



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 14 May 2019

Session 5



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JUSTICE COMMITTEE
14th Meeting 2019, Session 5

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Green)
*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)
Daniel Johnson (Edinburgh Southern) (Lab)
*Liam Kerr (North East Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Liam McArthur (Orkney Islands) (LD)
*Shona Robison (Dundee City East) (SNP)

*attended

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 14 May 2019

[The Convener opened the meeting at 10:30]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning and welcome to the Justice Committee's 14th meeting in 2019. We have received apologies from Daniel Johnson.

Agenda item 1 is a decision on whether to take items 5 and 6 in private. Do members agree to take those items in private?

Members *indicated agreement.*

Subordinate Legislation

International Joint Investigation Teams (International Agreements) (EU Exit) (Scotland) Order 2019 (SSI 2019/149)

10:30

The Convener: Item 2 is consideration of a negative instrument. The Delegated Powers and Law Reform Committee has considered and reported on the instrument, and it had no comments. I refer members to paper 1, which is a note by the clerk, and invite any questions or comments on the instrument from members.

If there are no comments, is the committee agreed that it does not wish to make any recommendation in relation to the instrument?

Members *indicated agreement.*

HMP Kilmarnock (Visit)

10:31

The Convener: Item 3 is a report back from a visit to Kilmarnock prison by two of our members, Jenny Gilruth and me. The clerk will provide a detailed report in writing for all members, but we thought that it would be good to give the committee a flavour of what took place during the visit and what issues were discussed. I will start and then ask Jenny Gilruth whether she has any reflections to share.

It was an extremely worthwhile visit and I want to thank Michael Guy, the prison director, and his team for organising it and for the time that they spent with us. The opening session covered general background, logistical-type information and a short discussion, which was followed by a tour of the prison and its various parts: the visitor centre, the prison reception area, one of the prison wings and the education centre.

At our request, at the start of the tour, we saw how the Rapiscan machine worked. It can detect new psychoactive substances and other drugs that are sent in the mail to prisoners. It has achieved encouraging results, helping to block those illegal substances from getting into the prison and, significantly, reducing not only harm to the prisoners but related incidents of violence against prison staff.

During the tour and in our subsequent discussion, the effort that was put into the health and wellbeing of prisoners was evident. That continues at every stage of a prisoner's time in Kilmarnock prison, and when trying to prepare them for release and to find suitable accommodation and employment.

However, once again, the problem was raised of third sector groups having to continually apply for funding every year and the related uncertainty about continuity of service and the ability to maintain relationships that have been built up with prisoners.

The lack of support or education for prisoners on shorter sentences was also raised. Although resources are scarce and time is limited, the clear message to us was that prisoners on very short sentences could also benefit from support.

Finally, we saw for ourselves how important the visitor centre is in maintaining family contact, and the breakfast club initiative was particularly impressive in helping to maintain a natural relationship between prisoners and their children at weekends.

Jenny, do you have anything to add?

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I have a few reflections. I certainly took away the issue of the education programmes. I was taken by the fact that, although we have an idea of what prisoners' education needs are, they do not all have to be assessed for their literacy needs and can opt out of that. More than half of prisoners do, which tells us something about what is going on. Perhaps because of their experience of the education system, they just do not want to engage. That was quite telling.

The second issue was the housing needs of prisoners when they leave prison and how those are tracked and monitored. There was confusion, with people finding different alternatives. It would be interesting to get a better national picture to see whether the ways in which the pathway is happening are localised in the Kilmarnock area—I honestly do not know about that.

The third thing that was mentioned was how many people now go to prison. Kilmarnock jail, which we visited, was built in 1999, so it is 20 years old. It was a private prison that was very much built for its day. I was quite taken by the fact that pretty much all the staff told us that we still send too many people to prison and that it does not work. Their livelihoods depend on the prison work, so it was an interesting point to take away. I thought about the Government's policy of a presumption against short-term sentences and how that filters out in reality—in our prisons, in the sentences that are passed down and for people who are on remand or have short-term sentences when they do not necessarily need to be in jail—and what alternatives are being considered.

The last issue concerned the family unit, which we looked at on the way out. I was impressed with how the staff help to support families and prisoners in general in Kilmarnock. They try to break down barriers, but the prison is still covered in barbed wire—that fact does not go away. The unit had an interesting approach to how to engage families in that situation.

The Convener: We found the visit really worth while. So many issues were raised, and we will go into detail when the clerk does the report. Do other members have any comments on what they have heard?

Liam Kerr (North East Scotland) (Con): Jenny Gilruth's point about housing when a prisoner comes out was very interesting, because I have heard it at several prisons that I have visited. Unless and until that is addressed, they can end up in a downward spiral very quickly. Did you get any sense from your discussions about where the responsibility lies to ensure that the prisoner comes out and is housed? One would have thought that it is not the direct responsibility of the prisons.

Jenny Gilruth: I do not think that it is the prisons' responsibility. There was a lot of discussion about help being provided by third sector organisations, but that cover has been patchy or disjointed in some places. There was also confusion about the impact of benefits reforms on what prisoners might be entitled to when they leave prison. Where someone who has just come out of prison should go—where their first port of call is—is a confusing landscape. There is no clarity about where the responsibility falls per se. The convener may have more to say on that issue.

The Convener: The staff in Kilmarnock try to ensure that no one who leaves the prison is left to their own devices. They try to have someone with them to ensure that they have accommodation, but they can slip through the net if there is sickness, for example. They know that the time when people go through the prison gates is crucial. That reinforces the points that have been made about resources and about the third sector having three-year planning, or longer planning than one year, to try to ensure that that help is always in place.

Liam Kerr: To be clear, is it the third sector that looks after that space?

The Convener: Yes, it is.

Liam Kerr: So that is the bit that needs to be got right.

The Convener: The people who work with the prison team and officials also do so, but their remit ends when people leave prison. The third sector can continue the throughcare, in whichever form that takes.

Jenny Gilruth: I am not sure how much that reflects what is going on nationally, because we were only in Kilmarnock prison. It is important to look at the other ways of dealing with the issue. It may not be the same in Perth, for example; I do not know the situation there.

The Convener: For example, Kilmarnock prison is the only one in Scotland that has a Rapiscan machine, so what we saw there is not necessarily repeated in other prisons.

Rona Mackay (Strathkelvin and Bearsden) (SNP): The general issue is on the agenda of the cross-party group for women's justice. A speaker at a future meeting will be from a housing association that deals specifically with rehousing women who come out of prison and who have no place to go. There is a problem that will get better the more we highlight it and make people aware of it. I can report back and clarify the issues after my meeting.

The Convener: The clerk can also approach the Scottish Prison Service for a national picture.

John Finnie will remember Alison McInnes trying to get a provision into legislation to make it a prerequisite of someone leaving prison that they have accommodation to go to.

John Finnie (Highlands and Islands) (Green): I thank the convener and Jenny Gilruth for their feedback. The third sector plays a valuable role in supporting prisoners, but that should not obviate the statutory obligation on the local authority regarding housing. I know that both Highland Council and Moray Council were involved in Inverness prison. Jenny Gilruth's point about having a fixed address to get benefits is important. The complications of having a fixed residence are becoming a more involved riddle to solve for people coming out of prison. There is clearly a lot of good work going on, although it might appear fragmented.

The Convener: It would be good to look back at Alison McInnes's amendment. I am sure that it was agreed to and might be in legislation. By the time the clerk's detailed report of what was discussed comes forward, we will have that information.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I thank the convener and Jenny Gilruth for their feedback. It is symptomatic of the use of short-term sentences that the things that they talked about happen. When I worked in criminal justice, it was said that a prisoner on a community payback order, for example, running concurrently with a short-term prison sentence was in a better position, because there was statutory support for them. As the convener said, when somebody is released from prison, there is no support in place for them. There may be an offer of voluntary support, which the person may choose to accept on release, but lifestyle and behaviour patterns can kick in again. The person may be met by relatives at the prison door, but there may be relationship difficulties. It can be a vicious cycle for folk. That is another reason why we should not have short-term sentences.

The Convener: Certainly, the release from prison is a critical time. That was made clear to us. It was a very worthwhile visit, and we look forward to the clerk's report.

Justice Sub-Committee on Policing (Report Back)

10:42

The Convener: Item 4 is feedback from the recent meeting of the Justice Sub-Committee on Policing. Following the report, there will be an opportunity for brief comments or questions. I refer members to paper 2, which is a note by the clerk. I invite John Finnie to provide feedback.

John Finnie: As the convener said, the committee has a feedback note at paper 2. The sub-committee met on 9 May and took evidence from Police Scotland and the Scottish Police Authority on their responses to the sub-committee's report on the proposal to introduce cyberkiosks for use by front-line officers.

Police Scotland informed the sub-committee that it is satisfied that it has the legal basis to introduce the use of cyberkiosks, based on advice from the Crown Office and Procurator Fiscal Service and the legal opinion that it sought from Murdo MacLeod QC. However, it also agreed that legal clarity would be welcome. The SPA board is to consider a paper on cyberkiosks and the legal opinion at its meeting on 22 May. The external reference group and stakeholder group are to consider the draft data protection impact assessment and equality and human rights impact assessment, along with other documents, on 11 June. Following these meetings, it is Police Scotland's intention to deploy cyberkiosks in late summer.

The next meeting of the sub-committee will be on Thursday 30 May, when it will take evidence on the Scottish Government's capital funding provision to Police Scotland. The sub-committee will hear from witnesses representing police officers and staff. The sub-committee will return to the issue of cyberkiosks when it takes evidence from the Cabinet Secretary for Justice at its final meeting before the summer recess on 13 June. That session will focus on the Scottish Government's response to the sub-committee's report on cyberkiosks.

I am happy to take any questions.

Liam McArthur (Orkney Islands) (LD): As John Finnie said, the session was useful. We struggled to cover the ground, even in an extended session, and have followed up a number of questions, both with Police Scotland and with the SPA, particularly about the legal advice that John Finnie referred to. Although we have come a long way in pushing Police Scotland to a better place on the matter, questions remain that require answers.

It was telling that, when pressed, Police Scotland and the chair of the SPA acknowledged that much of the legal framework in this respect is from the analogue age, and the point about trying to keep pace with the development of technology as well as dealing with the pressures on the police in combating cybercrime and other crime with a cyber element was very well made. Both seemed to be encouraging a review of the legislation in this area to find a framework that would be more fit for purpose with regard to the balance that needs to be struck between, on the one hand, combating crime and, on the other, acknowledging the human and other rights that are caught up in this and which have very much been part of the sub-committee's deliberations.

I certainly found the session very useful, and I think that the session with the cabinet secretary will only extend things.

The Convener: Substantial progress has been made since we first looked at this issue, and we are now in a much better place to cope with what is an ever-moving and changing set of circumstances that the law has to keep up with.

Rona Mackay: The witnesses seemed very pleased with the sub-committee's work on the matter, which they had found very helpful and constructive. Indeed, they seemed very happy to co-operate with the sub-committee.

The Convener: As there no other comments, we move to item 5, which is a discussion in private of correspondence that we have received from the Finance and Constitution Committee.

10:46

Meeting continued in private until 11:16.

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