for women on short sentences—I made that clear at the Justice Committee. We accept that people must face the consequences of their actions, which is why we want swift community payback.

We acknowledge the problems that go along with child care, so we must ensure that such issues are provided for. It was mentioned in the Justice Committee meeting that women prisoners should be treated distinctly for such reasons. Equally, however, we must ensure that people who commit offences are punished and that they address their underlying problems.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I would certainly welcome—as would the cabinet secretary—fewer women being sent to prison as a result of the bill. What is the most likely form of disposal for those women? For example, what would the balance be between community payback orders, greater use of provision like the 218 centre and supported accommodation, or other options?

Kenny MacAskill: To some extent, it is about what works. We are very supportive of the 218 centre, which does a remarkably good job. However, the centre operates in a large conurbation, so it might not be possible to replicate what works there in other parts of Scotland.

We are conscious that women are not necessarily physically able to do some of the work that young men can do—although I have seen young girls out doing the gardening and picking up litter in Tayside, so such work might sometimes be appropriate. We have to leave that to the judgment of those who deal with such matters. Social work departments exist to work out what the women's needs are.

If it is felt that there is a significant need for the offender simply to atone and do some work, that should be provided for, and if underlying problems such as addiction need to be addressed, we must ensure that that happens. Equally, we must provide flexibility in respect of the child care arrangements that sometimes fall on women. One reason for the high breach rates among women offenders is that they simply are not able to get to appointments.

I should clarify that the 218 centre is a support centre rather than an option for a court disposal, but—as I said—our purpose is to do what is right. It is not the case that one size fits all: we are dealing with individuals who commit different offences. As I said at the Justice Committee this

morning, some women will have to go to jail. There is no alternative for serious violent offences or for involvement in significant drug trading. We may be sympathetic, but that has to happen. When a community disposal is imposed, we should allow those who deal with the disposal to do what is appropriate.

12:15

Malcolm Chisholm: Such an approach is not appropriate in every part of Scotland, but is there greater scope for use of 218-type sentences in other urban centres, such as Edinburgh?

Kenny MacAskill: Absolutely—there is more than one way to skin a cat. It is about joining up services. The point has been made to me that some services should not be for women offenders only.

It is about providing health and other care services for women, which are sometimes overlooked in our society. I was at the opening of the willow project in Edinburgh, which is run by Sacro at Nicholson Square and provides a variety of care services through the health service. The willow project and the 218 centre are important. We must provide services in a variety of ways; a single template will not provide the solution. There is a variety of approaches, not all of which can come from criminal justice; some have to come from health and some have to come from other sectors.

The Convener: We have heard conflicting evidence: one school of thought is that short-term sentences cannot, because of their nature, deal with underlying problems, but can offer sanctuary and access to services. Could the CPO address the underlying questions? How does it compare with short-term sentences?

Kenny MacAskill: If prison is providing sanctuary, then there is something wrong with the system. The question that springs to my mind is this: If what we are really doing is removing women from domestic violence, why are we prosecuting them in the first place? Secondly, if we are providing treatment, the purpose of prison is first to protect the public and then to seek to rehabilitate and reform—that cannot be done in three months. Prison officials tell us—I will ask Tom Fox to comment—that it takes almost eight weeks to get someone into the system, and eight weeks to prepare them to go out, because if they have an addiction it is necessary to ensure that they have, when they get out, access to methadone or whatever else. The SPS does not exist to provide respite care. I am not being flippant when I say that if that is what you want to provide, it would be cheaper and better to do so at

Stobo castle or similar than at Cornton Vale prison.

Prison has a particular role. We are seeking through community payback orders to ensure that we address a number of requirements. The court may include one or more of the following requirements as part of the order: a supervision requirement, because the person may need assistance; an unpaid work or other activity requirement, because they may have to go and pay back what they have done—whether by picking up litter or sewing things; a programme requirement that might relate to other problems; a residence requirement; a mental health treatment requirement; a drug treatment and testing requirement; or an alcohol treatment requirement. It comes back to the point that the convener made earlier: a holistic approach is needed.

I do not know whether Tom Fox has anything to say about short sentences from the SPS's perspective.

The Convener: Before we leave the issue, I will say that my question related in particular to issues such as the underlying problems of domestic abuse or childhood sexual abuse. What, in that respect, will be positive in the CPO, and does not exist in how those women are dealt with now?

Kenny MacAskill: If the person is a victim of domestic abuse, why are they in the criminal justice system? Are not they the victims rather than the perpetrators? Mike Rumbles frequently goes on about the level of domestic violence by women against men: I know that it happens, but I have never been persuaded by his rationale or argument. If we are talking about women who are victims of domestic violence, that is clearly a matter that we as a society have to tackle by protecting them. If we fail them, why should they have their agony compounded? That does not excuse their going—

The Convener: Can I stop you there? How will the CPO help to protect them and address the underlying causes of their behaviour?

Kenny MacAskill: Sharon Grant would like to comment.

Sharon Grant: We have started to do some work around supporting or taking forward community payback orders. Although it is not yet in legislation, we have to start preparing for what it might look like when it comes out of the Parliamentary process. As part of the offender management programme, there is a work stream on community penalties. The CPO sits in the centre of that. As members know, the Scottish Prison Commission's report recommended that we must consider the needs of offenders and address their needs holistically. The Government and all the other agencies—the health sector, mental

health services, addiction services and so on—are working out how we will support people on CPOs.

We will establish groups to consider joining up services and to prepare guidance. When a social worker recommends, in a social inquiry report, use of a community payback order, they should be able to give the court an idea of the plan that will be put in place to support the offender.

The Convener: I understand all that. However, the point has been made that prison may act as a sanctuary, to give the woman protection. Can the community payback order perform that function?

Sharon Grant: A residence requirement can be attached to a community payback order: the court can require the offender to stay at the 218 centre, for example, or in a local authority's supported accommodation. The willow project centre in Edinburgh is not a residential centre, but the City of Edinburgh Council has supported accommodation that can accommodate women who attend the centre but do not have a permanent address, or who have had to leave their permanent address for whatever reason.

Kenny MacAskill: Sharon Grant is right about what we must do. However, it would be manifestly perverse for someone who is being knocked black and blue by their partner to have to commit an offence to be given some sanctuary. It is the responsibility not of the criminal justice system but of wider society to protect such people from the crime of assault that is being perpetrated against them. They should not have to have recourse to offending in order that they can get some respite care. The issue must be addressed through the measures that the justice department is taking to deal with domestic violence. Great progress is being made in that area, with particular drives by the chief constable of Strathclyde Police. Other departments, agencies and organisations must also ensure that victims of domestic violence are protected before they perpetrate offences.

Marlyn Glen (North East Scotland) (Lab): The committee welcomes the developments in relation to domestic abuse and the good intentions that exist. However, we have taken a great deal of evidence and have discovered that women offenders are never asked whether they are victims of domestic abuse, although they are asked about engagement in prostitution. It has been suggested that, when it would have been appropriate for women in Cornton Vale to be asked about domestic abuse, that did not happen. Their needs cannot be recognised, because they are not asked whether they have a problem.

Tom Fox (Scottish Prison Service): The SPS has identified that problem and is in the process of putting in place a draft domestic abuse strategy, which is referred to in written evidence that has

been submitted to the committee. Domestic abuse is a serious issue in Cornton Vale. Daily, a very high percentage of the women who come through our doors have been subjected to some form of abuse, either in their past or immediately prior to their offending behaviour.

I echo one of the cabinet secretary's comments: our view—you have heard this previously in SPS colleagues' evidence—is that Cornton Vale is not the place to deal with many of the issues that are associated with domestic abuse. There is a great deal of evidence, albeit that it is anecdotal, that Cornton Vale is being used as a place of respite in some instances. In our view, that is not appropriate. In addition, it impacts on our ability to deal with the longer-term offenders for whom we can make a real difference.

Currently, there are about 400 women in Cornton Vale, which was intended to accommodate about half that number. The negative impact of short-term offenders coming through the door is not restricted to them and their families. As we know, short sentences can have a disproportionately high impact on the families that female offenders, in particular, leave behind in the community. They also have a profound impact on our ability to work effectively with long-term offenders in the same accommodation. Staff numbers and spaces are finite, so accommodating short-term offenders is having a profound impact on our ability to do the job that we believe we are there to do, not just with female offenders but throughout the prison estate.

Hugh O'Donnell (Central Scotland) (LD): Many of the changes in relation to short sentences—of which the committee is, broadly speaking, supportive—will transfer the burden of responsibility to other aspects of our society. How much additional resource will be given to the various other organisations and partnership developments? Will the change of responsibility have a negative impact on the Scottish Prison Service budget?

Kenny MacAskill: No, it will not have a negative impact on the Scottish Prison Service budget. However, if we persist in the direction in which we are heading as a society, we can build as many prisons as we like but we will not be able to provide the health care facilities and schools that we want. I announced at the Justice Committee that £5.5 million will be put into sorting out the community payback orders in the next two years, with £1.5 million immediately and £4 million next year. That work will not simply be about ensuring that things run smoothly. It involves progress hearings, which have to be resourced. As we know from drug treatment and testing orders, with people from dysfunctional backgrounds, the approach of keeping them on a tight leash—

sometimes challenging them and sometimes praising them—works. There is also a need for electronic monitoring to provide some fallback when breaches occur. As I said, £5.5 million is going into the community payback scheme.

There are other broader aspects that are not simply within the criminal justice domain, such as how we deal with domestic violence, mental health and other issues. Those would be better commented on by others. You have an assurance that we are committed to improving the prison estate, because we must ensure that it is fit and proper. We believe that there must be a limit to what we do, but we have to replace prisons. That is why the new prison at Addiewell has opened and work is proceeding on the Grampian and Bishopbriggs prisons. As I say, an additional £5.5 million has gone in to deal with community payback orders.

Hugh O'Donnell: That is all very positive but, from what you say, there are as yet no definitive figures on the likely impact of the new measures on the various bodies, such as health boards and local authority social work departments, that will look after people who are currently looked after in Cornton Vale.

Kenny MacAskill: We have been considering where we are heading and that issue has been touched on. We do not expect a big bang overnight—it is not as though, at midnight on a certain date, we will change immediately from short sentences to community payback orders. We are putting in additional resources so that we can meet the increased need. Some of the matters are more about the existing statutory obligations of partner agencies. We need joined-up working and working with COSLA to ensure that particular matters and needs are dealt with. Not all the issues are within the domain of criminal justice social work services, which the justice department funds although they are provided by local authorities. We need to ensure that the partner agencies are involved—that housing is available through the local authority and that the required health treatment is available. That is for other partner agencies to comment on.

Hugh O'Donnell: You mentioned other agencies. Will the measures to which you referred be reflected in the detail of any forthcoming new concordat between the Scottish Government, and COSLA and local authorities?

Kenny MacAskill: I have not given any thought to the specifics of the concordat. We have simply sought to work with our partners, whether that is me working personally with Harry McGuigan, or our work with the Association of Directors of Social Work and the community justice authorities. We are all in it together. It is a societal problem, although it manifests as a criminal justice issue.

People have to pay and face the consequences of their action in the criminal justice system. However, the solution is not simply a criminal justice matter; it is also a social and health responsibility.

Sharon Grant: I have recently taken over responsibility for community integration on the justice side. Part of my job is to work with other departments, such as health and housing services, to join up a bit better than we have done in the past. Obviously, the concordat enables us to do that much more easily. The equally well strategy, which is an umbrella strategy that covers all the other strategies, recommends that every member of the public in Scotland should have equal access to public services. Offenders are no different; they are members of the public. Indeed, when the health service and other agencies look at how they spend their cash, they look at the whole population and do not discount the prison population just because prisoners are locked away. Services are willing to join up, and part of our remit is to help them to work together so that we use resources better and avoid duplication.

Within the next three years, the health service is looking to take over responsibility for health care in the Scottish Prison Service. The benefit of bringing those services, which are currently funded by the SPS, under the umbrella of the national health service in Scotland is that that will allow for better continuity of care when people move from prison into the community.

12:30

Hugh O'Donnell: Does that mean that the funding that the Scottish Prison Service currently allocates for health care will be transferred to the relevant part of the health service, or will the health service be expected to take on that workload without the additional resources that are required to deal with the prison population?

Tom Fox: We anticipate that there will be some transfer of funds when that happens. Obviously, as Sharon Grant mentioned, the important thing for us is to ensure continuity of care for prisoners when they progress back into the community. That is an issue at the moment, although it varies across Scotland. Particularly for prisoners with mental health issues, continuity of community care when they move on from custody is a very serious matter. We believe that integration with the NHS will facilitate a much smoother passage for individuals when they move into and out of custody.

Kenny MacAskill: The matter is rather complicated and will take time because of the need to negotiate with the unions on employment rights, for example under the Transfer of

Undertakings (Protection of Employment) Regulations 1981. The transfer will not be immediate, but that is the direction of travel.

The Convener: The transfer is referred to in the Scottish Government's submission, paragraph 40 of which refers to "NHS integration".

Malcolm Chisholm: The transfer of prison health care is a specific example that involves, I imagine, fairly limited funds. More generally, under the policy, are significant savings expected from the Prison Service in the long run? For example, if the number of women prisoners in Cornton Vale—or in any other prison to which it might be thought appropriate to send women—reduces significantly, will that eventually lead to a transfer of resources from the Prison Service to community services?

Kenny MacAskill: I do not know that we will ever see a transfer of resources, as a great deal of the Scottish Prison Service's expenditure is currently on building new prisons to replace an estate that has been, in some instances, Victorian, and, in others, Napoleonic, in that it was built to deal with prisoners as they were dealt with in Napoleonic times. As Tom Fox mentioned, if we can reduce prisoner numbers in Cornton Vale from 400 down to the more manageable level for which the prison was constructed, we will not necessarily save any money but we will be able to work with the remaining prisoners who are on lengthy sentences and have significant problems. The excellent prison staff can then do their job. Some consequent savings might be achieved, but a great deal of prison expenditure is simply on building the new prison estate. The increased cost of having additional prisoners tends to be paid in what can be done with the prisoners rather than in the increased charges for supplying 400 rather than 200 breakfasts.

The Convener: We have spent a lot of time on short-term sentences, which are a huge issue, but I have another question before we move on. In informal evidence from the sheriffs—and in the evidence that we heard from a visiting committee, an ex-offender and an academic—we heard that not everyone agrees with the generic view that no work can be done with a prisoner who is on a short-term sentence. We heard that resource issues were stopping some very worthwhile work on literacy and numeracy, communication skills and the other underlying problems that short-term offenders might have. Will you comment on that?

Kenny MacAskill: I think that the real experts on that are the people in the Scottish Prison Service who do the front-line job. Someone from outwith the prison can say what should or should not be done but, frankly, if someone is in prison for only eight or 16 weeks, by the time that they have been processed—and given the need to deal with prisoners who are in for serious offences and have

significant problems—I do not see how the Prison Service can deal with their literacy or drug addiction problems.

The Convener: It might surprise you to learn that the ex-offender from whom we took evidence said that she had asked to be put on a course but was told, "That is not for short-term prisoners, so you don't have access to it."

Kenny MacAskill: I meet many ex-offenders, and they often tell me that they go into prison for an element of respite. It gets them off the street, it keeps them out of difficulties, it gets them out of bad company, they get their teeth done, and they get three square meals. Frankly, however, that is not the job—

The Convener: That ex-offender wanted to access a programme, but it was just not available.

Kenny MacAskill: That is not the job of the Scottish Prison Service. Its job is to keep our communities safe from those who commit crime. When the SPS has those people, it seeks to work with them and to do what it can to deal with them—

The Convener: Are the resources there for the rehabilitation of short-term prisoners?

Kenny MacAskill: That is a matter for Tom Fox.

Tom Fox: The short answer is yes. We have sufficient resources but—it is a big but—the numbers that we are facing at the moment are putting prisons under tremendous pressure.

The convener is right. It is not true that we cannot do anything. We can do stuff, and we do. We stabilise people's addictions, we treat their health needs and we get them into some form of lifestyle that is perhaps better than the one that they had before they came into prison. However, I suppose the question is whether that should happen in prison or before they get anywhere near us. We deal with people who have acute health needs, including acute mental health needs; basically, we provide a triage service for them. The question that you will be asked by prison staff is, "Should we be doing this?"

We can do something. Should we be able to provide access to—

The Convener: Can I stop you there? You are going down the line that people are there for respite, but we heard informally from sheriffs that they sometimes have no other option. If bail has been breached many times, they have to put people on remand and, in effect, give them the equivalent of a short-term sentence. In those circumstances, can literacy, numeracy, communication skills and other things be addressed, and are the resources in place to allow that?

Kenny MacAskill: I made it clear in my evidence to the Justice Committee earlier that the failsafe option will always be imprisonment. If somebody will not do what they are given as the alternative to imprisonment, they will face the possible sanction of imprisonment. People cannot cock a snook at society. You can take a horse to water, but you cannot make it drink. As I told the Justice Committee, we have a presumption against short sentences, but if a sheriff believes that an individual offence merits a short sentence, we will respect that and they will be able to impose such a sentence.

The Convener: In those circumstances, do people have access to meaningful programmes on things such as literacy or numeracy, even if they are just a start?

Kenny MacAskill: The SPS's position is that it will do what it can under its statutory responsibility but, frankly, as Tom Fox said, it cannot do as much as could be done elsewhere. Can a literacy programme be provided in eight weeks, or four weeks? Such things take time, so there are challenges. The SPS has a duty to every prisoner—be they a short-term prisoner or one with a long sentence—to do what is appropriate. As I said, there are limits to what can be done, and there are consequences for the prisoners with whom we really need to work.

Will the SPS do what is necessary to patch and mend and put short-term prisoners out, even as walking wounded? Let us not delude ourselves about what it can achieve when it has people for only a few weeks. The Prison Service and the prison officers who work hard with such people say that they might pick them up and dust them down a wee bit but they cannot address the underlying problem. Also, those people then have to go back and try to find a house, a job—

The Convener: We will come on to those things.

Willie Coffey (Kilmarnock and Loudoun) (SNP): Cabinet secretary, I bring you back to specific equalities issues rather than the wider justice issues that we have concentrated on for the past wee while.

Sharon Grant was asked earlier about the equalities impact assessment as it relates to short-term sentences. When we relate it to community sentences or CPOs, can you assure us that what is planned will turn out to be a just solution? We heard in evidence that equality of sentencing sometimes leads to inequality of outcome when we relate it to women and the sentences that they get, particularly in relation to loss of contact with their children, loss of houses and so on. Will you tell us a wee bit more about how the equalities

impact assessment relates to your plans for CPOs as they affect women specifically?

Sharon Grant: We need to be honest. In the past, we have not been good at looking at that. We have met our legislative requirements under equality duties and so on to bring in orders that, on the surface, do not look as if they impact on people. However, the evidence that has come out in the past few years and our work to support women offenders have taught us that we have to be much smarter. A woman might be subject to a community payback order, but there might be issues around access to unpaid work. We should not demand something of the woman that she cannot meet.

Social work will have to get to grips with that in preparing social inquiry reports, for example. We want social workers to start looking at the impact of recommending that a requirement is put into a community payback order and the potential impact if the person breaches the order. To alleviate the problem slightly, we have introduced electronic monitoring as a condition in response to breach of an order. In some courts, people will not be sent to prison for breach of the CPO; they will be given a restriction, through electronic monitoring, but they will be allowed to continue on the order. It is open to social work to ask for a review of the order, so the conditions could be modified if they are becoming too onerous. We understand that putting a requirement on top of a drug treatment and testing order, for example, is really quite onerous.

For some offenders, it is about taking steps. Some offenders will fail, and social work departments are good at dealing with that failure. They understand that people will fail and will come back into the system. They will work with them again and try to test what works for them. Working with Government, COSLA and other agencies, we want to embed that ethos into any guidance and training that we give so that people are tuned into the potential impacts on women offenders.

Willie Coffey: Where will the equalities impact of a sentence be assessed? Will that be done during the CPO process or after it? Will it be done as a follow-up—an observation almost—to the community payback order? How will we know that the outcome for women is just?

Sharon Grant: At the moment, where social work is dealing with probation orders and so on, there are line management responsibilities. Supervising social workers report into a line management structure, which should be overseeing how the supervising officer is dealing with the person on the order and considering the potential impact. It is about trying to prevent anything unforeseen from happening. It is about looking ahead at all the possibilities and all the downsides to someone being supervised on an

order. I do not think that I am explaining myself very well.

Hugh O'Donnell: I want to clarify something that you just said; I think that I picked it up correctly. If a sheriff imposes a community service order as an alternative to custody and it is breached, the sheriff is obliged to return to the original offence and not deal with the breach. I understood you to say that that will no longer be the case. As I understand it, that would require a change to the legislation that is extant. Have I picked that up right?

12:45

Sharon Grant: The sheriff will look at the order at the moment—that applies to the CSO and the CPO. However, with the CPO, there is a slight difference, in that the sheriff can call for a review of progress on the order.

As far as I understand it—although I am not responsible for community payback orders, which are not my policy area—if there is something about a supervision requirement or a drug treatment and testing requirement that is not working and that needs to be changed in some way, it will be open to the court to do that. Breach is a different matter. In reconsidering the original offence and sentence, the court will take into account how well the person has done under the order. It will consider the severity of the breach and the circumstances surrounding it before taking the decision to impose a fine, to send the person to custody or to resentence them. The courts take it very seriously, and they examine the circumstances behind the breach. In many instances, courts will take no action over a breach, because of the underlying circumstances. Being aware of the underlying circumstances puts the breach into context. However, the law requires the person to be reported for the breach.

The Convener: That was helpful—that clarifies the matter.

Bill Wilson (West of Scotland) (SNP): You have already answered quite a bit of what I was going to ask, but I will give you a chance to tie together a few bits and pieces. On the reform of existing community penalties, we were interested to note that there is a feeling that the current penalties are not always gender appropriate, either because of problems related to child care or, perhaps, because the woman has been physically or sexually abused and does not want to work with half a dozen men, for instance. I would be interested to hear how you might consider more gender-specific community payback orders.

Kenny MacAskill: You are right to make that point. Penalties will be rolled out—many of them

already have been—by criminal justice social work departments. It comes back to the ethos of our response to the McLeish commission, which was on the theme of fast, fair and flexible. We want the penalty to be fast, and we want it to be fair, taking into account a variety of circumstances. Referring back to the point that Mr O'Donnell raised, there should be an element of flexibility. There are some instances in which a breach is serious and must be dealt with, because it is unjustifiable and action must be taken. There are others in which the sheriff must have the flexibility to recognise that it is not desirable to go all the way down the snake, as it were, to the beginning of the sentence.

As we recognised at the outset, there are particular issues with regard to women offenders. There might indeed be a risk of psychological damage depending on who they might work with—it can often be child care—but social work departments have innovative schemes to deal with that. I have seen examples of that, in Falkirk.

That said, there are also young women who are out doing some of the sweat-of-the-brow stuff, be it picking up litter in Broughty Ferry or working in work rooms such as those that I have seen in Fife. Those things cannot be specified precisely by the justice directorates; it comes down to providing community justice authorities and criminal justice social work departments with adequate resources to do what is necessary for the individual offender. Each offender and offence is unique—that goes for everybody who is sentenced. It is a matter of judges having the options and recognising that they need to do other things for women. It is not possible just to say, "Right, get the brushes and shovels and get down to Portobello beach," or whatever. They need to consider the circumstances. That is happening, but there is a further distance to travel because many of the individuals concerned have significant difficulties.

Bill Wilson: In your earlier remarks, you acknowledged that women often need help from a wide range of social service providers. We have heard evidence to suggest that, if a woman is in prison for a medium-term or long-term period, it is a fairly straightforward matter and there will be engagement with the service providers, in physical health, mental health, drug addiction or whatever.

However, we have also heard evidence that it is more difficult for the Prison Service to get women who are serving a short sentence involved, and that it can be quite difficult to get those who are on community service involved with service providers. If the women do not get involved with service providers, their problems do not get solved and they can be caught in a cycle. How will you ensure that community payback orders help women to get involved with service providers that they might not otherwise engage with?

Kenny MacAskill: It is a matter of working as a joined-up society. That is the benefit of the willow project in Edinburgh, for example. It is also a matter of health boards recognising their obligations to deal with offenders; that ties in with the work of Sacro. I do not think that there can be one prescribed way of dealing with community service; it will have to be different in different areas. As I said to the members of the Justice Committee, Glasgow and other urban areas have specific pressures because of the volume of people. In the more rural areas of northern Scotland or the south-west, significant pressures arise for criminal justice social work departments.

We must ensure that people know what has to be done. We then have to ensure that they have the proper resources, and we have to allow them to provide services in a way that is best suited to the offender and the locality. The services that might be provided for offenders in Glasgow, Paisley or Edinburgh are not necessarily the services that should be provided for offenders in Langholm, Annan or Kinlochbervie.

Bill Wilson: This is the Equal Opportunities Committee, so we are interested in knowing whether differences specific to gender are taken into account when services try to get men and women involved.

Kenny MacAskill: I would hope so, but that question is more for the CJAs and the criminal justice social work departments. Because of what has been enshrined in law, and because of equality impact assessments, all the agencies have responsibilities. It is for the professionals at the coalface to do what is necessary; our responsibility is to set a legislative framework that reflects the views of society and the will of Parliament, and to ensure that the professionals are adequately resourced.

Malcolm Chisholm: Although we would want fewer women to be in Cornton Vale or similar prisons, we would accept that some women will inevitably be there. We have heard some disagreement over whether women should be concentrated in Cornton Vale—which has advantages because more services can be provided—or whether they should be held nearer to their communities.

I know that there will be a separate unit for women in the new prison in Grampian, and I know that some women have been transferred to Greenock. What are your views on the tension between centralisation and localisation?

Kenny MacAskill: There will have to be a balance. We are travelling in the direction of having more community-facing prisons, to ensure that women do not have to be taken all the way down to central Scotland from Aberdeen or

Aberdeenshire. The Grampian prison will replace Peterhead and Aberdeen prisons, and it will allow some women offenders—those for whom there is no alternative to custody because of the seriousness of the offence—to be closer to home. The intention will be the same with Low Moss or Bishopbriggs. We must consider local sensitivities, so I think that it will be Low Moss.

Cornton Vale will still exist, but we have to find a balance. At the moment, Greenock is providing room for the overflow, because we cannot squeeze everybody into Cornton Vale. Some women are also held at Inverness, but there have been problems because a critical mass must be reached to allow services to be provided.

A balance must be struck, but our direction of travel is towards community prisons—so that young men do not have to be remanded in Polmont and young women in Cornton Vale. Grampian and Bishopbriggs reflect our direction of travel. However, we also need high-security prisons, certainly for men, which is why we have Shotts and Glenochil.

Malcolm Chisholm: Most people will not be in new community-facing prisons. How are things working out in Greenock? Because of overcrowding in Cornton Vale, did you have no alternative but to use Greenock? The prison was not designed for that, so is the arrangement satisfactory?

Tom Fox: The situation is not ideal. However, because of the numbers that we have to cope with, using Greenock is better than continuing with the overcrowding at Cornton Vale.

The SPS is convinced that, in the future, we should have small units that are closer to where people come from. However, a balance has to be struck between smallness and viability. A range of services and expertise is required for dealing with women offenders who have acute needs, and that range of service cannot be provided everywhere.

We need a critical mass of prisoners to have a viable unit, but we must also consider socialisation issues and whether women can mix in a reasonably sized group. The prisons in Inverness, Aberdeen and Dumfries previously had small female units, which just involved women being put into additional accommodation. No specialised regimes were developed in those prisons to deal with the particular needs of female offenders.

I suppose the long-term balance of provision for female offenders is to have a national facility and a number of custom-built smaller facilities across the prison estate, with regimes for offenders that are appropriate for the different locales. The proposed new Grampian prison will provide the first model of a truly community-facing prison that will meet all the needs of that community. We intend to

replicate that provision in Highland and, later, in Inverclyde. That will allow us to begin to grow the community-facing model and to meet better the needs of female offenders and, indeed, the prison population generally.

Malcolm Chisholm: That is helpful. The question has been put to us by at least one witness of what concentration of services is necessary. Given that many fewer women will be in prison, what number of prisoners do you have in mind for a viable community-facing prison? It seems to me that there would have to be a limited number. You said that a critical mass would be required for a viable unit, but the overall number of female prisoners is shrinking significantly. It does not sound as if you intend to have a large number of facilities.

Tom Fox: We hope that the overall number of prisoners will shrink significantly. Deciding what size of prison population is viable in the sense to which you refer is a difficult judgment call. If we had community-facing prisons in Inverclyde, Highland, Grampian and the central belt, we could put together relatively small units that would have, say, 10 to 20 women. I do not know about that, though—we will have to see how the prison population goes. However, we believe that there will always be some female offenders who will need specialised skills and facilities. There will also be a need in the long term for a national facility, at Cornton Vale or elsewhere.

The Convener: We took evidence on an equal opportunities issue that is worth flagging up to you. It is about keeping women offenders as near to their families as possible, then dispersing them. Apparently, in another jurisdiction, women started their sentence in a prison like Cornton Vale that had all the appropriate services, including specialised services, then they were moved. However, that was the subject of a legal challenge, because women were unable to access the same level of service as before. Has that aspect been considered?

Kenny MacAskill: We have to be watchful with regard to such issues. Malcolm Chisholm made a valid point in that respect. Our Administration has signed off on the investigation into having prisons in Inverclyde and Highland to replace Greenock and Inverness prisons. However, any plans will take many years to come to fruition and we will probably have to make a judgment call on them. The general direction of travel of the SPS and the Government—although it might be a future Administration that eventually deals with the issue—is towards having community-facing prisons.

To address your question specifically, we live in a world in which the European convention on human rights has allowed Scottish prisoners to

make legal challenges on a variety of issues—for example, the appeal case of Somerville and others v the Scottish ministers. We cannot stop such challenges, although the Parliament has taken steps to provide some protection against them. You can be assured, though, that the SPS and the Government's justice department will do what is necessary to ensure that prisoners' rights are protected. We cannot prevent people from making challenges, but we hope that they do not arise. If they do, we would hope that we have made sufficient provision and that we are not in breach of the ECHR. Frankly, though, if any Government has done something wrong, prisoners have the right to challenge that, and the Government has to learn from it.

It comes back to the balance of provision, as Tom Fox correctly said. Clearly, we could not provide particular services where there was only a small number of prisoners, although we would try to provide what we could. Equally, the SPS would have to make judgment calls in such situations.

13:00

Marlyn Glen: I would like to take things a bit further. It seems that having units with 10 to 20 women is the right way to go, but I realise that that is in the future. However, what about equal opportunities and young female offenders? Is there not already a difficulty in Cornton Vale with young women mixing with adults because of a lack of critical mass? I am not encouraging their numbers to grow, of course.

Kenny MacAskill: There are problems. Statutory requirements to do with ages apply in separating prisoners, which cause problems. Given the number of women prisoners that there are, one can imagine a scenario in which one might not want to have a young girl separated on her own. We are not seeking to put people in solitary confinement. If the numbers go the way that most people hope that they will go, one would not want such a scenario.

That takes us back to being flexible. The support of an older woman—even an offender—can sometimes benefit a young girl perhaps much more than that of an old lad might benefit a young boy. However, such matters are more for the Scottish Prison Service, which provides specialist advice. Tom Fox might want to comment further.

Tom Fox: The point about socialisation is important. It is not a positive thing for very small groups of prisoners—groups of twos and threes—to be effectively held in isolation. A balance must be struck between providing for particular groups and taking a more holistic approach—to use one of Sharon Grant's phrases—and asking what is best for them. Such judgments are best left to the

people who deal with them at the time, as they must take decisions that are based on the circumstances as they see them at that moment.

Offenders mixing with other offenders is not always a negative thing. Support mechanisms can develop among prisoner groups. I have heard anecdotally that it is common in Cornton Vale for women to support one another. Sometimes that support is very valuable. We would not want to lose that, but we also recognise the value of people being close to their home communities and the need to separate different prisoner groups. Ultimately, a judgment call has to be made.

Marlyn Glen: I know that we do not have much time, but I am interested in exploring why what has been described is not always to the disadvantage of females, but is not done at all with males. That issue is not for our inquiry, but I am interested in it.

The Convener: Let us stick to the inquiry.

Marlyn Glen: I return to the 218 model, which we have received a lot of evidence about. Could some female offenders—rather than being imprisoned, or even having community payback orders imposed on them—be dealt with more effectively in a community-based building that provided a combination of appropriate services? We have received a lot of supportive evidence about the 218 centre and the willow project, but local authorities have made very few inquiries about them. It seems to be accepted that the 218 model cannot be replicated, but we need to replicate its methods. Do you have plans for doing that?

Kenny MacAskill: Our purpose is to support and encourage. The willow project, for example, did not come from the justice department, and it certainly did not come from the SPS; rather, it came about through Sacro and health board work. We are keen to learn from the 218 project, because we think that it is good. We are evaluating it to identify best practice, which can be shared with the CJAs. Thereafter, we can try to do what is appropriate with the resources that are available to deal with the needs and advantages and sometimes the disadvantages of areas and communities.

Marlyn Glen: Do you envisage more centres like the 218 centre in Scotland?

Kenny MacAskill: We are evaluating the 218 centre. We certainly support what it is doing, and we want to ensure that we work out where it is doing well. If there are areas in which it is not doing well, we want to learn from that. We are also keen to support and promote the willow project. Some schemes are not top-down schemes; rather, they are bottom-up schemes.

Marlyn Glen: My concern is for the rest of Scotland.

Kenny MacAskill: As I said, we are seeking to share information with the CJAs, to pull them together, and to say what is working in areas. It might not be entirely possible to replicate measures in certain areas, but we are on a journey. The CJAs are now established, and we expect them to deliver. From going round them, I think that they are getting to grips with the jobs of work that require to be done.

Marlyn Glen: Could centres provide services to women who are at risk of offending? In other words, could they help a broader section of the population?

Sharon Grant: They probably could do. The services that are run by the willow project, which deals only with women who are in the offending cycle, as far as I am aware, and by 218, which runs a day service, would probably be viable for women who are at risk of offending or who have been subject to abuse, addictions or other experiences that might lead them to offend. There are advantages to be gained if non-criminal justice services join up to provide a more person-centred approach.

The Convener: The committee heard that the 218 centre is good at supporting women who have been given a structured deferred sentence. That might be of interest to the cabinet secretary.

Bill Wilson: The committee heard that when a woman in prison misbehaves, privileges can be withdrawn. We understand that that might be necessary, but we were concerned to hear that communication or visiting rights can be affected. We were particularly concerned to hear that children might not be able to visit their mother or that their visit might have to take place under different circumstances. I would be concerned if a woman's punishment affected the rights of her child. There is plenty of evidence that having a mother in prison damages a child, and further damage is done if the mother loses the right to telephone home or the child cannot visit or must visit under less pleasant circumstances. Will the witnesses comment on the issue?

Tom Fox: You made a good point, which the SPS has acknowledged. We are drafting a new women offenders strategy, and the issue of the orderly room—discipline of women who infringe prison rules—is a strand of that work. We are aware that orderly room decisions about female offenders might have a disproportionately negative effect on them and on their extended family. We are actively considering how we can enforce discipline—we have to be able to do that—without there being a concomitant negative effect on other people.

Bill Wilson: The committee would appreciate hearing your conclusions when the work is completed.

This issue relates to throughcare, which Marlyn Glen will also talk about. Concern has been expressed to us about the lack of oral communication skills of some women in Cornton Vale, particularly women with mental health problems. Are there plans to expand support for women to develop such skills?

Tom Fox: The issue has been identified. I do not want to harp on about the same issue, but it is hard to overstate the impact of the numbers that Cornton Vale is currently dealing with on the ability to provide such support.

I talked about Cornton Vale's work to stabilise people, which is an important part of what the prison does. However, the churn is often such that that stabilisation is the only experience of Cornton Vale that women get. We have to be freed to do the kind of work that you are talking about with the female offenders to whom such work would make the greatest difference. We acknowledge that more such work is needed. That is another reason why we are developing a female-specific offenders strategy.

Bill Wilson: Women who have become institutionalised after serving long sentences or who have mental health or communication problems have difficulties when they leave prison and have to deal with social work services and other groups. Before a woman is released, is an assessment made of her ability to communicate her needs? If so, and if she lacks skills, is an attempt made to provide someone who can communicate for her, so that she does not find herself in a lot of difficulty because she has not managed to organise things?

Tom Fox: Prison staff engage with all categories of prisoners. When necessary, they can perform an advocacy role for prisoners. You are right to identify a particularly acute problem with the group of offenders that we are discussing. Staff at Cornton Vale work hard with partner agencies in the community to try to provide such support. If you are asking whether that support is as effective as it should be in every circumstance, the answer is probably no. However, staff do a marvellous job in building up relationships with community partner agencies to try to ensure that offenders receive the support that they need when they move back into the community. We are well aware that many such women cannot be advocates for themselves. Staff do their bit—along with partner agencies, social work and local authorities—to try to ensure that women's needs are met when they return to the community.

Marlyn Glen: That topic is important.

Tom Fox mentioned the SPS's draft women offenders strategy, which we got hold of just last week. The strategy says that it is in development in consultation with a broad range of partners, but we have taken evidence on women offenders for quite a long time and last week was the first time that we knew of the strategy. Who are the partners with whom the SPS is working?

Tom Fox: My understanding of the consultation process is that the staff who are developing the strategy have worked with partners in social work and community justice authorities—

Marlyn Glen: Are they SPS staff?

Tom Fox: Yes. SPS staff have worked with CJA staff, local authority staff and other bodies such as those in the voluntary sector to sound out views about the best way to develop the strategy. We are still at an early stage. We will require to put in a considerable amount of work to get the strategy right.

I know that the committee was advised of the strategy only fairly recently, but the work is still at a fairly early stage. We would be happy to return to the committee later to show members how our ideas are developing. It might be useful for the committee to have input into the process.

The Convener: That would help—thank you.

Hugh O'Donnell: The variability of data about the success or otherwise of a range of programmes has come to light in a lot of evidence. That kind of takes us into throughcare, which Marlyn Glen will cover. How do we evidence meaningfully the success or otherwise of programmes? Given the SPS's critical role, and notwithstanding its worthy vision statement, should the SPS have a statutory obligation or duty to rehabilitate?

Kenny MacAskill: I do not know, but I am happy to consider and reflect on that. The SPS already seeks to rehabilitate, but what can be done or tested is to an extent limited. Part of the SPS's mission statement is to keep communities secure from those who must be put in prison and to work with prisoners to try to reform and rehabilitate them. I do not know whether a statutory duty would assist.

The SPS needs to perform its role, but we as a society need to recognise that although prison has a particular duty and the SPS tries to do additional work, rehabilitation ultimately takes place in the community, when people return to a community in which houses, jobs, child care and mental health services are available. I do not preclude or rule out a statutory duty, but it seems better to get on and do what is necessary than to create legislation that will not deliver the impact that is needed.

Hugh O'Donnell: What about the statistical information to assess the success of programmes?

Kenny MacAskill: What you refer to is why we are evaluating the 218 centre, for example. We are keen to point out that we are dealing with individuals. They share many common traits—a history of abuse, domestic violence, drug and alcohol abuse or whatever else—but they are also individuals. What works for some does not necessarily work for others. Some like the company of many, whereas some are fairly solitary. If schemes are evaluated as operating well, we need to ensure that the CJAs know of them and—I hope—have the resources to deliver them. I ask Sharon Grant to comment, but I think that the aim is to be ever vigilant to ensure that information is available.

13:15

Sharon Grant: As you know, in the Scottish Government we generally pilot something and decide whether it has been effective before rolling it out. In recent years, some of that analysis has been based on the number of offenders who go through the system, but the Government's analytical services division has told us that we need to get better at identifying quality and what works in programmes. When pilots are carried out in the future, we will try to pinpoint which part of a programme works and which part of it delivers on quality.

In the past, we have had to take a numbers-based approach. In general, we look at numbers when we deal with the courts because we want to know how many people might get a particular disposal. We have been advised by our researchers that we need to get better at designing evaluation studies that examine quality in greater depth and identify what aspects of a programme work. I am not saying that that will be easy; the situation is not as black and white as it appears.

Hugh O'Donnell: That is encouraging. Thank you.

The Convener: I am aware that the cabinet secretary has to leave by half past 1. Is that correct?

Kenny MacAskill: Yes.

The Convener: In that case, Bill Wilson can ask a supplementary, as long as it is brief and the answer is brief, too.

Bill Wilson: It is on statistical data. At various times, there has been some discussion of whether females might be punished more harshly than men for some offences. Is there any intention to carry

out a statistical examination of equality in sentencing?

Sharon Grant: I am not sure that we have any statistics that show that women are punished more harshly than men. We have no evidence to show that if a woman breaches an order, for example, she will be punished more harshly than a man would be, but we could speak to our analytical services people about that.

Marlyn Glen: In her evidence to the committee, Baroness Corston outlined the difficulty that she has experienced in establishing who is in charge of meeting the needs of women who offend or who are at risk of offending. Is there clearer accountability and responsibility in Scotland?

Kenny MacAskill: I think so. Clearly, the justice department has that responsibility and we work with partner agencies. I have not read Baroness Corston's report all the way through, but we welcome it and will be more than happy to learn from any jurisdiction, whether in the UK or elsewhere, if that will help us to do what is right. Some of the problems that we are discussing are shared south of the border.

Marlyn Glen: Who is in charge of meeting those women's needs is a really important issue, especially when it comes to women offenders with mental health problems, for example. I appreciate that it is not the place of a sheriff to know about a woman's mental health problems and that it is perhaps not the place of her defence lawyer to know about them, either, but will her social worker know about them? Who is in charge of such matters? The responsibility aspect is vital. You talked about CJAs sharing best practice, and Sharon Grant talked about bringing people together to work and share best practice, but I am keen to find out who is in charge of ensuring that that happens.

Sharon Grant: The offender management programme that the cabinet secretary mentioned is not just about processes. It aims to take an offender-based rather than a process-based approach so that we consider the needs of the offender in addressing payback and so on all the way through the system. We are probably talking about a pathway that will identify different people as having responsibility for an offender at different times on their journey. People change—they recover from addictions, for example, and move on to require different services, at which point the person who has responsibility for them might change. That is the system that operates in mental health—the mental health system looks at care pathways. We want to do something similar in offender management. I do not want to pre-empt anything that is happening in the area, but we should concentrate on the needs of the individual offender, rather than the process of chuntering

someone through. We are trying to get people to take ownership of different parts of the process.

Marlyn Glen: We are concerned that people may fall through the gaps. It sounds to me like you are saying that the system will still be gender neutral. However, Baroness Corston's report points out that no one is in charge of the needs of women who offend.

Sharon Grant: Every work stream of the offender management programme will look at what suits male offenders and what suits female offenders. In the past few years, because we have been looking continually for new ways of reducing overcrowding, we have tended to pigeonhole people; we cannot do that any longer. We are now trying to reverse the system and to make it fit for purpose for the different groups of offenders within it.

The Convener: We are pushed for time—we have nine minutes left. I ask Willie Coffey to keep his question brief.

Willie Coffey: My question follows on from that of Marlyn Glen and is connected to the theme of pathways. At previous evidence sessions, we were given examples of information not being passed into the prison system. For example, a prison may not be informed of a woman's dependence on certain medication, so it may take some time for that medication to be administered to her after she has been admitted. How will the system be improved to ensure that the pathways approach that you described captures such issues at an early stage?

Sharon Grant: One aspect of the offender management programme is information sharing across the criminal justice system and between agencies in and outwith the system. Across the board, there will be a focus on information sharing, the difficulties associated with that and how we can overcome them, bearing in mind the data protection and ECHR issues that we face. We will examine how we can use the legislation effectively to address issues associated with information sharing.

The Convener: Throughcare is hugely important, so we will take the time to get all our questions on the subject answered.

Bill Wilson: We heard evidence from one woman that she was unable to complete her social security arrangements before leaving prison. That had nothing to do with the communication problems that were touched on earlier. After leaving prison, she got accommodation but had no way of paying for or maintaining it, because social security arrangements had not been made in advance. It has been suggested that it should be standard practice for people to go into prisons to help offenders to set up arrangements in advance,

so that they do not fall through the gaps when they get out. It seems to be a general problem—Quarriers gave evidence that children leaving care fall through the same gaps. Is there any way in which we can tackle the problem, apart from by assisting people to complete the form?

Tom Fox: Significant progress has been made on the issue in prisons over the past decade, through the provision of links centres that bring people from the community into prison to discuss with prisoners social security, local authority, housing and other services. I am confident that such services are available to prisoners across the prison estate. If individuals are falling through the gaps, that is a cause for concern. One of the major things that we want for people leaving prison is somewhere to go and the opportunity to interface with someone in the community about their wider needs, such as medical issues and employment opportunities. Ensuring that such contact takes place is a priority for us. We can take up that specific issue later. As far as I am aware, such opportunities are available to prisoners in all prisons in Scotland, to ensure that the circumstances that you described are prevented.

The Convener: The opportunities are available, but we heard that accommodation and even crisis loans take a long time to kick in. For example, we heard a graphic description of how one offender had to make repeated phone calls. If she had not received support from her family, she would have considered committing a crime to support herself. Could numbers be available for women in prison to phone several weeks before they are released, to ensure that services are in place in time?

Tom Fox: We can certainly consider that.

The Convener: That would be great.

Sharon Grant: Jobcentre Plus has told us that it is reviewing all its processes with its prison advisers, with the possibility that benefits for prisoners might be fast-tracked. That might not necessarily be the outcome of its review, but it is considering ways of improving the system.

The Convener: Such a move would be very welcome.

Hugh O'Donnell: Have you made any projections on the likely impact of the reduction in the number of short-term sentences on the cycle of female reoffending and on what Tom Fox called the churn?

Kenny MacAskill: We have not made any such projections. However, our information is that those who are given short-term prison sentences are more likely to reoffend than those who are given community service. That is why we are approaching this matter on the basis of what is effective and what works, instead of simply

labelling particular approaches as tough and penal or soft and liberal. We have clear statistical information about what works and the justice directorate and the Department for Work and Pensions have a clear direction of travel about what is needed, but, as I say, I do not think that we have made any projections as such. After all, we are dealing with individuals with difficult and chaotic lives.

Hugh O'Donnell: Do you have any aspirational targets?

Kenny MacAskill: No, we are not target driven but, like other elements of Government, we are looking for outcomes. For example, we want our communities to be safer and stronger; we want these women to address their offending behaviour; and we want to address their wants and needs and try to get them off their addictions. Simply put, we want to help them and make our communities better.

The Convener: Sacro and others stressed the potential benefit of a mentoring service for female offenders, but highlighted a lack of relevant funding. Do you have any comments on that view?

Kenny MacAskill: I support mentoring, which can be beneficial. What keeps female and other offenders out of prison is having a home to go to and someone to keep in touch with, whether it be a granny or whoever else. The mentoring project that we funded in south-west Scotland has had clear benefits. That said, there are limits to what we can do when so much money has to be spent on the prison estate.

The Convener: Is that project being evaluated?

Sharon Grant: Yes.

Kenny MacAskill: And we will share the findings with the committee.

Malcolm Chisholm: Various witnesses have called for earlier intervention with female offenders. I suppose that you can go back as far as you like in that regard; indeed, some people argue that many types of criminal behaviour are best dealt with through intervention in the first three years of life. What scope is there for more early intervention with female offenders?

Kenny MacAskill: You are right to suggest that this is all about breaking a cycle of behaviour that can affect generation after generation, and I certainly do not think that you are being flippant in saying that such behaviour can be most effectively addressed before a child is three years old. On the other hand, certain young offenders can simply spiral out of control, and their behaviour can be picked up and addressed in school or elsewhere. Such issues are being dealt with through "Preventing Offending by Young People: A Framework for Action", our early and effective

intervention programme, the getting it right for every child programme, the children's hearings system and so on. To stop people ending up in Cornton Vale, we need to intervene as early as possible and have fallbacks all the way down the line. One approach is not necessarily any better than another; because we are dealing with individuals, each approach is equally important.

The Convener: I want to pick up on one other issue that was raised in the cabinet secretary's written submission. When we visited Cornton Vale, we were left in no doubt that some inmates were very unhappy with the toilet arrangements in the area for remand prisoners and in the Bruce and Younger blocks. I was intrigued to see in the submission that, to address the problem, the SPS has introduced cameras and has improved the system of communications with the electronic control room. Will you tell us how the changes work? One of the prison visiting committees from which we heard evidence told us that, were the same type of facility put in a male prison, the prisoners would be out on the roof protesting.

13:30

Tom Fox: The facility is not desirable; none of us would say that it was. There is an electronic locking system and, by pressing a button, prisoners can request egress from their cells to use the toilets. The cameras are to ensure that only one person is in the common area at any one time. Similar systems have been used before in a number of prisons, and such a system was certainly in use in Polmont until fairly recent years.

Were the number of prisoners at Cornton Vale to be lower than it is now, the accommodation that you are referring to would be some of the first accommodation not to be used.

The Convener: That concludes our questions. Would any of the witnesses like to add anything?

Kenny MacAskill: No, but thank you very much for inviting us. We wish you well.

The Convener: I thank the cabinet secretary, and Sharon Grant and Tom Fox very much. I thank the cabinet secretary in particular for coming hotfoot from the Justice Committee. He has had two quite gruelling evidence sessions in a row.

As agreed at a previous meeting, we move into private session for the final two agenda items. We will review the evidence that we have heard today in our inquiry into female offenders in the criminal justice system, and consider a list of candidates for the post of budget adviser to the committee.

13:31

Meeting continued in private until 14:09.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 6 July 2009

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers