



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 17 September 2019

Session 5



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JUSTICE COMMITTEE
22nd 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)
*James Kelly (Glasgow) (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

THE FOLLOWING ALSO PARTICIPATED:

Ash Denham (Minister for Community Safety)
Sean Duffy (Wise Group)
Phil Fairlie (Prison Officers Association Scotland)
Tom Halpin (Sacro)
Professor Nancy Loucks (Families Outside)
Alastair Muir (Police Scotland Violence Reduction Unit)
Stephen Sandham (HM Inspectorate of Prisons Scotland)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 17 September 2019

[The Convener opened the meeting at 10:00]

Interests

The Convener (Margaret Mitchell): Good morning, and welcome to the Justice Committee's 22nd meeting in 2019. We have received no apologies. Liam McArthur and Liam Kerr will be with us a little later—there are travel problems.

Agenda item 1 is a declaration of interests. I am pleased to welcome James Kelly to the committee. Do you have any relevant interests to declare, James?

James Kelly (Glasgow) (Lab): I declare that my brother, Tony Kelly, is a sheriff in the sheriffdom of Glasgow and Strathkelvin.

The Convener: Thank you.

Decision on Taking Business in Private

10:00

The Convener: Agenda item 2 is a decision on whether to take in private agenda item 8, under which the committee will consider its approach to the Children (Scotland) Bill at stage 1, and agenda item 9, under which the committee will consider its work programme. Do members agree to take those items in private?

Members indicated agreement.

Subordinate Legislation

Scottish Tribunals (Listed Tribunals) Regulations 2019 [Draft]

10:00

The Convener: Agenda item 3 is consideration of the draft Scottish Tribunals (Listed Tribunals) Regulations 2019, which is an affirmative instrument. I welcome the Minister for Community Safety, Ash Denham, and her officials from the Scottish Government. Lauren Keillor is a courts and tribunals policy officer, and Heather McClure is a lawyer. I refer members to paper 1, which is a note by the clerk.

I believe that the minister wants to make a short opening statement.

The Minister for Community Safety (Ash Denham): Yes, please. Thank you, convener.

As members will see, the regulations are relatively straightforward. They amend the Tribunals (Scotland) Act 2014 to include a bus lane adjudicator in the list of tribunals whose functions may be transferred to the Scottish tribunals under that act. The act created a new, simplified statutory framework for tribunals in Scotland by establishing the Scottish tribunals. That brought together existing tribunals legislation and provided a structure for new jurisdictions.

Schedule 1 of the 2014 act sets out the bodies that may transfer into the First-tier Tribunal for Scotland. Although a parking adjudicator is listed in that schedule, a bus lane adjudicator is not. In addition to their parking appeal functions, the current four parking adjudicators undertake functions that relate to bus lane contravention appeals. The amendment supports the policy intention that the functions of the bus lane adjudicators will be transferred into the First-tier Tribunal at the same time as those of the parking adjudicators.

I understand that the Delegated Powers and Law Reform Committee considered the regulations on 3 September and that it raised no points.

I would be happy to answer any questions that the committee has on the regulations.

The Convener: As members have no questions, we move to agenda item 4, which is formal consideration of the motion on the affirmative instrument.

As the minister said, the Delegated Powers and Law Reform Committee considered and reported on the regulations, and it had no comments on

them. The motion will be moved, with an opportunity for a formal debate if that is necessary.

Motion moved,

That the Justice Committee recommends that the Scottish Tribunals (Listed Tribunals) Regulations 2019 [draft] be approved.—[Ash Denham]

The Convener: Members have nothing to say about the instrument. It is not the most riveting of all the subordinate legislation that we have looked at.

Motion agreed to.

The Convener: That concludes our consideration of the instrument. The committee's report will note and confirm the outcome of the debate. Does the committee agree to delegate its authority to me as convener to clear the final draft of the report?

Members indicated agreement.

The Convener: I thank the minister and her officials for attending and suspend the meeting briefly to allow a change of witnesses.

10:04

Meeting suspended.

10:05

On resuming—

Pre-budget Scrutiny 2020-21

The Convener: Agenda item 5 is an evidence session in our pre-budget scrutiny of the Scottish Government's 2020-21 budget. The focus of the committee's scrutiny this year is mainly on the Scottish Prison Service budget, as well as budgets provided to the public, third and voluntary sectors for services to prisoners. I refer members to paper 2, which was prepared by the clerk, and paper 3, which is a private paper.

We will hear from two panels of witnesses this morning. I welcome the first panel: Stephen Sandham, deputy chief inspector of prisons, Her Majesty's inspectorate of prisons for Scotland, and Phil Fairlie, Scottish national chairman of the Prison Officers Association Scotland. We will go straight to questions from members, starting with John Finnie.

John Finnie (Highlands and Islands) (Green):

Good morning, panel. I would like to ask about the implications of the number of prisoners on the estate—there are more than 8,000 in 2019-20—on the safety and wellbeing not only of staff, but of inmates. How does that level of occupancy impact on them and that relationship?

Stephen Sandham (HM Inspectorate of Prisons Scotland): From the inspectorate's point of view, we are extremely concerned about the really dramatic rise in the prison population that you refer to. The population has increased by more than 700 in the past 12 months, which is equivalent to a large prison in its own right, and by more than 1,000 prisoners in the past 16 months. It has gone up from 7,200 in April 2018 to approximately 8,300 now. That is way beyond the Prison Service's planned design capacity, which is around 7,800, so we are talking about more than 500 more prisoners having to be accommodated within the service than is normally the case.

In our view, that has quite a dramatic impact on the safety of prisoners, but also on the safety of prison officers, as you said. It has an impact on the ability of the SPS to provide what we would call a normal regime. There are simple things, such as having a lot more prisoners who require medication, so the whole process of dispensing medication takes longer than it previously did. That impacts on the ability of prison officers to get people to where they should be—to the work sheds and to other purposeful activity.

We are seeing a range of performance indicators that are going in the wrong direction; that was highlighted in the Audit Scotland section 22 report that was published last week, so we

think that it has quite a profound and worrying impact.

John Finnie: Mr Fairlie, perhaps you can touch on the issue of purposeful activity and the ability, or lack thereof, to rehabilitate that is caused by those numbers, but could you comment first on the safety issue for your members and for the prison population?

Phil Fairlie (Prison Officers Association Scotland): From a prison officer's point of view, the details that we would want you to focus on are the violence levels that are going up inside prisons, on both staff and prisoners. The numbers of both serious assaults and common assaults have gone up substantially. That is not just because of the growth in the prisoner population, which you would assume might add to the numbers; that is not the full explanation. There is a lot going on in terms of the climate and environment in which staff are being asked to work and in which prisoners are being held.

Sick absence levels are a significant factor in describing the impact of overcrowding on the health and welfare of staff inside prisons. That is heavily reflected in the numbers. There is a 60 per cent increase in sick absence levels, which tells you clearly what is going on with the staff's ability to cope in that environment. Between that and the violence figures, there are two clear and stark indicators of what is going on inside prisons.

John Finnie: I appreciate that the issue is not straightforward—obviously, those issues will be compounded by prisoner numbers—but can you say to what extent that impacts on safety and levels of violence against your members?

Phil Fairlie: The number of serious assaults has doubled. Obviously, serious assaults cause us most concern. The number of all assaults—on both staff and prisoners—has also doubled. Some of that is to do with what Stephen Sandham touched on with regard to what the day is taken up with. Simply as a result of the volume of prisoners that we have, much more staff time is being taken up with just going through the daily processes—of feeding, medication, exercise and going in and out to work sheds—instead of that time being spent on the purposeful activity or challenging offending behaviour stuff that staff would normally be doing. All of that has an impact on the day-to-day climate inside our prisons.

In addition to the numbers issue, another complication or factor is the increased use of psychoactive substances, which has an enormous impact on the climate inside the prisons. That factor is completely unpredictable—it is never the same two days in a row. The prisoners themselves have no clue what reaction they will have when they take that stuff, and neither do the staff. When

we are dealing with psychoactive substances, the tried-and-tested means that we—as prison officers—have for dealing with violent or disturbing incidents inside our prisons are often exactly the wrong things to do. Through time, we have identified some of the things that we do that are not particularly helpful at such times. However, what is missing at this stage is something that we can put in place of those tried-and-tested means—we have no alternatives for managing such incidents safely, which can contribute to either staff or prisoner injuries during those incidents.

John Finnie: Will you comment on the term “purposeful activities” and say what capacity the Scottish Prison Service has to respond by providing more of them—if, indeed, that is possible, given the increase in prisoner numbers?

Stephen Sandham: The section 22 report that Audit Scotland laid last Thursday set out that the number of purposeful activities—they include people being sent to work sheds, education or anything that gets them out of the cell, doing something helpful in terms of rehabilitation and enabling social interaction with fellow prisoners—has reduced by about half a million hours. In 2016-17, there were 6,758,000 hours of purposeful activity; that has gone down to 6,258,000. That is a drop of half a million, which is significant. It means that the average number of hours of purposeful activity per week per convicted prisoner has dropped from 22 to 20.

I also highlight the fact that, for a long time, we in HMIPS have been concerned that not enough is done for remand prisoners, who get much less purposeful activity than that. That is a concern, because it leaves those prisoners in their cells for much longer than is desirable for their mental health.

John Finnie: The committee did a report on remand, which you may have seen. What is the explanation for the drop from 22 to 20 hours? Is it because of all the other prison activities that were alluded to?

Stephen Sandham: As Phil Fairlie alluded to, it is also due to sick absences, which have gone up dramatically. The SPS has lost the equivalent of 14,000 man days due to stress. The average sick absence level has gone up by 60 per cent to 16.3 days, and it was up at 17 days by July 2019. That means, in effect, that prisons are running with a shortage of staff. I spoke to the SPS last week and it suggested that the additional sick leave was equivalent to its being 50 people down.

The service is about 60 staff down in respect of what it would need to cover the additional prisoner numbers and it has about 100 staff who cannot be deployed for various reasons—they are on maternity leave or phased returns to work. That

adds up to the service having about 200 fewer staff than the number that it needs according to its own workforce modelling to provide the kind of regime that it would wish to provide.

10:15

Phil Fairlie: On top of that, there are more prisoners inside our prisons, so one would think that the number of hours being delivered would go up, rather than down, because more people require access to purposeful activity. Stephen Sandham gave one explanation why that is not happening, but it is not the only explanation.

Given the number of extra prisoners inside the system, the drop in hours from 22 to 20 is about capacity to deliver. Even if all those staff were not off and were in their place of work, there has been no growth in prison staff numbers to complement or match the growth in prisoner numbers. Even if we brought in 700 prisoners and everyone was at work, we would have no extra capacity to deliver the necessary numbers for purposeful activities.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): Stephen Sandham spoke about the reduction in purposeful activity of half a million hours. Is that right?

Stephen Sandham: Yes.

Jenny Gilruth: Do you know what percentage of that is linked to educational opportunities or is it not measured by individual activity?

Stephen Sandham: It is measured, but I do not have those statistics to hand. I could try to get them to you.

Jenny Gilruth: Is there equal opportunity for all inmates to access the educational opportunities across the prison estate? Remand prisoners have been mentioned this morning. Is there national variation?

Stephen Sandham: There is a definite disparity in the number of opportunities that are available to convicted prisoners and to those who are on remand. I cannot emphasise enough that, although I have no doubt that SPS colleagues encourage remand prisoners to access opportunities, we think that they could be more proactive—they tend to ask the remand prisoners and, if they say no, that suits the staff in a way. We would like them to be more proactive in encouraging prisoners on remand to take up those opportunities. The SPS is measured against the amount of activity that it provides for convicted prisoners, rather than what it does for those on remand. There will be a sharp distinction in the stats.

Phil Fairlie: Education will be in the same territory as any other purposeful activity. We have

a national contract for education, but that is only part of what we need if we are to give regular access to education for all prisoners. Access will vary from establishment to establishment and there will be several reasons why different establishments deal with it in different ways.

Fulton MacGregor (Coatbridge and Chryston) (SNP): In response to John Finnie's question, Phil Fairlie in particular mentioned the increase in assaults on staff and other prisoners, which is very worrying to say the least. Do you have any stats on that? Is there a general increase across the board or are you seeing a larger increase in certain prisons? Is there an argument for more resources for certain prisons or is it a uniform situation across the prison estate?

Phil Fairlie: There is no specific group or prisons that we could single out as the problem—it is an issue across the estate. There is a general increase in minor and serious assaults on staff and prisoners across the estate. We cannot zoom in and identify one site or one group of prisoners to which those numbers apply.

Liam Kerr (North East Scotland) (Con): Can we return to Jenny Gilruth's point? We have seen a big increase in the number of prisoners on remand and, anecdotally, I understand that they can have some of the most challenging behaviours, because of the situation that they are in. Is any analysis being done on whether the increase in the number of prisoner-on-staff and prisoner-on-prisoner assaults is a function of there being more remand prisoners? Is that population driving the increase? Is that borne out, or is that analysis not being done?

Phil Fairlie: I do not know whether that analysis is being done. I certainly have not had sight of any analysis that drills down into that. Feedback from my membership on the increase in the number of assaults does not focus on remand prisoners alone. My understanding from the members is that the violence is not centred in or focused on that group. The information that we get about the assaults that take place suggests that they come from a much wider prisoner group than just remand.

Stephen Sandham: I do not have any analysis on that either, but I tend to concur with Phil Fairlie that the increase is not predominantly about remand prisoners and is across the board—potentially, it is more about convicted prisoners than those on remand, but I do not know.

The Convener: You said that a lot of the purposeful activity, including education work, is contracted out. If there are staff shortages and activities do not take place, what happens with the contract? Are outside agencies paid for work that

is not undertaken, or are there contract clauses to mitigate that?

Stephen Sandham: I think that that does happen. We have seen evidence of, for instance, library facilities being available but there being difficulties in getting prisoners to the library, and we have seen, in inspections, evidence of the same happening with education and work sheds. Fewer people get there than would be wished for—a certain number of prisoners might be expected to turn up, but for various reasons not all of them do. Some of those reasons are completely legitimate and are linked to the difficulties of managing the number of prisoners who are in the system at present.

The Convener: When numbers in the workforce are so desperately reduced, is there any purposeful activity going on in prisons?

Phil Fairlie: There is no question but that part of the reason for the numbers being down is that staff who are qualified to deliver purposeful activities to the prisoner population have, simply because of staff shortages, been taken off those posts to supplement and assist staff in residential areas. We have staff who are supposed to be contracted from 8 to 5 or 9 to 5 during the week to provide purposeful activities who have come off such contracts to do to shift work to assist in residential areas, just because of the numbers.

The Convener: Are the outside agencies that have contracts for mentoring or counselling still going into prisons, and are they able to do the jobs that they have been contracted to do?

Stephen Sandham: Those agencies are still going into prisons and are doing the best they can. There is no criticism of them.

Let us be clear: the section 22 report that was published last week shows that the number of vocational and employment-related qualifications that were achieved went up by about 6,000 between 2016-17 and 2018-19. However, the converse of that was that the number of vocational and employment-related qualifications above Scottish credit and qualifications framework level 5 dropped from 2,465 to 1,781, so there is a mixed picture. More prisoners are getting qualifications, but fewer are getting them at the higher levels.

The Convener: There is absolutely no criticism of the people who are contracted, prepared and ready to do the job, and have been paid to do so. However, we are undertaking pre-budget scrutiny and looking at whether money is used effectively, and it does not seem to me that that has been looked at in any shape or form. Is there a contract clause that allows those people to be brought in and to use that resource at other times in order to increase hours? Is anything being considered that would make up for the hours that have been lost

because of exceptional absences due to sickness and so on?

Stephen Sandham: I am sorry—I do not want to fudge the answer, but you will need to put that question to the Scottish Prison Service because HMIPS does not have access to that information. Our focus is on the conditions and treatment of prisoners, rather than on the performance of SPS in how it manages its budget, which is where Audit Scotland's scrutiny comes in. I am sure that the SPS could provide you with information on that.

The Convener: Did you refer to the Auditor General for Scotland's 2018-19 report, Mr Sandham?

Stephen Sandham: I referred to the Audit Scotland section 22 report that was published on 12 September, which was last week.

The Convener: Does Mr Fairlie have a comment on that?

Phil Fairlie: I have been talking about purposeful activity that is provided and delivered by prison staff rather than by contractors. I am not aware that the education contract is not being met by the education providers. The variable bit that I am referring to is our ability to get the prisoner population to education services across sites rather than the other way round.

The Convener: Is there a case for getting more outside agencies, which have the manpower, into prisons so that prison officers can ensure that they are doing the core work? I realise that that sometimes involves providing purposeful activity. If you can guarantee that an outside agent—a third sector or voluntary organisation—that works in the prison will be there and will take up some of the slack, logistics require only that you get it to meet the people for whom it is contracted to do the work.

Phil Fairlie: The fact that staff who are tasked with providing the purposeful activity inside prisons are not doing that is not down to them, but down to the prison system's not having enough prison officers on the front line in the residential areas.

The Convener: Exactly.

Phil Fairlie: Those staff have, in order to fulfil a different role, been taken off the role that they have been trained to fulfil. Ultimately, we need more prison officers. That is what would free up staff who are trained to deliver purposeful activity to go back to delivering that activity.

Outside agencies are certainly an option that members might want to consider. However, if members look at any chief inspector reports up to now, they will see that they focus heavily on the value of the relationship between prison staff and prisoners, and the impact that that has on day-to-

day delivery and the routine inside the prison. The prisoner population highly values prison officers delivering purposeful activities. It is about providing more prison officers to the front line in the residential areas, rather than taking them off purposeful activities.

The Convener: I refer to the Auditor General's report entitled "The 2018/19 audit of the Scottish Prison Service". As the Auditor General said, the main finding is that the service

"faces a combination of severe pressures on many fronts; this poses a threat to operational safety, effectiveness and financial sustainability."

If there were more resources—the resources have fallen in real terms in recent years—would prison officers be available? I seem to recall that we heard from the head of the SPS that recruiting prison officers is difficult. I am trying to tease out the precise nature of the problem, given the financial sustainability issue that has been raised in the Auditor General's report.

Phil Fairlie: Our biggest recruitment problem is in HMP and YOI Grampian: it has been a problem since the day the prison opened. We have always had difficulty in getting the proper staff complement into that prison. From a trade union perspective, I argue that part of the background is that because of the Scottish Prison Service's salary scales and attractiveness, the work is seen by many people now more as a job than as a career—many staff work in the Prison Service for a secondary income for the family home. Grampian prison is a perfect example of that. People there do not see the work as a career, and the turnover rate is much higher than it is anywhere else. However, the problem is not just in Grampian, but throughout the country.

We have just gone through a very successful pay round with the Scottish Government and the chief executive of the Scottish Prison Service, which will help. Our pay deal makes the SPS a far more attractive organisation and employer. I genuinely think that part of the problem has been that, for a lot of people, the terms and conditions in the service and the environment in which people have been asked to work for the reward have simply not been attractive.

The Convener: I think that the chief executive of the Scottish Prison Service, Colin McConnell, suggested that that was a general problem across the prison estate, and not just in Grampian.

Given what you have said about operational safety, is the problem purely about salaries, or is it about the nature of the job and the dangers that are faced as a result of use of psychoactive substances and so on, including attacks by prisoners, that make the jobs less attractive, regardless of the salary?

10:30

Phil Fairlie: I think that the problem is partly to do with media coverage in the past year and, maybe even more so, in the past six months, that has highlighted issues inside our prisons. What people on the outside who are looking for a career change see and read about what happens inside prisons does not make it look like a particularly attractive career move, no matter what the salary is. I hope that we are not going to continue to have such headlines and media coverage, and that we will be able to do something to improve the conditions and the environment inside our prisons, so that they are no longer the talking points.

The pay deal that we have just done has made the employment more attractive salarywise, but the real test will come when people start to look at the service as a career move, and look away from the headlines that are currently running, which are all about overcrowding, an increase in violence and huge sickness absence levels, which suggest a particularly unattractive environment for people to come and work in.

The Convener: So, it is a bit of a catch-22 situation.

Phil Fairlie: Yes.

The Convener: Thank you.

James Kelly: Throughcare was suspended in July this year. Can you give us an idea of the impact that that suspension has had on prison staff and prisoners, and on partner organisations? Obviously, throughcare is very important in supporting prisoners as they move from prison into the community, by ensuring that they have stability when they are released.

Stephen Sandham: The inspectorate is certainly very disappointed by the loss of throughcare services. We find consistently when we inspect that that service has been among the most positive bits of activity in prisons and is one of the most valuable services that are provided. We fully understand why the chief executive of the SPS felt that he needed to pull those services. He felt that his only option to deal with overcrowding, which we have already talked about, was to pull those trained officers back because he needed more trained officers in residential areas. My understanding was that the Scottish Government offered more money if it was a money issue, but it was not a money issue; it was about the need to get trained bodies back into residential areas.

You are absolutely right that throughcare provides a hugely important service. An evaluation from 2017 was very positive about its potential impact on reducing reoffending. My understanding is that transitional arrangements have been made for organisations to pick up some of the work that

was done by the throughcare officers, but it is certainly very unfortunate that the suspension has happened. We note that it is only a temporary measure by the SPS and we hope that throughcare services will be brought back in as soon as possible.

Phil Fairlie: The trade union agreed with the chief executive at the time to withdraw the throughcare officers and bring them back into the prison to support residential staff. That was not because we do not value the role as much as anybody else does—it is a hugely successful venture that the service took on. If members do not mind, I will claim some of the credit for that for the POAS, because the POAS was pushing to get prison officers involved. The skills and knowledge that officers have through working with the client group that we are talking about always had the potential to go beyond the walls of the prison and to help with the transition back into the community.

The throughcare role is something that we value very much. The staff who have provided that role are deeply disappointed to be back inside the prison, because they have got so much back from the role, as did the client group with whom they had been working. We have supported the suspension on the basis that it is temporary: we absolutely want to see the services coming back and being reinstated.

The report that Stephen Sandham referred to showed a 78 per cent success rate in terms of the impact on reoffending and people coming back into prison within two years. That is not something that we should give up lightly; we should reinvest to ensure that it can come back.

However, from the trade union's point of view, it was the right decision at the time. We cannot allow staff who can contribute to protecting the health and wellbeing of staff inside prisons to sit outside, thereby leaving them at risk. The priority for us had to be ensuring that staff inside the prisons were given the support that they needed to manage the numbers that we are dealing with.

I really hope that the suspension is a temporary measure and that the throughcare role will be back and up and running soon. It is too valuable to lose.

James Kelly: You are both right to point out how valuable the throughcare service is, particularly in reducing reoffending, which is very important. Has there been any indication from the Prison Service or the Government about the timeline of the temporary suspension? Do we have an indication of when the service might be reintroduced?

Phil Fairlie: There is no timeline for that because we do not know how long we are going to be dealing with overcrowding or the growth in sickness absence levels in the SPS. We are going

through a review with the employer on managing sickness absences in the service. Those conversations have been going very well and have been positive: between us, we will come up with something that can have a significant impact on the numbers. However, we cannot give a timescale for reintroducing the throughcare role until the numbers start to change.

James Kelly: Is the suspension open-ended, at this point?

Phil Fairlie: Yes.

Shona Robison (Dundee City East) (SNP): I am very interested to hear that the suspension is not a money issue, because it is sometimes portrayed as such, although the matter is far more complex. Are you able to tell us how many officers have been redeployed from throughcare back into the prison estate?

Phil Fairlie: There were 42 throughcare officers; all 42 have been taken off throughcare and brought back into the prison estate.

Shona Robison: Has there been an impact on the sickness absence levels of that group of people in particular?

Phil Fairlie: I cannot tell you, because I have not drilled down into that.

Shona Robison: Okay. Are there any temporary solutions that could be brought to bear to try to mitigate matters, or is it a case of resolving the wider prison estate issues to enable those highly trained officers to go back into throughcare?

Phil Fairlie: The SPS could make an operational decision to put those officers back into the throughcare role. That option is available. As a trade union, we would then want to know what mitigating steps the service would take to give the assistance that those 42 staff are currently giving to the front-line staff inside the prisons. We need to know what else is available to us to give those staff the support and protection that they need. It is an operational decision. The SPS could choose to put those officers back into the role; I could live with that, if we had an alternative way to provide the support that the staff inside the halls need.

Stephen Sandham: It goes back to the point that we discussed earlier that the Prison Service's funding and operational capacity is geared to a prison population of 7,800, and our current prison population is 8,300. We have 500 extra people in prison, but the service does not have the additional staff to deal with them.

The Convener: Do you want to ask your other questions, Shona?

Shona Robison: You will be aware of comments that have been made in the annual

report by the chief inspector of prisons, about the financial pressures on the Scottish Prison Service being “immense”. One of the issues that has been highlighted is the cost for the service of purchasing additional prison places in the two privately run prisons. Can you expand on that, Mr Sandham? What are the implications of that for financial sustainability and resolution of some of the wider issues that we have been discussing over the last hour or so?

Stephen Sandham: I do not have precise figures on how much a prisoner place in a private jail costs, but it is significantly higher than the cost of a public sector prisoner place. The SPS had no choice but to purchase an extra 100 places from Kilmarnock prison, which is one of the private prisons. That had a significant financial cost. SPS could give the committee the precise figures on that. However, last week’s Audit Scotland report highlighted that buying places is unsustainable against the flat-rate budget that SPS has had for some time, in which there has—as the convener pointed out—been a 12.5 per cent reduction in real terms.

This year, SPS has been able to manage that situation only by going back to the Scottish Government and saying that it cannot live within the budget. It has reached an agreement whereby the Scottish Government will cover the additional cost of places in Kilmarnock prison for this year. The Scottish Government has provided something like £22 million in additional funding this year to help with the pressures on the SPS, including the pay settlement. However, the point is that, if the budget stays flat, the situation is not sustainable.

Shona Robison: That is helpful. Do you have anything to add, Mr Fairlie?

Phil Fairlie: The trade union perspective is that we were always against the private prisons. I do not want to take the discussion off on a tangent, but from the point of view of the Prison Service and prison staff, the involvement of private prisons was the genesis of a number of problems in relation to where we have ended up on terms and conditions, environment and staffing complements. Those problems have all had huge impacts over many years, including on the situation that we are in now: some of what we are dealing with now is the legacy of that. My position is based more on a political than a financial point.

Shona Robison: Will the witnesses also comment more generally on the effectiveness of recent spending decisions on prison modernisation and improvement, including in relation to the existing estate, where there has been a focus on security measures to prevent the smuggling of illicit goods? Another issue is timeframes for new prisons.

Stephen Sandham: The inspectorate is pleased that there is a commitment from the Scottish Government to go ahead with the modernisation of the women’s prison estate and HMP Glasgow. That is fantastic news. However, the bottom line is that both cannot come soon enough.

I understand that the intention or expectation is that the new women’s national facility at Cornton Vale and the two community custody units in Glasgow and Dundee will be in place by 2021. I do not think that we have a date yet for when HMP Glasgow will come online—I think that the service is trying to purchase the site at present. The inspectorate has just come out of an inspection at Barlinnie, and the committee should be in doubt at all that it is a Victorian prison that is not fit for purpose in a modern prison service. The sooner that we can get a replacement for it, the better.

Phil Fairlie: I agree. There are probably three prisons that badly need either to be replaced or to be removed altogether, one of which is Barlinnie, which absolutely needs to be replaced. It holds a population of up to 1,500 prisoners in a prison that is simply not fit for purpose. In 2019, there is no longer a place for the conditions in which staff are being asked to work and prisoners are being held—Barlinnie needs to be replaced as a matter of priority.

In order to deal with the budget that it has, the Scottish Prison Service is cutting the maintenance budget from capital spend as a means of getting by. If something was to happen in Barlinnie, for example, as a result of the maintenance budget being cut and our inability to do the kind of infrastructure work that is required, I genuinely do not know where inside the Scottish prison system we would deal with the prisoner movement that would be required. We do not have the capacity to deal with a failure of that magnitude. The variation between prisons where prisoners are held and staff work is no small issue. Low Moss and Grampian prisons are fantastic examples of good, modern prisons. However, they sit alongside some of the worst prison conditions anywhere in the UK, and those prisons need to be replaced as a priority.

The Convener: You said that the terms and conditions in the private prisons present a problem for the SPS. Will you elaborate on that?

10:45

Phil Fairlie: From my 25 years in the trade union, I can vividly remember the conversations, and the change in the conversations, that we have had with the employer and the chief executive at the time about terms and conditions and who we were being compared with. The private sector was

used as the benchmark. To use trade union language, it was the stick that we were beaten with to reduce the staff complement and to hold back on growth in pay and improvements in the terms and conditions that came with the role of prison officer. The private sector became the competition and we were constantly measured against it. That had a significant impact on industrial relations and the negotiations that took place between us and the employer.

The Convener: I am trying to understand how the private sector has the capacity to take 100 extra prisoners. Does it have the money to recruit prison officers? Does it not have a staff shortage? It seems to be able to pick up the slack.

Phil Fairlie: My trade union does not have recognition rights in the private sector, so I cannot talk to you in detail about the arrangements in that regard. However, we never believed that the private sector had enough staff for the contracted number of prisoners—the figure for HMP Kilmarnock was 500, for example—never mind for when prisoner numbers went over and above that. However, those numbers were used in negotiations between us and the public sector employer as a means of keeping our staff numbers down. I cannot tell you what the current numbers are in the two private sector prisons, as we do not have recognition rights in them.

The Convener: We have covered the difficulty of attracting staff. It would be interesting to see whether anything is being done in the private sector that could be replicated by the SPS to make the job more attractive.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I want to ask about priorities for future spending. I appreciate that it might be better to ask the Scottish Prison Service about that, but I would like your take on it. Would you like funding to deal with specific issues, such as staffing—you mentioned the problems with recruitment—overcrowding, drug use, safety and security, suicide prevention and the growing ageing prison population? Is there any one area that you would like future spending to go on?

Stephen Sandham: Those areas are all important, but the fact that we still have Victorian prisons is the critical issue for me, so we need capital investment in the estate. I re-emphasise what Phil Fairlie said: not only is Barlinnie a single point of failure—it has drainage issues that make it high risk for the SPS—but it has no capacity to cope with a further surge in prisoner numbers. Barlinnie is a priority, but there are other prisons—Inverness, Greenock, Dumfries and bits of Perth—that need to be replaced. The whole prison estate needs investment. It is commendable that the Scottish Government has invested in Grampian

and Low Moss, but there is a need to push on with that.

You are right to say that the issue of older prisoners worries us. In Barlinnie, for example, for a population of 1,300 or 1,400 prisoners, there are only five cells that are suitable for disabled prisoners. That is unacceptable in a modern prison service.

As historical cases come to court, an increasing number of sex offenders will come into jail at a relatively older age and will stay in prison for a long time as older prisoners. Therefore, it is a particular priority for the SPS to consider how it looks after older prisoners.

Phil Fairlie: Although I do not disagree with a word about the need to invest in the estate through capital spend, the priority for me is staff.

The report that came out last week makes it clear that the SPS continues to deliver and function only because we have large numbers of staff working many extra hours over and above their contracts in order to keep things going. That is not sustainable. We are starting to see the effects and impacts of that in the sickness absence levels. That 60 per cent growth in absence comes from staff who are trying their best to come in and put in as many extra hours as they can to cover the rosters.

In a front-line service, staff cannot put the work to one side and pick it up later when people come back—we need every gap in that roster to be covered every time one appears. That requires staff to come in and work over and above the hours in their contracts. Those staff are becoming the new sickness absence figures themselves, because they cannot keep that going; the staff who are covering the gaps in the roster are themselves going sick and there is an ever-decreasing circle of staff left to pick up the pieces. The priority has to be that we get a staff complement that matches the prison population.

When the report came out last week, I said that we need to stop funding the Prison Service based on the number of people we wish we held and start funding it based on the numbers we actually hold. That is where we are: we do not have the staff complement to deal with the prison population.

Rona Mackay: Given what you have said about the recruitment problems and attracting people to the profession as a career, do you have any suggestions that might help? If there is a magic bullet that could get people into the service, what would it be?

Phil Fairlie: As the convener touched on earlier, it is a catch-22 situation: until we have fixed some of the things that stop us looking—to someone on

the outside—like an attractive career option, just adding to the salary will not make people feel confident and enthusiastic about joining the service. A salary rise will help the staff who are already in the service and will give them an indication that what they are doing to keep things afloat is being recognised. However, to attract new people to the service we need to deal with the core issues, such as the increase in prisoner numbers, which is increasing violence, which in turn is increasing sick absences. Until we tackle that core issue of having far too many prisoners inside our prisons, I am not sure that we can tackle the rest.

Stephen Sandham: I completely agree that we need to get the staff levels right. The flatline budget that the SPS has had for several years is really drawing out and the pressure is coming to a head. There are several things that would be worth investing in if there is money available. SPS has agreed to carry out a pilot on in-cell technology in Polmont on the back of our mental health report. We welcome that. However, as a whole, the SPS is way behind England in the number of prisons that have access to in-cell technology, which we know reduces mental health issues and therefore takes pressure off prison staff.

Another thing that we have seen in the private prisons is investment in kiosks where prisoners can make their own appointments and order meals. There is a lot of transactional activity that is carried out by Phil Fairlie's colleagues that could be removed through the greater use of such technology. It would be beneficial to invest in that. We would also like to see more use of things such as videolinks to make the family visits process easier for those who have to travel from afar. That would be helpful.

Rona Mackay: I suppose that we would hope that the new prison estate will have all that included.

Stephen Sandham: Yes, we would hope so.

Liam Kerr: I have a question on future funding for rehabilitation. Phil Fairlie talked about new psychoactive substances and drugs in prison. Off the top of my head, I recall that 17 per cent of prisoners in 2009 tested positive for drugs when they left prison and that that figure had gone up to about 26 per cent in 2018. If I am right about that, we are not preventing the drugs—or whatever those things are—from getting in, which will have a significant impact on the staff and the attractiveness of the job. It will lead to an increase in assaults—anecdotally, I understand that staff sometimes ingest the stuff.

What can be done? I have heard about something called a Rapiscan. Should the SPS, the

Scottish Government or someone be investing to deploy that across the estate?

Phil Fairlie: The compounds of the new psychoactive substances are changed so regularly that sometimes the normal methods that we use to detect drugs coming in are not effective. The dogs are very effective for detecting drugs such as such as cocaine, heroin and cannabis, but they are not quite as effective in identifying psychoactive substances, so we need other means.

The Rapiscan that Mr Kerr referred to is a great piece of equipment, but—and this comes down to budget—there are only three for the whole estate. Those three pieces of equipment rotate around the service and it is pot luck whether one is available at any given time. When they are available, they are very effective. We should have one in every prison.

It is not as though we have prisons where psychoactive substances are not an issue—they are an issue in every single establishment. We have a piece of equipment that we know is far more effective than what we have used up to now. It requires capital investment to buy that equipment and so prevent the substances from coming in.

Fulton MacGregor: A couple of minutes ago, Stephen Sandham mentioned the striking figure of the number of cells that are suitable for disabled prisoners. Have you made any recommendations to the Scottish Prison Service on how it might invest to improve that figure drastically?

Stephen Sandham: We will be making recommendations on that. We have done the fieldwork—we have been into Barlinnie—and we are now at the stage of pulling our report together. We always give the SPS and the prison itself the opportunity to comment on any factual errors that we may have made or to challenge any of our findings before we publish a report. Until we have been through that process I am not at liberty to go into full detail, but members can be assured that we will be making recommendations on the need to tackle that issue.

We know that there are limits to what the service can do with an old prison such as Barlinnie. That highlights the fact that we need to invest and bring a new HMP Glasgow on stream as soon as we possibly can.

Fulton MacGregor: Thank you. Perhaps you can keep the committee updated on that.

Stephen Sandham: Absolutely.

The Convener: That concludes our questions. I thank the witnesses for attending the committee.

10:57

Meeting suspended.

11:01

On resuming—

The Convener: I welcome the witnesses for our second panel: Professor Nancy Loucks, the chief executive of Families Outside; Tom Halpin, the chief executive of Sacro; Alastair Muir, the deputy director and chief inspector of the Police Scotland violence reduction unit; and Sean Duffy, the chief executive of the Wise Group. We move straight to questions.

John Finnie: Good morning, panel. I do not know whether you were listening to the earlier discussions, but I would like to ask this panel, as I asked the previous panel, how the increased prison population is affecting rehabilitation and reintegration.

Tom Halpin (Sacro): The reality is that there are interventions that we know work. The evidence is there for, in particular, mentoring as an intervention and throughcare support for people reintegrating into communities. There is no doubt that the pressure on the Prison Service just now, in terms of staff and the number of people in prison, impacts on the ability to do productive work with people while they are in prison. That has been quite apparent in terms of the follow-through on reintegration. I would highlight that that has a direct implication for rehabilitation.

Professor Nancy Loucks (Families Outside): We have already seen some of the impact in the suspension of the throughcare support officer service. Officers who provide a vital role in relation to transition into the community and support for families were taken back into the prison to perform other roles in order to deal with the increasing prison population. That service was very well evaluated and will be much missed. Our concern at Families Outside is that we will see other vulnerable roles go a similar way—the family contact officers are a prime candidate for that—and we really cannot afford to see that, not least because things like family contact, which seem not to be related to justice, are, in fact, critical to people's resettlement when they come out of prison.

Sean Duffy (Wise Group): I echo what Tom Halpin and Nancy Loucks have said. There is also the ability to support the public social partnerships that are in play at the moment. The success of that is integral to the way in which the Prison Service and the third sector work together on the handover. The more time pressure there is and the more time poor the internal cohort of prison officers is, the less effective that warm handover process—the successful journey to reintegration pre-liberation and post-liberation—can be.

Alastair Muir (Police Scotland Violence Reduction Unit): I reiterate what the other

members of the panel have said. The violence reduction unit is looking at how we fill the gap that has been left in throughcare, which was there before, because not all prisons had throughcare. We will talk later about some of the work that we are doing to fill that gap in the lived experience that has been alluded to. It is crucial to fill that gap in the transition of inmates who are moving into the community.

John Finnie: On throughcare and its important role in reintegration, what discussions were had with any of you in advance of the decision being taken to remove the prison officers and put them back into the prison estate?

Tom Halpin: There was no discussion. We became aware of it at the time that the decision was intimated by the chief executive in correspondence to us. It did not come across that there was a lack of willingness; it was more about the sensitivities around how that would be managed within the prison system. We had discussions with the Prison Service in the intervening period, between the intimation and when it came into effect, which was two-plus months later.

Sean Duffy: As Tom Halpin says, there was no prior notice. However, since the decision was taken, we have been fully involved in discussions between the third sector and the Government, with support from the SPS, about how we can fill the void that has been left.

John Finnie: How do you feel about that? I understood that it is a partnership arrangement and that your organisations play a vital role in the criminal justice system, particularly with regard to rehabilitation. At the very best, it appears to have been a discourtesy.

Tom Halpin: I have always taken the view that you cannot point the finger at the Prison Service for not being community facing and then poke it in the eye when it looks out. The whole initiative with throughcare support, working with the third sector and integrating those services, was a journey for us all, and we have all worked earnestly to achieve that. The relationship with the throughcare support officers built up a level of trust within the system, and the handshake through the gate to the mentors and the community was coming good—it was really effective—so it is really disappointing that, for resourcing reasons, the service has had to be suspended.

The mentors are stepping into that space as much as they can, although that has resourcing implications, because you have to have the work done in the prison to make the connection before someone returns to the community. It is absolutely imperative that we have those on-going conversations. I understand that there are

operational reasons to keep things confidential until you are ready to make announcements, but, if the third sector is to be a valued partner not just of the Prison Service but across local authorities and the Scottish Government, there has to be a level of trust around privacy and confidentiality. We may not have the statutory responsibility, but we have a professional and caring responsibility for the people who are in the care of the Prison Service, whom we seek to care for as they return to their community.

The Convener: I point out that this is an area that James Kelly is going to concentrate on.

John Finnie: I beg your pardon. I will leave it there.

The Convener: If there is anything not answered, you can ask a supplementary question.

James Kelly: Thank you, convener.

You have all made really valid points on the benefits of the throughcare service, its support for prisoners being released into the community and its help in reducing reoffending. It is obviously regrettable that the service has been suspended, but the suspension was announced as being temporary. Has any indication been given in the discussions that you have had that the 42 officers who are involved in throughcare will be reintroduced at some point, or has the focus of the discussions been on alternative arrangements?

Sean Duffy: The discussions that I have been involved in have been centred more on the people who require support than on the circumstances in the background. The public social partnership model that we have through the shine and new routes programmes is able to flex and support that additional capacity, within reason. Our focus has been entirely on the support that is required to fill the gap as an interim solution; we are certainly not across what is happening within the SPS in the longer term.

Tom Halpin: There has been no indication to us yet of a date on which the service is expected to be reintroduced—if it is to be reintroduced. Operational circumstances obviously need to be taken into consideration. We are working on the basis that that support no longer exists and on how we make sure that the support is provided to the people who need it.

A picture has been painted of someone who might pose a significant risk, but these are vulnerable people whose circumstances have taken them on a life journey that we would not wish for ourselves. Consistent support being taken away—our giving something and then stopping providing it—mirrors what they have experienced in their lives, so it is important to focus on the needs of these people.

Rona Mackay: Professor Loucks, how has the temporary withdrawal of throughcare support affected women and children?

Professor Loucks: A number of our staff have worked closely with the throughcare support officers. We do not have any kind of service level agreement, and we do not receive any funding on the back of it. It has made our jobs much more difficult, because we do not have that connection and the issues that families are facing are not highlighted to us as readily. A lot of the people who are supported by the scheme would otherwise engage in voluntary support in the community that they have never engaged with. It has been a loss for us, and we have lost our ability to reach out to families to which we do not otherwise have access.

Rona Mackay: Is there a way for you to reach out to them? Although the referrals have stopped, is there any way for you to identify women and families who need help?

Professor Loucks: We already do that through things like the public social partnership that Sean Duffy discussed. Much of it depends on the future discussions of that partnership and the ways in which the PSP can address the gap that has been left. We are part of the PSP and can support families in that way.

We do not know how many families were supported by the throughcare support officers but might not be eligible for support through the PSP or might not have that support in their area.

John Finnie: If I understood it correctly, the previous panel told us that this was not about money—the Scottish Government had offered money—but about having individuals working in the prison estate. Given that you have been asked to fill the void—I heard what Mr Halpin said about it not simply being about taking over—has any additional money been sent in your direction as a result of the suspension of throughcare?

Tom Halpin: The straight answer to that question is no. We have an allocation within the public social partnership. The one that I lead, and the collaboration that we are all involved in, delivers way in excess of the service level agreement every year. The discretionary effort of those mentors is to be commended. The one thing that has been demonstrated by the PSP is the flexibility and responsiveness of the service.

Sean Duffy: Equally, within the male-focused PSP that the Wise Group was involved with, along with its valued partners, we worked with partners and the Government to look at what additional headroom we can create within the existing funding arrangement on a value-for-money basis. That is where we are stepping in with our partners to fill the void and absorb as many referrals as we

possibly can in the absence of the throughcare support service.

The Convener: The committee has visited the Wise Group, and we have heard from Serco on numerous occasions. We are therefore acutely aware of how important throughcare is and how it can help to make sure that people do not reoffend and that they get a second chance to reintegrate into society.

Given the current short-term situation, is there a case for saying that the role of the Wise Group and organisations such as Serco could be extended to working in prison before people are released, as well as fulfilling their main role of picking up where prison leaves off and supporting prisoners when they are released?

Sean Duffy: The way in which the PSP operates means that we are in prison for six months pre-liberation and then continue to work with people for six months post-liberation. We could certainly consider extending some things. There is flexibility to make the whole process last 18 months rather than 12 months, so that it would cover 12 months post-liberation and six months pre-liberation. That would be welcome.

The Convener: Is that working just now? Is there any interruption because of the shortage of staff?

Sean Duffy: No. There is no interruption. Both programmes still work to a high level. The only concern that we have, to which we must be alive, is that the resourcing challenges in the SPS estate could impact our partnership approach in prison. We must be acutely aware that the warm handover requirement could be impacted.

11:15

The Convener: The Prison Service might not have the accommodation to facilitate your going in to do your work.

Sean Duffy: Yes. There is also the relationship aspect, because, when our mentors enter the prison estate, they are accompanied by a member of SPS staff. If the SPS staff are under time pressure, that practice might be impacted. We have to be aware of that.

The Convener: Do other panellists have a view on that?

Tom Halpin: There is more than one model for public social partnerships, which is one of their strengths. The models include the public social partnership in Low Moss prison, where third sector staff are embedded in the halls with SPS staff. They provide mentoring support through the gate as well.

On the question that the convener raised about whether the third sector can work in prisons, the answer is yes—there is loads of evidence of that.

The Convener: I wonder whether there could be an extension of the throughcare role that the third sector plays, so that it starts in prison and continues outside. We might not have the number of prison officers to support throughcare just now, but we could try to ensure that it goes on. That would mean resourcing the third sector more to do it, but at least that preventative spend would continue.

Sean Duffy: In addition to what Tom Halpin has said, the continuity of relationship from pre-liberation to post-liberation is hugely important to the success of the relationship. That has been proven through the PSP model. There is no handing over of the baton between people; a relationship and trust are built up pre-liberation that carry on post-liberation.

The Convener: I understand. That is helpful.

Fulton MacGregor: My questions follow on from Rona Mackay's points and the discussion about throughcare. There is quite a lot of evidence on the benefits of family contact with prisoners to their health and wider rehabilitation goals. Professor Loucks, you talked a wee bit about your interaction with throughcare. Will you talk about the wider availability of services to promote family contact?

Professor Loucks: Do you mean rehabilitative services in the community?

Fulton MacGregor: I meant services for when folk are still in custody but also when they are in the community.

Professor Loucks: We work with the family specifically and not with the people who are in prison. We find that families really struggle with access, depending on where they are from and how well things are funded. They have concerns about what happens when their family member comes out of prison if they do not have support to connect with, in particular services that deal with addiction and those that support those with mental health problems. There are concerns especially where there are waiting lists and when someone is not from a particularly well-supported urban area. If people are in Glasgow, for example, it is much easier than if they are in Lanarkshire, where I live. Those concerns weigh on the families, who want to make sure that their family member stays out of prison. They often struggle to make sure that the support is available. That also reflects on the support that the families receive.

Fulton MacGregor: We heard from the previous panel—I do not know whether you caught any of it—about the pressures that the Prison

Service is under just now due to staffing and other factors. We also heard that we need to find ways to improve outcomes for prisoners, which would have an effect on the staffing situation, too. How much is family contact prioritised by the Prison Service in order to reach its goals?

Professor Loucks: In theory, family contact is prioritised. In practice, the priority is dealing with overcrowding and so on, so there has been a reduction in the level of attention on family contact, even though it is critical to successful resettlement. Family contact ensures that people have a place to live, financial and social support, links to employment and all sorts of things that simply do not exist without such support waiting for them outside. That is a problem if the Prison Service has to restrict access to visits, for example if the staff are overpressed and cannot support visits in the same way.

I mentioned the role of the family contact officers, who are incredibly important in supporting the links between people in prison and their families. If they are pulled away from their duties due to absences in the residential staff, that support is not going to be there in the same way.

We also have a number of innovations coming in, such as links for video visits, which the prisons are not really able to extend in the way that we would perhaps see if they had more time to focus on doing so. Video visits are seen as very important links and are an important way of supporting ties with families, without families necessarily having to travel to the prisons. We are seeing a lot of gaps there.

There has been a recognition of the importance of family contact in other jurisdictions, such as England and Wales, following Lord Farmer's reports on the importance of family contact for men and women. Each prison there is required to have a family plan and to report on the plan annually, despite the pressures that those prisons are facing, which are similar to the ones that we have here. I would like to see more of a focus on family contact, because it is critical to people's success once they leave prison.

Fulton MacGregor: Do the other panellists have a view on the availability of support that promotes family contact and on how their services are involved?

Tom Halpin: The one service that Sacro provides—on which we partner with Nancy Loucks and her colleagues from Families Outside—is the travel service to keep the connection with families. If we imagine the scenario of a mum trying to take her three kids on a number of buses to a location that is not very accessible, we can see that maintaining that contact is very difficult. The funding for that transport provision is such that it

really is a Cinderella service. We have struggled to keep it going over the years, because even bureaucracy can kick in. The amount that they could reclaim for travel expenses was more than halved due to cost cutting, so they were not able to get all their money back. They changed the rules about who could apply for expenses, but how can you tell someone in that situation to apply for expenses and then hand the money over to us?

Fulton MacGregor: Sorry, who is “they”?

Tom Halpin: The families of prisoners.

Fulton MacGregor: I mean when you said “they changed the rules” about how much families could apply for.

Tom Halpin: It is done through the arrangements for expenses for visiting someone in prison. It goes back to allowances and so on.

Alastair Muir: At Kilmarnock prison, which is a private prison that does not have throughcare, I understand—although I could be corrected on that—there is a project between Sacro and the violence reduction unit that will use what we term “community navigators”. The community navigators are people from Sacro who are funded through the VRU grant and who look at consistency, which we have talked about. One of the things that are sometimes missing is a key person who can deal with the throughcare of someone into the community and who can be a link with their family. As well as issues such as housing and work, a huge part of someone's rehabilitation back into their own community is reintegration into their family. That project is coming on soon and it is just one of the interventions that we are looking at through the lens of public health. The public health approach is to try it small and then build it up—if it works, look at scaling it up.

Sean Duffy: I echo my colleagues' comments. Families Outside is a valued member of the new routes PSP. From working with our customers, we certainly know that family contact, support and reintegration are of significant importance to the rehabilitation journey, so we support that.

Liam Kerr: Professor Loucks, I would like to go back to the virtual visits that Fulton MacGregor was asking about. I can see how important they would be for somewhere such as HMP Grampian. In the SPS's documentation, there is something about how important family relationships are in preventing reoffending. If that is right, where are we on those virtual visits? What is the SPS's view of them and, as far as you are aware, is the SPS able to resource them?

Professor Loucks: It is a continued frustration and we have been trying to get an information technology strategy from the SPS for a while, but it

has not yet come to fruition. The SPS is experimenting in some areas; for example, HMP Inverness operates a series of virtual visits from the prison visitor centre, which are run by Action for Children, and Families Outside assists with that. Apex has a contract with the Prison Service for a service that is based in Aberdeen to provide links for video visits at five prisons. That came about after the young people were removed from Grampian to ensure that the families could keep in contact.

There is a degree of commitment, but there is no universal coverage or even any intention to evaluate or expand that work. It is a huge frustration. We have seen examples of video visits working extremely well—all three prisons in Northern Ireland use them, as does Parc prison in Wales. In 2012, the United Nations committee on the Rights of the Child recommended video visits as a way of supplementing face-to-face visits for children.

A colleague of mine sent me an example this morning of what happens in reality. We are supporting a family in the islands who had to apply for assisted prison visits—now called the family support service. The woman had to apply for travel support to visit her partner in Grampian prison. She had to pay up front but was then reimbursed £369 for travel, hire car and accommodation for the visit. She was travelling with a child who is not quite a year old and it took her three days. She can only afford to visit about once every six months. The child cannot yet speak on the phone or read and write letters, but a videolink would be really helpful. The woman's local authority agreed to support her with a videolink, but the prison would not accommodate it.

It is a frustration that there is such inconsistency in the degree of support that the prisons are willing or able to provide.

Liam Kerr: Could you clarify something for me? The individual can claim back the cost of that visit—in your example £369—from some state body, but would the cost of a virtual conference not be a fraction of that sum?

Professor Loucks: Yes.

Liam Kerr: Thank you.

Liam McArthur (Orkney Islands) (LD): I apologise for my late arrival, which was due to flight delays.

I want to follow up Liam Kerr's question. I have picked up the issue of video visits with the SPS previously and the answer that I was given was that they were available. I suppose that I am guilty of not asking the right question. What reasons are given for not facilitating that sort of contact? As Liam Kerr has noted, the cost to the service as a

whole is dramatically less than it would be to fund travel from the islands, for example.

Professor Loucks: It is a very good question, because we get different responses when we ask. Sometimes we are told that the Prison Service does not have the staff to facilitate a video visit, because the visits are carried out using a special videolink, similar to those used in courts. However, there are ways around that. The visits in Parc prison, for example, were part of the normal visits in a prison visiting room alongside face-to-face visits, so they did not require any additional staff and were managed in the same way. For the video visits in Northern Ireland, the person in prison might be able to take a laptop into their cell, depending on their privilege level. There is a video visit link in Tasmania that relies entirely on unpaid volunteers.

There are different ways to manage video visits. We need the time and funding to explore what such an approach might look like.

Liam McArthur: In each prison where videoconferencing is available—I assume that it is potentially available across the estate—is it always SPS staff who are required to be present, or can external staff provide that supportive oversight?

Professor Loucks: It is not a requirement for SPS to be part of it. The one in Inverness is run by Action for Children and the one in Aberdeen is run through Apex. The staff in the prisons who are supporting the person in prison to take part are prison staff. I do not know whether that is a requirement.

Liam McArthur: In your experience, is the availability of such a facility in Inverness and Aberdeen greater than in other prisons?

Professor Loucks: It has to work both ways. For example, Inverness has the capacity to link with any prison in Scotland. The capacity of the prison on the receiving end to return the favour tends to vary. The service in Aberdeen is connected to only five prisons. In theory, every prison is set up to facilitate videolinks, but in practice we are seeing very different results.

Liam Kerr: In a sense, the connection for those living in the islands would need to be at a local authority venue or some venue external to the prison estate. Are there things that could be done to enable that to happen more routinely?

Professor Loucks: That is how it is set up in Scotland. In Parc prison, it can be done from home and does not necessarily need local authority provision, although it depends on the security assurances that can be given. The models in Northern Ireland, Parc prison and Tasmania are all individual. For example, in

Tasmania they use individual iPads and iPhones to provide that service.

11:30

Liam McArthur: We have understandably focused on the issue of those who are transitioning from the prison estate back into the community. Equally important in the debate about where resources are placed are the efforts that are made to avoid individuals coming into contact with the criminal justice system in the first place. I am sure that you will all have a view on that, although I do not know whether it is particularly pertinent to your organisation, Mr Muir. Can you tell the committee about the resources that are currently available and say whether they are sufficient to meet the aspirations that the Government and the committee have for reducing the occasions when individuals end up in the criminal justice system?

Alastair Muir: Prevention is key. That is the language that most of us are speaking—how do we stop recidivism? That goes right back to education. We now have mentors in violence prevention projects in 30 of the 32 local authorities, which look right across violence, including gender-based violence. The projects look at the core issues, from bullying to controlling behaviour and sexting—stuff that is relevant to young people and stuff that they are dealing with. Mentors in violence prevention is a peer-to-peer education programme and it has been evaluated very well, which is why it has spread across all local authority areas. It gives young people permission to challenge others through the bystander approach so that, if they see inappropriate behaviour, whatever that may look like, they are equipped and are sufficiently confident to challenge that behaviour. That project starts right at the bottom, with young people.

There are many other projects. Three of us spent a joyful summer at the Edinburgh military tattoo with 10 young people who have convictions. They were part of the support team at the Edinburgh military tattoo. We had the joy of sleeping in a barracks with them and spending 24 hours a day with them. Those 10 young men had never had structures in their lives and never had role models. They are almost forgotten people, who cannot get into the job market because of the level of their convictions. That is slow, hard work but, again, it is about starting small, seeing whether it can work and whether it can be evidenced and evaluated, and then seeing where it goes. We have had some people from that group go into full-time employment since then. That is not just about them; it is also about the ripple effect into their families and communities. They now smile and say, “I pay tax now. I’ve never seen

anybody do that.” They were a drain, but now they are not.

We have another project that has been running for a couple of years, which is called Street & Arrow. It takes the same cohort of young men and women and gives them a year’s work on a training programme, which happens to be in catering. We teach them all the skills about how to be the adults they want to be—how to be the humans they want to and are meant to be. Again, it has had successful results, but it is intense. It takes funding from different agencies and we are in discussion about that with other members of the panel.

There are quite a number of different areas. We really believe in prevention. As I think most people would agree, we want the prison population to come down. We have quite a lot of different navigator programmes, including mentoring and lived experience programmes. Those are huge; they give authenticity and credibility.

Liam McArthur: Before I invite others to come in, has your experience been that those programmes have survived intact at a time when budgets have been under more pressure at both the national and local level? Everybody accepts that prevention is a more cost-effective way of dealing with the issues, but you still have to deal with the consequences of criminal behaviour, and resources tend to attract to the responses rather than to the preventative work. What has been the experience in recent years of what has happened to budgets to support those initiatives?

Sean Duffy: Certainly within the PSP structure—I am sure that my colleagues will agree—the funding that we receive has remained flat over the seven years of the existence of the PSP, and the need for it has only increased. That needs to be looked at. The funding structure also needs to be looked at. Multiyear funding would help the sector to be even more impactful, rather than—dare I say it?—bumping along year after year, because that disincentivises our organisations and our colleagues from committing to long-term planning and investment for longer-term impact.

Alastair Muir spoke about prevention. We are proposing to apply the PSP model that we have in place through the new routes programme to secondary 4, S5 and S6 pupils and we have worked with some quite forward-thinking area commanders in Police Scotland to develop programmes in that area.

We have a proposal under consideration within the public sector on how we could do that in a broad sense across greater Glasgow. Collectively, we have a model that works. It has been proven to work, it is understood by stakeholders, it has settled in and it has been invested in. Also,

because it is flexible and adaptable, there are the opportunities that Tom Halpin mentioned to look at other areas, whether it be in prevention or community-based support.

Tom Halpin: Scotland is at a juncture. We all know what works. It has been evidenced and we know the realities. I suspect that Liam McArthur asked about preventative spend because he has a suspicion that it is not there. There is a huge gap between the rhetoric about preventative spend and the resourcing of it. Discretionary spend on innovation and prevention has virtually disappeared. It is the core business that is coming through, around throughcare and so on. The work of the violence reduction unit is one of the gems that we can point to—it allows some seeds to grow—but there is some public funding there, so it is not an example of the work of the broader third sector in that sense.

We know what works, but are we going to do things differently and reflect on where we are today? That is the challenge that we all face. We have heard from POA Scotland about the pressure on staff and how that is restricting what they can do now. We have heard about the rising prisoner numbers after a decade of rhetoric about moving people out of prison, but we have 100 fewer prison officers than we had at the peak.

What happened to all the work to prevent people from going to prison? The funding around bail supervision disappeared. It was significant spend on preventing people from going to prison—people who would be held in remand. We had examples of initiatives that were supported by sheriffs principal and we know that they worked. In one court, over a year, there was an initiative to work with 30 women who were heading for remand; instead, they had wraparound mentoring support and the court social worker worked closely with them. Twenty-five of those 30 women were known to be fairly successful in complying. A lot of people who are held in remand are not there because they have committed a crime; they go because they cannot comply with bail conditions. Such support prevents people from being held in remand.

What about police diversion from prosecution, never mind alternatives to prison? Up and down the country, when cuts had to be made, those systems were the low-hanging fruit and those were the core services. We have seen a huge reduction in that spend in Scotland.

We have 8,300 or so prisoners in our prisons today. What are we going to do about it? There are 300 fewer young people in that number because the whole-systems approach was applied to take people out of that system and youth offending has not gone through the roof. People are not less safe because those young people are

not in prison. We can do things differently, but we have to be big not just in our ambition and our rhetoric but in what we do about system change. That is the real challenge here.

Rona Mackay: That is all very interesting.

What impact will the extension to the presumption against short sentences have, particularly on women, many of whom are serving less than a year?

Professor Loucks: The presumption against short sentences is extremely important, particularly in relation to women who have been sentenced to less than 12 months, because it will prevent the churn of people going through prison. Certainly from the perspective of families, prison—regardless of whether it is a week on remand or two months serving a sentence for shoplifting—is incredibly disruptive. I welcome the presumption against short sentences; what I am concerned about is what support is available in the community to ensure that people who are sentenced to a community measure instead can comply with that. The risk is that they will end up going to prison by the back door as a result of defaulting on their community penalty. We need to concentrate on ensuring that support is available in the community to make community measures work.

Sean Duffy: We fully support the presumption against short sentences. To touch on what Tom Halpin said, an element of this is about trusting the sheriffs. There is a credible alternative, and that credible alternative often requires a better and closer working relationship between criminal justice social work and the third sector. That is important. Sheriffs can be unaware of a community alternative or can lack confidence in that alternative. They may not be confident that an individual will comply. Criminal justice social work professionals are under such time pressure that they may not have time to engage with the individual in the manner and depth that is required to give them safety. When insufficient support appears to be available, sheriffs sometimes resort to remand. There is definitely a confidence issue with sheriffs and the sheriffs' network, which relates to the ability of criminal justice social work and the third sector to carry out complementary work to provide necessary support for individuals.

The Convener: Alastair Muir, you mentioned the mentors in violence prevention projects. I think that the clerks have asked for an evaluation of the projects for the committee. You also mentioned another programme that involves training skills—what was it called?

Alastair Muir: Community navigators in Kilmarnock. Was that the one?

The Convener: I think that you mentioned another project—street something?

Alastair Muir: Street & Arrow.

The Convener: It would be helpful if we could get an evaluation of that, too, when it is complete.

The panel will be aware that the Auditor General's findings in the 2018/19 audit of the Scottish Prison Service make pretty grim reading. The Auditor General has said:

"The Scottish Prison Service faces a combination of severe pressures on many fronts; this poses a threat to operational safety, effectiveness and financial sustainability."

We have covered preventative spend and the pressures on remand. Can you offer anything else today to try to address the huge problems that seem to face our prisons?

Professor Loucks: In the past, the Scottish Government has looked very favourably on the model in Scandinavian countries. One of the things that we are seeing in countries such as Sweden is legislation to restrict prisons from being overcrowded. There are a number of mechanisms to do that; for example, when someone goes in, someone else has to come out. What they do in places such as Sweden is to have a waiting list to go in, or weekend prisons. I am not quite as fond of that, because it suggests that, although some people are not so dangerous that they cannot remain in the community, they are going to prison anyway. However, I think that there is merit in looking at how we use prisons. A number of years ago, the McLeish commission considered capping the number of people in prison. We need to look at what our priorities are for justice in Scotland and whether we want to spend our resources on prison and have a never-ending supply of people going into prison, or whether we want to examine ways of preventing people from going into, and keeping them out of, prison.

11:45

The Convener: You are suggesting that wider research might need to be done on how other countries manage their prison populations. That is helpful.

Does anyone have any other suggestions? Earlier, we had a debate about things that could be looked at, such as the role of prison officers. If they cannot cope with the provision of education and purposeful activity, is there a way round that? Liam McArthur raised the issue of funding and the need for a three-year cycle, which we have gone on about for a long time. A lot of money is wasted because voluntary services incur administrative costs through having to plan every year. It is a no-brainer that we need to address that.

As we wind up the session, is there anything else that the witnesses would like to say to the committee on the subject?

Sean Duffy: Rather than making an additional point, I would like to reiterate something. The cost benefits of the services that the third sector provides are clear. It costs an average of £1,700 per person to operate the mentoring through the PSP. According to the Auditor General's report, incarceration costs more than £35,000 per annum. There is a stark contrast between those financial figures.

We have evidence that only 9.7 per cent of the people who are worked with through the new routes PSP return to prison within the first year. There are statistics that clearly point to the fact that that proven, established and invested-in model is able to have dramatic impacts in terms of the more out, fewer in approach that we need to adopt. Although the crime rate is reducing, the prison population is increasing, so it is obvious where we need to apply our focus and support.

The Convener: Thank you—that was helpful.

Tom Halpin: Those points were well made. As far as I am concerned, we must look at the whole system. We all understand that where we should put the money when there is not enough to go round is a conundrum, but if we only put the sticking plaster on the bit that is in front of us today, the wound will not heal.

Alastair Muir: I would like to provide a couple of examples that offer us hope. We are doing a resilience work project in Low Moss, which involves a psychodynamic counsellor and somebody with lived experience working with groups of inmates to build their resilience through groupwork. The aim is to reduce violence within the prison population and against SPS staff. The plan is to be self-sustaining; the cost is not on the SPS. That project is in incubation. The intention is to reduce anxiety levels and to allow people to deal with their trauma in different ways.

The second example involves a lady who approached us after she had bought an ex-service bus for £1. She wanted to know what we could do with it in the criminal justice system. The governor of Saughton prison in Edinburgh is totally on board with an initiative that involves the inmates gutting and rebuilding the bus. They are putting in youth music at the back, services to communities in the middle and a hairdresser and other bits and pieces. That bus will go out to the community. Prisoners are being given a purpose. That is costing the SPS nothing—all that it is having to do is open the gates to let us go in and out. That is a positive initiative, which the prisoners are totally engaged in. The bus will take its services to the wider community. The idea is that it will be another

method of preventing the next generation from coming through the doors of the prison.

The Convener: You are saying that we should look at innovative ideas like that.

Professor Loucks will have the last word.

Professor Loucks: I want to raise a final point on preventative spend, which needs to look beyond justice into health, housing and addressing issues of poverty, for example. The prison visitor centres, for example, are funded across justice, children and families, and health. We need to look at such joined-up approaches that support people so that they do not go to prison and so that, if they do, when they come out, they do not have to go on waiting lists for substance misuse treatment or mental health services if that is what they need. We need to look at that much more broadly than just through justice.

The Convener: You are advocating a holistic approach and more joined-up thinking.

I thank you all very much for what has been a very worthwhile evidence session.

11:50

Meeting suspended.

11:51

On resuming—

Justice Sub-Committee on Policing (Report Back)

The Convener: Item 6 is feedback from the Justice Sub-Committee on Policing on its meeting of 12 September 2019. I refer members to paper 4, which was prepared by the clerks. Following the verbal report, there will be an opportunity for brief comment or questions. I invite John Finnie to provide the feedback.

John Finnie: As the convener says, there is a note in the papers about the most recent meeting of the sub-committee, which took place on 12 September.

We took evidence from Police Scotland and the Scottish Police Authority on capital funding for the police service. That forms part of the sub-committee's pre-budget scrutiny of the 2020-21 draft budget.

Police Scotland told the sub-committee that capital investment is at the minimum required to meet health and safety standards, which means that it is

"putting Band-Aids on the estate"

instead of addressing shortfalls. It told the sub-committee that it is struggling to keep the estate, fleet and information and communications technology working. The SPA confirmed that it is likely that more police stations will need to be temporarily closed for refurbishment to address health and safety requirements.

Both the SPA and Police Scotland have made it clear to the Cabinet Secretary for Justice that the situation is not sustainable. The sub-committee heard that Police Scotland will have to reduce police officer numbers by 750 officers after Brexit pressures have passed, as that is the only way for the police service to meet its deficit reduction target and to operate within the funding provided. Reductions in police officer numbers were described as the "last resort" but are now an inevitability. There is nowhere else that savings can be made.

The sub-committee heard about the capacity creation work that Police Scotland is undertaking, which assessed how police officers could work more efficiently and effectively. The witnesses were unable to provide any details of any similar exercises undertaken for chief officers or of the number of police officers who continue to backfill staff posts.

The next meeting of the sub-committee will take place on Thursday 3 October 2019, when it will

take evidence from the Cabinet Secretary for Justice on the police capital budget.

The Convener: Thank you. I see that members have no questions or comments.

Justice Sub-Committee on Policing (Membership)

11:53

The Convener: Item 7 is consideration of the membership of the Justice Sub-Committee on Policing. I refer members to paper 5 from the clerks. In recent weeks, Daniel Johnson has resigned from the committee and the sub-committee and it is proposed that he be replaced by James Kelly. Stewart Stevenson has also resigned from the sub-committee and it is proposed that he be replaced by Jenny Gilruth.

As members have no comments on those changes, are members agreed that James Kelly and Jenny Gilruth are to be the new members of the sub-committee and that I write to the Scottish Parliamentary Corporate Body accordingly?

Members *indicated agreement.*

The Convener: That concludes the public part of today's meeting. Our next meeting will be on Tuesday 24 September 2019, when we will take evidence on the Scottish Biometrics Commissioner Bill.

11:54

Meeting continued in private until 12:28.

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