

AUDIT COMMITTEE

Wednesday 21 November 2007

Session 3

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AUDIT COMMITTEE

7th Meeting 2007, Session 3

CONVENER

*Hugh Henry (Paisley South) (Lab)

DEPUTY CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Claire Baker (Mid Scotland and Fife) (Lab)
*Willie Coffey (Kilmarnock and Loudoun) (SNP)
*George Foulkes (Lothians) (Lab)
Jim Hume (South of Scotland) (LD)
*Stuart McMillan (West of Scotland) (SNP)
*Andrew Welsh (Angus) (SNP)

COMMITTEE SUBSTITUTES

Derek Brownlee (South of Scotland) (Con)
James Kelly (Glasgow Rutherglen) (Lab)
Iain Smith (North East Fife) (LD)
Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)

THE FOLLOWING GAVE EVIDENCE:

Donna Bell (Scottish Government Children, Young People and Social Care Directorate)
Colin Maclean (Scottish Government Children, Young People and Social Care Directorate)
Philip Rycroft (Scottish Government Director General Education)

CLERK TO THE COMMITTEE

Tracey Reilly

SENIOR ASSISTANT CLERK

Joanna Hardy

ASSISTANT CLERK

Rebecca Lamb

LOCATION

Committee Room 3

Scottish Parliament

Audit Committee

Wednesday 21 November 2007

[THE CONVENER *opened the meeting at 10:30*]

Decision on Taking Business in Private

The Convener (Hugh Henry): I open the seventh meeting of the Audit Committee in session 3 and welcome everybody to the meeting.

The first item on the agenda is a decision on taking business in private. Do we agree to take items 4 and 5 in private?

Members *indicated agreement.*

“Dealing with offending by young people”

10:31

The Convener: The next item on the agenda is a discussion on dealing with offending by young people—a topic that has exercised people from time to time and caused some controversy over the years. Audit Scotland has examined performance on the matter in some detail and produced a report entitled “Dealing with offending by young people: Performance update”. We have decided to take evidence on its report and to hear from some officials from the education department.

I welcome Philip Rycroft, who is the director general education; Colin Maclean, who is the director of the children, young people and social care directorate; and Donna Bell, who is the team leader in the care and justice division. They are all well known to me from a previous capacity, but I look forward to having a discussion with them from another perspective.

I invite Philip Rycroft to make an opening statement before we go into the matter in some detail.

Philip Rycroft (Scottish Government Director General Education): I will invite my two colleagues to contribute as questions are asked because I am relatively new to the domain and Colin Maclean and Donna Bell have deep expertise in the subject area.

I am glad to have the opportunity to say a little bit about the Audit Scotland report and our response to it. We welcome the report, which has been helpful to us in advising ministers on where they may take policy. I propose to say something about what we have done and what has been achieved since 2002, then describe the broad policy approach that current ministers have taken towards youth justice and conclude by addressing some of the specific issues that are raised in the report.

In 2002, ministers were concerned that the agencies responsible for youth justice did not pay sufficient attention to ensuring that offending was taken seriously or dealt with promptly. Therefore, they introduced a series of standards for the response of agencies to offending behaviour. Since 2002-03, the average time from receipt of an offence-based referral to hearing decision has fallen from 95 days to 71 days. That reflects considerable improvements in the time taken by police and reporters and some improvements by social work.

Ministers also shared Audit Scotland's concerns about the lack of timely local and national information published by the Scottish Children's Reporter Administration and provided to local agencies. Following a lot of work by officials and SCRA staff, the SCRA now provides regular, valuable and trusted reports that allow national monitoring and accountability and that support local improvement.

As members will be aware, ministers established a fast-track hearings pilot in 2003 to test whether more timely responses to offending would reduce reoffending. It is interesting that performance in the fast-track pilot areas showed a reduction in offending levels, but the comparator areas achieved an even greater reduction in offending. The lesson from that appeared to be that we need to focus as much on matching action to need as on timeliness, so the fast-track approach was not rolled out.

In the past four years, ministers have invested more than £20 million of capital support in developing the secure estate. We can now say that Scotland has world-class secure facilities for the small number of young people who need to be detained for their safety and that of others. The challenge is to make the most effective use of those facilities by ensuring that high-quality support is provided while young people are in secure accommodation and after they leave it.

Following the 2003 election, ministers introduced a series of measures to combat antisocial behaviour, including new interventions that were designed to tackle persistent offending and antisocial behaviour by young people who are under 16, such as antisocial behaviour orders and movement restriction orders. Agencies have made sparing use of those provisions and have in most cases preferred to focus effort and resources on intensive interventions to address young people's behaviour.

Ministers wished to reduce the impact on communities of persistent offending and therefore set a single target for youth justice—a reduction in persistent youth offending. As the report demonstrates, that target was not met, as the number of persistent young offenders increased from 1,201 in 2003-04 to 1,429 in 2006-07, an increase of 19 per cent. However, the total number of children who were referred for offending during the period was almost unchanged—it rose from 16,470 in 2003-04 to 17,624 in 2005-06, but then dropped back in 2006-07 to 16,490, which was nearly the 2003-04 level. The early indications are that further reductions have occurred in 2007-08—unfortunately, we do not yet have the figures for that year, but they will be out relatively soon.

By contrast, over the same period, care and protection referrals rose by 44 per cent. At a time

when concerns about children were significantly enhanced and youth justice was politically high profile, we might have expected a significant increase in offence referrals. It is too early to say whether the reductions will be sustained or to offer a conclusive view on what has caused the reduction, but the early signs are encouraging.

One of the first decisions that the new ministers made in the summer was to ask officials to review youth justice policy. The review is almost complete and ministers will soon consider the advice. However, ministers have already made several decisions and statements that indicate the direction of travel that they intend to take. First, ministers will no longer use the persistent young offender target; instead, they have asked us to develop a range of indicators to test whether policies on reducing offending behaviour are working. Research from several sources indicates that early involvement of children and young people in the justice system is likely to accelerate their progress into the adult justice system, and that tackling behaviour effectively without labelling it as offending is more likely to prevent future offending. Ministers support that view, which sits comfortably with their broad approach to early intervention.

Ministers are determined to ensure that all young people have more choices and chances, with positive opportunities for all; that the risks to young people and the risks that are posed by young people are identified and tackled as swiftly as possible; and that effective action is taken when risks turn into reality. Ministers are also determined to use the getting it right for every child approach to address all risks that affect children and young people, which involves early identification, assessment of risks, planning to address those risks and effective and co-ordinated action by agencies. Ministers have indicated that they believe that antisocial behaviour measures such as antisocial behaviour orders and movement restriction orders should be used only in conjunction with intensive interventions to tackle the offending behaviour.

The new strategy on youth justice will be implemented in the context of the concordat that was agreed last week with the Convention of Scottish Local Authorities. That has significant implications. Local government will be involved in agreeing the policy and will therefore be committed to its delivery. Local government will make local decisions about how best to deploy the resources to ensure delivery of the policy. Central Government will focus its efforts on working with partners to identify, influence and spread best practice and on evaluating outcomes, rather than micromanaging service delivery. Both central and local government will be committed to strong and effective local performance management, and we

will work with local government and other partners such as the police and children's reporters to ensure that a strong performance management culture pervades work on youth justice.

I am conscious that time is pressing on, but I would like to touch briefly on some of the specific points that Audit Scotland raises in its report. We all agree that there is much in the report that we can be positive about. National standards are in place and they provide a focus for improved interagency working. There are significant improvements in the timeliness of police reporting and children's reporters' decision making. More services are in place for young people who offend, and 500 additional children's services social workers have been recruited. Underpinning all of that, the report highlights the increase in resources invested in the area.

Progress on performance reporting has been more mixed. There have been significant improvements in the provision and use of performance data over the years, but we acknowledge that that is an area where more needs to be done—COSLA and ministers recognised that at a general level in last week's concordat, as did Lorne Crerar in his recent report on scrutiny. It is part of our job to work closely with police reporters and local authorities, as well as with voluntary sector partners, to develop more robust performance management systems to secure the delivery of youth justice policies.

It is clear that antisocial behaviour orders took time to bed in. New ministers have given a clear steer that they expect antisocial behaviour orders and other antisocial behaviour tools to be used only when appropriate.

The number of referrals to children's hearings has increased substantially. As I said, most of that increase is related to care and welfare concerns. We are doing important work with agencies to ensure that cases are referred to the reporter only when compulsion is required, and we have seen some early reductions in the total number of referrals.

On variations in police referral practice, we recognise the right of local agencies to develop approaches to suit local needs, but we have been working with police nationally and locally to identify and discuss variations in practice with a view to identifying and spreading best practice nationally. Through the Association of Chief Police Officers in Scotland, the police are committed to addressing that.

Concerns have been expressed about the time taken to complete social work reports. It is clearly important that assessments are done quickly, to enable decisions to be made and action to be taken, but not at the expense of the quality of

decision making. The fast-track pilot showed us that speed is not sufficient. As has been noted, we will work with local government to develop a performance management and reporting system that leads to the most effective action being taken.

The report also raises concerns about the level of persistent offending. The specific persistent youth offender target was susceptible to changes in the policies and practices of agencies. We will work with agencies to identify measures that help them to performance manage their own systems and provide indicators that provide good information about changes in young people's behaviour rather than just indicating changes in the practice of adults and agencies.

As part of the new relationship with local government, the promotion of best practice will be key to what we do. Our role will increasingly be to focus on that area, helping agencies and others to identify and spread best practice through developing and implementing agreed national policy.

10:45

The new Administration has reviewed the issues surrounding reducing youth crime and indicated a strong preference for preventive, diversionary action, early intervention and positive support work across agencies. Ministers are currently considering options surrounding a revised youth justice strategy that sets out their vision and supporting actions for preventing and managing offending behaviour by children and young people. In that work, they have taken full account of the recommendations in the Audit Scotland report and will ensure that action is taken to address the shortcomings and issues it identifies. We expect to be able to provide more information on all this early next year, but please be assured that the new Administration is committed to addressing youth crime and antisocial behaviour and to working in partnership with local agencies to deliver for children and communities.

The Convener: Thank you. Before I invite members to ask questions, I want to pursue a couple of points that you made in your opening statement. You said that ministers are committed to addressing the issues identified in the Audit Scotland report. You also mentioned the concordat with local government and the use of resources. Can you guarantee that, over the next three-year spending period, there will be no reduction in the resources available to tackle offending by young people?

Philip Rycroft: In a sense, it is not for me to guarantee anything around the financial packages. I am sure that you can talk to the Cabinet Secretary for Finance and Sustainable Growth

directly about that sort of issue. The concordat sets out the overall resource envelope for local government—and increase in resource envelope—from which it will be able to take the resource to meet its responsibilities around youth justice and supporting children and young people.

The Convener: Yes, but has the minister indicated to local government that she expects there to be no reduction in the resources available for tackling offending by young people?

Philip Rycroft: All ministers have indicated—and agreed with local government—that local government will work with the Government to achieve the national outcomes. It will be committed to allowing its performance to be measured against the indicators that support those national outcomes. That is the focus of the concordat—and rightly so. Decisions on how to achieve that in a local area and a local context are for local government to make.

The Convener: So there is no guidance, no expectation and no indication to local government about how much should be spent on tackling reoffending. General outcomes are specified, but it will be left to local government to decide whether it wants to spend money on this issue.

Philip Rycroft: It will be for local government to decide how it works towards achieving the national outcomes. I should add that it is only a week since the concordat was signed. A lot of detailed work has to be done nationally with COSLA and with individual local authorities. In that context, the richness of their experience and the experience of other agencies can be brought to bear to help them achieve—

The Convener: I understand that, but, as things stand, no requirement will be put on local government to spend money at the current level on dealing with offending by young people. It will be left to local government to decide how best to allocate its resources. Ministers hope that the outcomes will be delivered, but decisions on expenditure are purely a matter for local government and ministers will not be given any indication of what should be spent.

Philip Rycroft: Decisions across the range of local government expenditure are for local government. That is absolutely explicit in the concordat that has been signed.

The Convener: That is perfectly clear.

George Foulkes (Lothians) (Lab): Annex B of the concordat states that there is no longer ring fencing for antisocial behaviour funding, funding for community safety partnerships, the police capital grant, the national priorities action fund, funding for social work training, the early years and child care work force development fund and

youth work for local delivery funding. Were you consulted before all that was rolled up into the settlement?

Philip Rycroft: I anticipated that this session might turn into more of a forward-looking one than a backward-looking one. Of course we were consulted on that. We were absolutely involved, as was the whole ministerial team, in the detail of the negotiations with local government.

George Foulkes: Do you think it is a good thing that funding for those things is no longer ring fenced?

Philip Rycroft: If ministers did not think it was a good thing that it was not ring fenced, it would still be ring fenced.

George Foulkes: What is your view?

The Convener: I do not think that it is for Mr Rycroft to answer that question—it is a matter for the minister. Our concerns are about whether the resources will be available to carry out the recommendations and address the issues that have been identified. We have already identified some questions that will need to be pursued.

George Foulkes: With respect, convener, is it not a material issue in respect of whether the resources will be available?

The Convener: It is a material issue, but it is one for the minister rather than for Mr Rycroft.

George Foulkes: I see. We will have to question the minister.

The Convener: That may well be the case.

Philip Rycroft: It is worth pointing out that the overall resource envelope for local government will increase during the spending review period, in the context of a clear agreement about what it will be expected to do in addition to on-going activity. One would expect that, within that allocation, sufficient resources would be available to carry on the work around youth justice.

George Foulkes: But it would be possible not to spend money on the areas that are not ring fenced and to move it into a completely different area.

Philip Rycroft: That is, in theory, entirely true—just as it would be possible for a local authority not to spend any money on schools and instead to spend it all on parks or something. In that case, it would be difficult for the local authority to demonstrate at the end of the year in question that it had achieved what it was required to achieve in respect of the national outcomes. In other words, local authorities should spend their money in the way that they think is best in order to achieve what they are required to achieve at a local level to support the national outcomes.

One would expect councils to commit resources not only to deal with youth offending but to address children's services more generally, to ensure that they achieve the best outcome for children in their areas.

The Convener: I understand that, but it involves a huge leap of faith.

When I was the Deputy Minister for Health and Community Care, a local authority, which will remain nameless, came to me to demand more money for community care. It was pointed out that it had been given money for community care about 18 months previously, but because there was no ring fencing it had chosen to spend it on something completely different. It said that it was entitled to do that. It did not stop it coming back and asking for more money for community care. The aspirations of ministers and Parliament are not always reflected in the way money is spent locally. We will see how it goes.

I have a final question. You said that ministers expect tools such as antisocial behaviour orders to be used only when appropriate.

Philip Rycroft: Yes.

The Convener: Do you have any evidence that they have not been used appropriately?

Philip Rycroft: You will be aware that we have very little evidence about their use for under-16s, because as I understand it only six have been issued, which does not give us a particularly strong evidence base.

The Convener: But you have no evidence that they have been used inappropriately.

Philip Rycroft: By the same token, we do not. However, we have a lot of evidence that, to address offending behaviour, it is not sufficient only to go for the offending bit; it is necessary to examine the needs of the child or young person in the round and address them all.

The Convener: That is correct. Has that not been done up until now?

Philip Rycroft: Of course it has.

The Convener: So there is no change to what has been happening.

Philip Rycroft: How do you mean there has been no change?

The Convener: You said that ASBOs would be used only when appropriate. You accept that there is no evidence that they were being used inappropriately. You also said that when they were used, wider issues would be considered, and you accept that up until now those wider issues have probably been considered.

Philip Rycroft: There is a certain amount of playing with words in the use of "appropriate" and

"inappropriate" in those comments. Ministers have signalled clearly that they do not expect local agencies to pursue ASBOs for their own sake, if you like. They may be an appropriate tool in the toolkit, but ministers want to ensure that the underlying behaviour that leads to offending behaviour is addressed effectively.

The Convener: That sounds to me like a continuation of current policy. I am not aware that any authorities were using ASBOs for their own sake. Are you aware that they were?

Philip Rycroft: Of course, there will be lots of continuity between past and present policies—

The Convener: Yes, but the question I am asking is whether you are aware of any authorities that have been using ASBOs for their own sake.

Philip Rycroft: Not for under-16s.

Willie Coffey (Kilmarnock and Loudoun) (SNP): I thought for a minute that I was in the Justice Committee rather than the Audit Committee.

I want to pick up a wee bit on the arrangements for monitoring performance over the years to come. I am well aware that it is early days in terms of the concordat and so on. In your presentation, you mentioned that new performance targets and measures will be set. Can you explain those a wee bit more and tell us whether there are circumstances in which local authorities will be able to develop local outcome agreements of some sort? Is there a danger that, at some point in the future, it will become even more unreportable if local authorities are doing their own thing? I know that it is important that they are able to do that, but it will be important for the committee, in the future, to be able to report on such issues.

Who will we consult to develop the new outcome agreements, performance measures and so on? What will you do to ensure that there are quantitative and qualitative elements, so that information will be meaningful to us over the next two or three years?

Philip Rycroft: Those are good questions that to some extent describe the job descriptions of people in the team here. If you work through the various levels of this and understand the commitment to and the nature of the national outcomes, you will understand that we would not be satisfied or say that we had achieved those outcomes unless we had made progress on youth offending and supporting young children effectively.

Down a level from that, as the concordat states:

"Each council will be required to submit a single report around the turn of the financial year on the year just finished and plans for the year to come ... setting out progress and achievements towards the national outcomes."

In that context, we will need to work with local government, at COSLA level and at individual local authority level, to ensure that local authorities have the right pieces of the toolkit to performance manage their services across the piece, including those around youth offending. Your concern that that will lead to a fracturing of the data is understandable, but a lot of the data that local authorities will use are collected nationally or by police forces. There are different data sets that come together to support local performance.

All local authorities would agree that, to demonstrate that they are moving towards achieving the national outcomes, they need robust performance management systems. It will be increasingly part of our job to work alongside local authorities to help them achieve that. Part of that work will be to ensure that the national data sets deliver what local authorities—and, indeed, other local agencies—require in order to do their job effectively.

I defer to Colin Maclean, who was directly involved in the negotiations. He may be able to add anything that I have missed.

Colin Maclean (Scottish Government Children, Young People and Social Care Directorate): There is not much to add, except that we know that local authorities and the Improvement Service are working closely with Government officials to think through how authorities, individually and collectively, can identify a set of performance indicators that they want to use. We expect that to be a combination of some performance indicators that authorities will tend to use collectively, across authorities, and others that may be developed to be used in specific areas. However, as Philip Rycroft said, many of the data in this area come from the SCRA and the police forces, so they would be common throughout the country.

Willie Coffey: Is it too early to say when we might be able to see the performance indicators on paper? When might we expect to see something tangible that we know everyone is aiming towards?

Philip Rycroft: It is, obviously, too early to say. With only a week gone by, that would be a little ambitious. The bit that is missing from the quotation that I read out to you, which I should have included, states that authorities will report on the local outcome agreements “starting in 2008-09”. That sets the timeframe for developing the agreements with each authority.

11:00

The Convener: So, could it be that, notwithstanding the fact that you are looking at outcome-based agreements, and national

outcomes at that, you could have 32 different sets of outcomes on offending by young people?

Philip Rycroft: We will have 32 different sets of outcomes, because there are 32 local authorities.

The Convener: Yes, but there will be no national expectation of what an outcome agreement should look like. You say that there will no longer be persistent young offender targets, but we will come to that later. What outcomes will be acceptable to ministers in each of the different areas that are covered by offending by young people?

Philip Rycroft: Again, as you are aware, the national context has been agreed and set. We have the national outcomes and the national indicators. The local outcome agreements will have to be framed in that context.

The Convener: So the local outcome agreements will have to be consistent with the national outcomes, which are already there.

Philip Rycroft: Exactly.

The Convener: So those can be provided to Willie Coffey and the committee.

Philip Rycroft: The national outcomes and indicators?

The Convener: Yes.

Philip Rycroft: Sorry. If you are looking for those, they are in the spending review document and indeed in the concordat, both of which were published last week.

The Convener: So the spending review document specifies the national outcomes. How many of those national outcomes relate to offending by young people?

Philip Rycroft: There are 15 national outcomes in total, a number of which are relevant to offending by young people. An obvious one is:

“Our children have the best start in life and are ready to succeed.”

In order to achieve that, we will have to look at—

The Convener: That is an interesting one. Can you explain to us how that will measure, at a national level, as an outcome, offending by young people?

Philip Rycroft: The outcome, clearly, is not the measure. The measures are held in the indicators.

The Convener: So there is no national outcome.

Philip Rycroft: No, no. That is the national outcome that we are seeking to achieve.

The Convener: But you cannot measure it.

Philip Rycroft: The measure of whether we are making progress towards that is in the national indicators and targets.

The Convener: Okay. Can you explain them?

Philip Rycroft: I would recommend the document to you, because all this is set out very clearly.

In the indicators, we have measures of both achievement around individuals and achievement around systems. For example, one of the indicators is:

"Increase the proportion of school leavers (from Scottish publicly funded schools) in positive and sustained destinations (FE, HE, employment or training)".

Clearly, we seek to maximise achievement against that. It is unlikely that young people who exhibit persistent offending behaviour will be in positive and sustained destinations.

The Convener: I understand that, and I have looked at the document, but I am asking you which of the national indicators and outcomes are specific to offending by young people.

Philip Rycroft: Well, the ones that I quoted to you are specific to offending by young people.

The Convener: No, they are general ones that will apply to young people across a range of activities. You say that there will be local outcome agreements that vary between authorities, so there will be 32 outcomes. At a national level, you do not have any specified outcomes or indicators in relation to dealing with offending by young people. Is that correct?

Philip Rycroft: We have both outcomes and indicators, which, to be achieved, will require government generally, across the piece, to take action to support young people, including young people who exhibit offending behaviour.

The Convener: I understand that, but at some point we will want to measure whether investment and action have been effective. How will we be able to measure nationally whether there has been a reduction in offending or an improvement in behaviour? What outcomes and performance indicators do you expect to use at a national level, rather than the ones that will be implemented at a local level?

Philip Rycroft: If the Audit Committee calls me or others back to the committee in years to come and is interested in how the work on youth offending that has been done has helped to secure progress on the national outcomes and indicators, I expect it to look at several outcomes and indicators to find out how the indicators have supported and measured progress against the outcomes, and I expect whoever is called back to tell the story of how the local work that has been

done not only to address youth offending but in a range of areas has supported progress.

The Convener: So the information that Willie Coffey is looking for will be available for 2008-09.

Philip Rycroft: With respect—you should correct me if I am wrong—Willie Coffey was looking for two things, one of which was national data. I assured him that national data will still be provided. For example, there will be the SCRA data, and data from police forces and local authorities. However, you are right that commitments from local authorities will kick in then.

The Convener: Okay.

George Foulkes: I anticipated Mr Rycroft's recommendation and have a copy of the concordat. There are 15 national outcomes and 45 indicators. Will you confirm that none of those explicitly refers to offending by young people? The convener has tried to get an answer to that question.

Philip Rycroft: I see the corner that you are trying to push me into, but—

George Foulkes: My question was very simple. I am trying to get an answer to it.

Philip Rycroft: There is no indicator for reducing youth offending by whatever, but there is an essential point to understand in respect of how the Government operates. In order to succeed against the outcomes and achieve progress against the indicators, local authorities, police forces and all the other agencies that are involved will have to think about the range of outcomes for young people, including youth offending. One thing that worries me is trying to parcel up in a separate box youth offending and the treatment of kids who are demonstrating offending behaviour. Our whole approach towards young people involves providing a range of services throughout their lives, and youth offending services are built into that. Therefore, it seems to me to be entirely appropriate to consider the general outcomes that we want to achieve for young people in order to get effective outcomes for them. If we want to succeed with those, we will have to make progress with youth offending too.

George Foulkes: But you agreed that no one indicator explicitly refers to offending by young people.

Philip Rycroft: In the indicator sets.

George Foulkes: Why not?

Philip Rycroft: I must appeal to the convener for his forbearance on the matter. It would not be appropriate for me to go through the whole process of how everything was put together. I am also at risk of repeating myself. In respect of my

responsibilities, I am perfectly satisfied that the national outcomes and the indicators that support those outcomes will act as a lever to effective performance by local authorities and other agencies and will create the expectation that there will be good performance management and good performance generally in addressing the issues that the committee is concerned about.

The Convener: I think that Murdo Fraser wants to ask questions on the same theme.

Murdo Fraser (Mid Scotland and Fife) (Con): I want to ask about the target for reducing the number of persistent young offenders. My questions tie in with questions that have already been asked.

We know that the Government intends to replace the persistent young offenders target with more outcome-based measures. As Mr Rycroft said, despite the target of reducing the number of persistent young offenders between 2003-04 and 2006-07, the number of such offenders rose 19 per cent, from 1,201 to 1,429, if I heard him rightly. I suppose that if one were being cynical, one might think that the target has been got rid of because it is too difficult to meet. However, from what Mr Rycroft has said, it sounds as though there is a slightly different agenda because of the approach that is being taken towards local government and its responsibilities. What is the Government's rationale for moving away from having such a target? How will the number of persistent young offenders be measured in the future?

Philip Rycroft: You ask about the rationale for moving away from the target. As everybody is aware, once a target is set in isolation, two results can occur. It can be discovered that the target drives behaviour in an unexpected direction, which calls into question the value of or thinking behind the target. Such a target also places a big focus on the data that sit beneath the target, and people can begin to discover issues with the data set that qualify the weight that can rest on the target.

I suspect that both those things happened with the target to reduce the number of persistent young offenders. When the target came into the limelight, did it begin to drive the behaviour not of the children but of the adults who supported them? Did that increase the number of referrals, which drove up the number of persistent young offenders who were recorded against the target? I ask Colin Maclean to comment, but it is fair to say that our evidence is not sufficient to show precisely what went on in the system behind the increase in the number of persistent young offenders. That is not a great place to be.

We are trying to develop a more sophisticated understanding of cause and effect in what is probably one of the most complex areas of

government. We are dealing with a spectrum of children—from some who we hope go back on the strait and narrow after a one-off encounter with the system to some who have incredibly complex problems and very damaged lives. In that context, understanding cause and effect and what works is a sophisticated business. We are trying to develop a range of understandings and evaluations of work with local partners and data sets that have the richness to support the richness that is required in professional practice to deliver outcomes. Colin Maclean will say more.

Colin Maclean: In the persistent young offending target, we measured referrals to the children's reporter, but well over half those referrals do not lead to a hearing, because the reporter decides that local action is sufficient. However, that pattern varies considerably throughout the country. Children might be classed as persistent young offenders in one area because they were reported for behaviour that a different part of the country would deal with differently. The measure is a crude indicator of overall performance—as referral patterns change, the number of persistent young offenders changes.

We were always conscious that the higher profile of youth justice might mean that more cases would be referred and that some areas might take a zero-tolerance approach, so numbers might be driven up by changes not in young people's behaviour but in the local pattern of referral activity. That is why, rather than say that we do not want to consider persistent young offending at all, we say that we need a broader range of measures and that we have to get a handle on outcomes and not just on agencies' behaviour.

Murdo Fraser: I am not sure whether I understand entirely your argument that setting the target drove behaviour in a particular way. If the target had all those difficulties and complexities, I wonder why it was set in the first place, but hindsight is a wonderful thing.

You did not answer my second question, which was about how the numbers will be measured in future. Will the information still be collected? Will we still be able to compare the numbers of persistent young offenders?

Colin Maclean: The SCRA will still publish a range of information every quarter on the pattern of referrals, so we will still be able to identify the numbers who have been referred five times in six months, to whom the target on persistent young offending related. However, we want a wider range of indicators, so that we can have a better sense of the overall picture, rather than focusing on just one measure, which we know is at least partly influenced by the behaviour of agencies and not just that of young people.

The Convener: So we will still be able to see how many young people persistently offend.

Colin Maclean: Yes.

George Foulkes: Philip Rycroft's letter to the convener says that the new strategy will have a stronger emphasis on prevention, positive opportunities and early intervention. How will resources be shifted to achieve that?

Philip Rycroft: Again, we are into forward-looking territory. As I said in my introductory remarks, ministers asked us to review the youth justice strategy. We are in the process of doing that and working with ministers to achieve it, and we hope that it will come into the public domain early in the new year. In response to the detail of your question, I must defer to ministers and the decisions that they will take and the direction of travel that they will want to put into the public domain then.

11:15

George Foulkes: But are you going to shift resources, as far as you understand? If you are going to do preventive work and more on early intervention, that will surely need resources.

Philip Rycroft: Of course that will need resources, and of course one would expect that, as those who expend the resources come to understand what leads to better outcomes, they will focus the resources where they are most effective. That seems to me fundamental to the approach that we are taking through the concordat and the work that we will do, particularly with local government. I am not sure whether you are looking for something with a bit more detail.

George Foulkes: Well, I would like that—if you want to have a go.

Philip Rycroft: I am, in a sense, asking the question back of you. How the work might happen will clearly flow from the agreement. It will be a matter for local government, when the work concerns local government, to put together its strategy and behaviours, based on what it knows works in the context of the strategy that ministers set out.

George Foulkes: I have a specific question. Are you working with the WAVE Trust on early intervention?

Philip Rycroft: I do not know the answer to that—I do not know whether my colleagues do.

Donna Bell (Scottish Government Children, Young People and Social Care Directorate): We have done some work with the WAVE Trust in the past. Our colleagues in violence reduction are also working with it.

George Foulkes: Are you planning to do any more work with it? It has a fairly radical idea about intervention at an early age. The Home Office—if you do not mind my mentioning part of the United Kingdom Government—is working closely with the WAVE Trust on early intervention.

Donna Bell: I think that we will be looking to it for examples of good practice if it has them and to disseminate them to local partners where we can.

George Foulkes: I am grateful for that specific answer. Assuming that you are going to move resources in that direction, do you anticipate that that will have any adverse effect on the current work on dealing with persistent young offenders?

Philip Rycroft: Again, I do not quite get the drift of the question. We are trying to describe a context in which local agencies work towards national outcomes with national indicators; we have agreements with local authorities at a local level; and all that comes together to improve the outcomes for children and young people. In that context, there is a range of possible interventions that local agencies can take, and there is a range of services that they can draw on to achieve that. If they find that working with the WAVE Trust, for example, is effective in delivering the outcomes that they want to achieve, one would expect them to shift resources in that direction. If they find that something else is more helpful in their context, the resources should go in that direction. It is difficult to sit here and anticipate the multitude of decisions that will be taken across Scotland in the next three years.

Colin Maclean: I can offer a specific example of where we have begun to see changes in practice. I mentioned earlier the high proportion of referrals to the reporter that did not go to a hearing. In a number of parts of the country, the proportion has reduced considerably, releasing reporter time to focus on the most severe cases, because local agencies are taking decisions in some of the less severe cases without going to the reporter. We are seeing a reduction in what is in effect the wasted time of going through the process of assessing cases where local decision making is sufficient. That releases more time to focus on the severe cases and early intervention.

George Foulkes: Have you read paragraph 30 of the Audit Scotland report? I was really referring to that. This is a classic dilemma. If you spend more money on prevention—I think that it is right to do that, and the report deals with that—you might take money away from existing areas. Do you anticipate that, or will extra money be available?

Philip Rycroft: When you are talking about the financial envelope and talking about “you” to mean us in central Government, as was clear from the

exchange with the convener earlier on, you should be aware that the majority of resources that support work in this area rest with local authorities, and always have done. Indeed, the majority of those resources have not been ring fenced. The shifting of resources between the different approaches will be driven by local government.

However, that is not to say that we do not have an important role in that. As I tried to emphasise in my opening remarks, we have a continuing role in understanding what works, finding out where the best practice lies, encouraging the sharing of that best practice and providing support for that through national data sets and so on. As I also said earlier, the shift of focus, from our perspective, is away from attempts to micromanage what is going on locally and towards trying to get a better understanding of the national picture and the way in which what is going on locally supports the delivery of the national outcomes.

The Convener: There is an interesting position there. Notwithstanding the fact that money has always been determined by local authorities in their areas, there has also been significant investment by the Government, the Administration, the Executive or whatever we want to call it. Some of it has been ring fenced in the past, and some of it has come under broad headings. Generally, those are disappearing. Now, you are putting all the responsibility to determine how money is spent on to the local authorities, are you not?

I agree entirely with the approach that prevention is far better than having to deal with the consequences of bad behaviour. I also fully subscribe to the idea of early intervention. If you have decided that it is up to local authorities to decide how to spend money in their own areas, and you hope that they will spend some of it on the issues that we are discussing, that is fine. However, for the budgets for which you have specific responsibility—that is, those that are allocated centrally—will you say whether the Government has decided to allocate more money than was allocated in the last three years to those areas where there is greatest deprivation? Those are the areas where there is probably more offending, persistent or otherwise. Have you decided to shift money away from other areas in Scotland? Could you point to budget lines where that has happened?

Philip Rycroft: I think that I am probably within my rights, as it were, to decline to answer that question in any detail. I am not clear what part of the budget you are talking about—or whether you are talking about the whole swathe of the budget.

The Convener: No. Let us take education. Has the education budget been bent to achieve what you have stated to be the intentions—that is, early

intervention in the areas where there is clearly the greatest problem? Are you shifting resources accordingly and are you giving more to those local authorities whose areas have the highest levels of persistent offending, the greatest levels of deprivation and the lowest levels of achievement in order for the aspiration to be met?

Philip Rycroft: That question will be appropriate for when the Education, Lifelong Learning and Culture Committee meets the Cabinet Secretary for Education and Lifelong Learning to discuss the budget with her and to go through it materially and in detail.

The Convener: That committee can do its job, but I am asking you about this now. Something has been identified in the Audit Scotland report involving a potential impact. I am asking you whether you have taken a decision to skew resources.

Philip Rycroft: I have two comments to make in answer to that. First, if you look at the amount of money that is held in central Government lines for education and children's services, you will see that it is very small compared with the amount of money for those services in local government. The sums of money that you are discussing are not sufficient to switch whole systems. That has to be—

The Convener: I will clarify my question for you, before you move on to your second point. You talked about early intervention and prevention. Examples of early intervention and prevention are sure start, early years services and the provision of more money for primary schools in areas where achievement is lowest and children are more likely to end up drifting. That is not a small part but the core part of your budget. In order to achieve early intervention and prevention—which is absolutely the right thing to do—have the budgets been skewed? As has been asked already, will that have an impact on other budgets?

Philip Rycroft: I will come back to the two points. Given the balance of budgets, it seems to be more important to work with local authorities to achieve effective spend from the billions that they disburse than to put all our weight on the relatively small budgets that are now held by central Government. On a technical point, I cannot go into great detail about how those central Government budgets will be disbursed as that material is not yet in the public domain. There are probably more appropriate occasions on which to examine all that.

I refer you to the concordat with COSLA, which states explicitly, as an example:

“it has already been agreed to develop policy on early years/early intervention, on provision of support for kinship carers and on ensuring that access to a teacher for every

pre-school child extends to those children in placement with partner providers.”

In other words, within the context of the concordat, there is a very explicit statement about working with local government to ensure the effectiveness of those approaches. I hope that that will give you some assurance.

The Convener: It does, to some extent, but I am asking whether you are skewing the resources that are allocated to each authority to reflect the aspiration on prevention and early intervention and to concentrate on the areas in which there is most offending by young people.

Philip Rycroft: I am obliged to give you what might be called a holding reply on that, given the on-going discussions with COSLA concerning distribution and the fact that ministers have still to reveal the detail of their budget decisions. You will have to question ministers about those decisions on other occasions.

The Convener: Okay—thank you.

Andrew Welsh (Angus) (SNP): We can see the stated objectives, and we have heard a flurry of words, but I am unsure about what has been achieved in practice. You have to know where you are going before you can achieve anything. The Audit Scotland report clearly shows that the previous objectives were not being delivered according to their definition. Now we hear that you are developing a range of indicators—whatever that means—that will support national targets and aspirations, and that you are looking for strong local performance management to be developed.

I have heard a flurry of words, but all I see is policy in flux again. A lot of work is still to be done on the fundamentals. I have heard the words, but I am finding it difficult to attach practical meaning to them. There seems to be new development of the old developments that were not concluded. I would like to hear exactly when matters will be developed, rather than hear the same thing yet again. A previous report showed that the objectives were not achieved: we are going through the same process again.

Philip Rycroft: You might be surprised to learn that I have quite a lot of sympathy with what you say. In an area as difficult and complex as youth offending, it is difficult to demonstrate—this has been proved over the years—how specific policy interventions work through the system to produce specific outcomes. If we needed confirmation of that, we have had it from a number of comments in the Audit Scotland report. I am marginally less pessimistic about what the report says than you appear to be. It indicates that pretty solid progress has been made in a number of areas, some of which have a hard edge to them, for example the provision of national data and the time taken by

police and reporters to clear cases. The task now is to learn from all of that and to use those lessons to inform practice in the years ahead, so that we get better at addressing the issues.

We have been invited here to consider a report about what has happened. However, I cannot today set out the detail of ministers’ policy on youth justice because, as you might be aware, the intention is to bring that into the public domain early next year. Again, there will be further occasions for this committee and others to speak to ministers about that.

11:30

The Convener: I think that Andrew Welsh was concerned about not what ministers will come back with but what lessons you have learned, which surely will shape what ministers do. Like Andrew Welsh, I am still unclear about the position.

Andrew Welsh: I am not asking about policy—you are an official, and that should not be your responsibility; ministers should be answerable for policy.

The Government’s stated objective is to achieve the best outcome for children. I think that everyone agrees with that. However, how can that be done in practice? We appear to be hearing that, even now, with regard to local performance management and national targets and aspirations, no indicators have been developed and agreed to measure the success of the outcomes or the work in progress. Until you get them, you can never achieve the end objective, which is agreed by everybody. We seem to be going into a second round of performance indicators. I have heard a flurry of words this morning, but I can find no practical meaning in any of them. Will the situation be sorted out at some point or will we be meeting in six months’ or a year’s time without the work in progress being completed?

Philip Rycroft: With respect, that might be putting a slightly pessimistic cast on what has been done. The report makes clear that, in 2002, there were big concerns about the quality of national data and so on. As I said in my opening remarks, a lot of work has been done on that and we now have some pretty good data sets, which have been referred to throughout this morning’s discussion.

It is not a question of going back to first base; it is about building on what we have got. One of the lessons that ministers are drawing from the experience, as evidenced by the Audit Scotland report, is that putting all your eggs into one basket—that is, trying to achieve one particular target—can have a distorting effect on what you are trying to achieve, particularly if the data that

underpin your efforts are driven not so much by what you are trying to measure as by those who are interacting with the system. We are trying to build a richer set of performance data that will help us and others to manage the system. That takes time—I make no excuses for that, because it is important that we get it right.

There is another critical point, which relates to where we are in the time cycle. If we were to impose a new set of data on agencies, there is a risk that they would not recognise that as supporting the hugely important work that they have to do. Again, it is absolutely explicit in the agreement with local government that the data sets and the way in which that information is used are, as it were, shared territory and that there is shared ownership of those data, so there is equal importance right the way through the system.

Andrew Welsh: I can understand negotiating a mutually agreed solution, but we do not seem to be anywhere close to the practical effect of that. I hope that I am wrong in holding that view.

Philip Rycroft: That is too pessimistic a reading of the report. One of the other examples that I draw out of it relates to the good work that has been done over the past while in relation to a number of the previous Administration's initiatives. The improvement in partnership working at a local level is recorded in the report. That is the sort of hard-edged evidence that is hugely important in this domain. Particularly at the severe end of the issue, we are dealing with young people with enormously complex lives, many of whom come from damaged backgrounds. It is difficult for one agency to deal with all those problems.

The improvement in partnership working is, as I hope members around the table recognise, fundamental to making progress. The report says that through the work that has been done there has been improvement, and we have to build on that momentum. It is not about going backwards; it is about building on our current base. As I said in my introduction, the Audit Scotland report is enormously helpful as a checkpoint from which to move policy forward.

Andrew Welsh: How different will the new performance indicators be from the old ones?

Philip Rycroft: Again, I defer to Colin Maclean for the detail.

Colin Maclean: At one level, we will not know until we have discussed the issue. You are quite right—we need to have those discussions and bring something firmer back to the committee. Instead of the current indicators, which focus only on the system's operation, we need indicators that look at young people's behaviour, its impact on communities and a range of other matters. Of course the process needs to be tight, timely and

so on, but we also need a better understanding of impacts.

With regard to crime more generally, many indicators emerge from the perceptions of communities, which are seen as just as important as indicators of reported crime, offences and so on. We need to think through how we can get a better handle on the impact that young people's behaviour is having on communities and, indeed, on them.

Andrew Welsh: I realise that you have to get performance indicators right, but the frustrating thing is that you might simply talk about them without actually getting them. The fact is that dealing with young people's offending has been on the go for a long time and there is previous form. The sooner something is achieved the better—if, of course, it is achievable—otherwise it is just words. Despite a previous report that pointed people in the right direction, practical action is still required. I wonder whether we will simply be saying the same things when we meet in a year's time. It is up to the people who are negotiating these matters, but unless they have a clear idea of what they want—there is certainly existing work on which to base their discussions—those negotiations will be just words, and nothing will actually happen.

Philip Rycroft: I do not have a huge amount to add to what has already been said, but in the broader context of the outcomes that we want to achieve we are absolutely clear about what we, working with local government and other partners, are endeavouring to achieve over the next while.

There is a story of steady progress in the work over the past few years. One would hope that we have everything sorted out in six months' time, but given the scale of the problem and the complexity of these matters, some issues are going to be with us for a long time. I hope that, when we come back in future, we will be able to demonstrate how we have drawn on the evidence in the Audit Scotland report to build on the progress that has been made hitherto.

The Convener: So do you intend to use performance indicators to measure value for money?

Colin Maclean: On that matter I defer to Audit Scotland colleagues, who are, after all, concerned with seeking value for money in local government expenditure.

The Convener: No, I am asking you this question. In its report, Audit Scotland says that with regard to

"programmes ... available for young people who offend ... it is not yet possible to demonstrate whether these services offer value for money."

How will you respond to that observation and the other value-for-money issues that the report raises? Will you use the performance indicators to measure and assess value for money?

Colin Maclean: There are a number of different processes in that respect. Ministers have said that they wish to be held to account on the basis of the indicators that are set out in the budget documentation. Those indicators will not necessarily tell us anything about value for money, but they will say whether we have achieved the outcomes. To give us more of an indication about individual processes, we might, through our work with COSLA and other authorities, need to develop other information from national sources. Clearly, value for money is as important in that respect as local performance and whether outcomes are achieved locally.

The Convener: Yes, but value for money has specifically been identified in the Audit Scotland report. To echo Andrew Welsh's point, I fear that we could be sitting here in three years' time asking you whether we are achieving value for money. How will you respond to the issues that have been identified about not being able to assess value for money? Perhaps a more important question—which follows on from Andrew Welsh's point—is how quickly will that happen? Will we need to wait until the end of the three-year programme or can it be done annually?

Philip Rycroft: Convener, your question can be answered on a variety of levels. At the high national level, which Colin Maclean has mentioned, you will be familiar with the assurance systems and best value processes that are in place to monitor the performance of Government, local government and other players in the round. Several layers down from that, the value for money of specific interventions perhaps raises a more general question about the quality of evaluation. The evaluation provides evidence on how effective interventions have been and whether they might be worth taking from one area and spreading more widely.

Again—I hope that you have picked up a flavour of this in what we said earlier and what we have said throughout—we attach huge importance to these issues. Indeed, part of our new approach with local government is to enable us to free up some of our resource so that, instead of micromanaging and trying to tell people how to do their business, we concentrate more on working with them to spot best practice and disseminate it. Within that, value for money questions will clearly be fundamental. Practice that is hugely expensive and sucks up resources from elsewhere is not my definition of best practice. Best practice and value-for-money equations are closely aligned, and they are a hugely important part of the work that we will be doing as we move forward.

The Convener: In a year's time, will you be able to demonstrate to the committee the progress that has been made with respect to the Audit Scotland report and the progress that has been made on achieving value for money? Will we need to wait until the end of the three-year period for that information?

Philip Rycroft: If you invite us back in a year's time, I hope that we will be able to demonstrate progress on both those matters.

The Convener: That might be useful. We should, perhaps, start thinking about not just getting immediate responses from organisations after an Audit Scotland report is published but following up our discussions on the responses after a period of time. It might be useful to come back to the issue.

George Foulkes: I have a follow-up question. What discussions have you had with the new commission that the Cabinet Secretary for Justice has set up to review penal policy?

Donna Bell: We have had no discussions with the commission at an official level as yet, but we have had some internal discussions on the impact that the strategy can have and on what impact the lessons that are learned from the Audit Scotland report might have on custody for young people.

George Foulkes: I understand that the commission has been set up to review penal policy. Presumably, the Audit Scotland report will be drawn to its attention.

Donna Bell: Yes, indeed. That has been done by officials in the justice department.

Stuart McMillan (West of Scotland) (SNP): Before I ask my main question, I want to raise a wee point. The Audit Scotland report highlights many legitimate points, but for me the one that sticks out and that I really want to be taken into full consideration in the operation of any future strategy is the point about

"addressing community concerns about antisocial behaviour".

Antisocial behaviour affects not just the youth but everyone in society—it is a wide issue. We need only go into many of our communities to find that the issue of antisocial behaviour is raised time and again. The point is made on page 31 of the report, in the recommendations section. Whatever strategy is put in place, cognisance must be taken of that point. What is a realistic timescale for the implementation of the new strategy?

11:45

Colin Maclean: If you are asking when it will be announced, that will happen as soon as ministers make decisions. As with all strategies, a number of

different timescales will be involved. Some things will be done quickly; others will be done over a period of time. As soon as we get the strategy, we will see the various timescales that are laid out in it.

Stuart McMillan: I am a new member, so please forgive me if this is the wrong question to ask. We are about to go through the budget process. If there was a delay in the budget going through the Parliament, I assume that that would affect the implementation of any new strategy. Is that assumption correct?

Colin Maclean: The strategy will be a mixture—it will set a direction of travel, which may or may not be affected by budgetary decisions, and it will make specific proposals, which clearly would be affected if budgets changed.

Claire Baker (Mid Scotland and Fife) (Lab): I have a brief question that relates back to best value. I recognise that a lot of the work on offending by young people is expensive and concentrates on quite a small group of young people. I am talking about the costs that are associated with secure accommodation, for example. Has there been any consideration of whether such work is too great a burden for local authorities? You have spoken a great deal about the shift towards local authorities making funding decisions, but are particular policy areas such a burden on local authorities that consideration has been given to whether it is appropriate for them, rather than the Scottish Government, to carry them?

Philip Rycroft: A vast range of budget considerations are taken into account by local authorities as they make their decisions about what they expect from the Government in the budget settlement. We can probably rest assured that Pat Watters and his team took advice across the whole range of budget issues, including those to do with offending by young people. The recommendation on the concordat was made in the full knowledge that with the budget settlement, local government would be expected to deliver across the range of its responsibilities. In that context, there is a richness of learning within and between authorities on which interventions are most successful. It is widely recognised that some interventions are extremely expensive, but there comes a point when the only way in which one can deal with the needs of a child is through expensive interventions. It is difficult to avoid that.

Claire Baker: I suppose that I am concerned about variations in the provision of expensive services by local authorities and about postcode-related differences of approach to policies such as secure accommodation. Will the Government take responsibility for such matters, to avoid that situation?

Philip Rycroft: Those issues crop up from time to time and have been discussed by central Government and local government over the years. For example, relatively modest changes in a small authority can have quite a big impact on particular budgets. Local authorities have quite complex arrangements on who carries the cost of different interventions, depending on who is involved and where they have come from. There are many interactions on such matters every day. However, the fact remains that local authorities have responsibility for supporting young people. As I have said, some of the interventions are expensive and that will continue to be the case. Local authorities have responsibility for dealing with that in the context of their overall budgets.

Colin Maclean: We are meeting the secure providers, COSLA, the police, the Crown Office and various other agencies to consider how we ensure that the secure estate is used to best effect. I suppose that there is a value-for-money element to that discussion.

Secure accommodation is very expensive on a week-by-week basis, and we must ensure that young people who leave it get the kind of support that means they do not go back into it or into the adult justice system. We are looking at secure accommodation not in isolation but as part of the set of things that we need to do for some of the most damaged and vulnerable, as well as some of the most dangerous, young people.

Stuart McMillan: I do not have the concordat in front of me, so I do not have the answer to this particular question. Local authorities will be getting more responsibility for their actions under the new settlement. Let us say that, during the next few years, a local authority's outcomes are not that successful. Apart from Audit Scotland producing another report, what process will the Scottish Government use to step in, not so much to take over as to improve that local authority's outcomes? What would or could the Scottish Government do?

Philip Rycroft: That is a fair question. One point to emphasise about this concept is the greater visibility about what each council is expected to achieve. At the risk of boring the committee, I quote the relevant sentence again:

"Each council will be required to submit a single report around the turn of the financial year",

so the councils will look backwards and forwards annually. Taking that along with the already improved national-level performance data, and with the improvements that we hope to secure around that data in negotiations with local government, we hope that we will be living in a more data-rich environment that will allow us and the local authorities to monitor trends and to spot

where things are working and where they are going less well. We hope to be able to do that better than we have been able to do it in the past.

That should lead to us being able to work with local authorities on turning problems around long before they reach the critical point. In that context, I emphasise the fact that the resources of central Government, including the teams that work for me and others, the various inspectorates, Audit Scotland and so on, contain a wealth of information and knowledge that we can bring to bear to help local authorities to get back on track if it looks like their performance is going in the wrong direction.

Stuart McMillan: My question was based on paragraphs 13, 14 and 16 of Audit Scotland's report, which highlight that although there were some successes in the past, there were also some failures. Some of the recommendations made in 2002-03 did not seem to be fully sorted out before the report was published in October 2006. My question was therefore based on the point that what happened in the past could happen in the future. I want to ensure that lessons can be learned, whether from central Government stepping in or other people getting involved.

Philip Rycroft: Your key point about learning lessons explains why we get Audit Scotland reports, and it informs the Government's broader approach. It is a fair point: we need to learn lessons from what has worked in the past and how we support local authorities and other agencies to deliver an effective performance.

The Convener: To follow through on that, I think that that is not only a valid line of inquiry, but a critical issue. Huge responsibility is now being placed on local authorities. The resources have been given to them along with the flexibility to determine how the money is best spent. There are national outcome agreements, but local delivery is clearly the responsibility of local government. If, as Stuart McMillan described, there is a failure to make improvements in dealing with offending by young people, will that failure be solely the responsibility of local authorities?

Philip Rycroft: On the face of it, that is impossible to answer, because in many cases outcomes are achieved as a result of interactions between agencies, including local authorities. If the question is whether local government has a clear responsibility, on an authority-by-authority basis, for the achievement of the outcomes that are specified in the local outcome agreements, the answer is absolutely and clearly yes.

The Convener: If there is a failure to make any improvements in dealing with offending by young people, will that be the responsibility of the Scottish ministers or the local authorities?

Philip Rycroft: It is a shared responsibility.

The Convener: So the Scottish ministers will still have responsibility for any failures in reaching local targets or fulfilling local outcome agreements.

Philip Rycroft: I risk repeating myself, but I will come back to the point again: ministers are bound to the national outcomes, which encompass a range of policy areas and activities that support the achievement and delivery of the outcomes. In that context, it is clear that ministers have responsibility for making progress on the outcomes. Ministers continue to be responsible for setting the broad policy direction nationally and for supporting local authorities and others in the delivery of that policy.

The Convener: I am not talking about setting national policy; I am talking about achievement and local service delivery. Ministers have, in your words, "a shared responsibility" if there is a failure to make improvements, but Stuart McMillan asked what ministers can do in a situation in which you have left everything up to local authorities. You expect a minister to take responsibility, but from what I understand from your earlier words, that minister will have no power to effect any change. How can there be shared responsibility if there is no ability to influence what is happening?

Philip Rycroft: I chose my words fairly carefully: I said that there was shared responsibility for the national outcomes. In that context, it is clear that there are different domains of responsibility. Ministers are responsible for policy and the policy context, whereas local authorities in their domain will sign up to local outcome agreements and will be responsible for delivering their part of that. However, as I also said, that will often be in combination with other local players. The concordat and agreement with local authorities will give us real clarity about the expectations and the outcomes that we are driving to achieve nationally and locally.

The Convener: I will give an example. There will no longer be targets for youth offending but, as Colin Maclean said to Murdo Fraser, the information will be collected and reported in the same way. If the rate of persistent offending goes through the roof and continues to rise exponentially, leading to rising numbers going to the children's hearings system and so to problems with delays in the system, will ministers have any responsibility, or will that be the responsibility of local government? Who will be accountable?

Philip Rycroft: Again, you ask what sound like specific questions, but they are in a sense rather general. Obviously, the answer will depend on the circumstances. Given the relationship between a national outcome and the issue that the committee is interested in today—youth offending—it seems

to me very unlikely that we will have what you describe as an exponential increase in the rate of youth offending while recording steady progress on the indicators that support the national outcomes on young people generally. That would suggest a serious dysfunction in the system more generally.

12:00

On delays in the system, it depends where those delays are occurring. There are different lines of accountability, such as police, social work and the SCRA. What is clear now is that all the players on that field, including central Government, are working towards those national outcomes. If there are signs that something is not going in the right direction, it will sometimes take a little while to work out why, because of the trail of causality. It may be that there are new things going on in the external environment or because of specific failures. There is a whole range of possibilities. If the indicators suggest that things are going to go in the wrong direction, part of our job, working for ministers, will be to understand those causes and effects better, so that ministers can work with the appropriate players, including local government, to turn things round.

The Convener: I have one more point before I bring in Andrew Welsh. I understand what you are saying, Mr Rycroft, but you say that if there is an exponential rise in persistent young offending, the general outcomes may not be met. Clearly, ministers would have an interest in that. Even though you are not setting a target for levels of persistent young offending, if there is a rise—for whatever reason—will ministers take action? If there is such an evident trend throughout Scotland, will ministers have the ability to do something? Will they be able to intervene, rather than wait until the end of a reporting period?

Philip Rycroft: I find it slightly difficult to envisage the situation that you are describing. You are implying that there is a dramatic mid-year increase in youth offending, whether locally or throughout Scotland. It slightly depends on one's definition of exponential, but while the numbers do go up and down, I am not aware of such sudden variance in the statistics. If a situation occurred such as that which you describe, it would be of national concern. Ministers would be keen to find out what was going on, to try to understand its causes and to ensure that appropriate responses were given to turn that round. On the whole, however, I suspect that we will be considering performance within a more data-rich environment. Building on what we have achieved, as reported in the Audit Scotland report, we will hopefully have a wider range of data to help us to consider trends in the system and anticipate future difficulties, so that

we do not suddenly find ourselves in the unknown situation described by the convener.

The Convener: So although ministers would be keen to find out what is happening, they will no longer have any budgetary influence and, at a local level, will probably have no policy influence either.

Philip Rycroft: The committee can read the concordat to find out how the budget decisions would be worked through with local government. However, on the policy influence, I come back to the point that if such a significant shift were taking place—not just in this domain but in any domain—ministers would want to sit down with local government to find out what was going on. There would be mutual interest in doing that. If such a dramatic shift were taking place, the chances of local and national Government being able to demonstrate positive progress on the national outcomes and what flows from them would be much diminished.

The Convener: I come back to the nub of Stuart McMillan's question. You said that ministers would be keen to sit down in discussions. What can ministers then do? What powers do they have to do something?

Philip Rycroft: Given the concepts that I was invited to the committee to discuss, I have not come prepared to talk about the range of statutory and other relations between central and local government. However, there is a range of options for central Government in terms of its relationship with local government both generally and specifically. There is a range of mechanisms to buttress that relationship, notably and chief among them the work that Audit Scotland does on best value and so on. You will be very familiar with the range of options that ministers have for working with local government to ensure that poor performance is turned round. Ministers have those possibilities if they are required.

The Convener: That is correct. It would be helpful if you could revert to us in writing so that we can reflect on just what powers there are. However, from what I understand, there is now a complete devolution of budgetary responsibility and a number of budget headings have been amalgamated. We are in a completely new situation.

Philip Rycroft: With respect, convener, "completely new" is probably not quite right. The vast majority of the budgets for education and children and young people have not been ring fenced. There have been ring-fenced lines in the budget formulas—in the grant-aided expenditure formulas—but it has always been clear that those formulas are about arriving at a distribution methodology, not a target for expenditure by local

government. What is new in the budget context is that the remaining areas of ring fencing are being reduced.

The Convener: That is completely new; that has not been done before.

Philip Rycroft: Again, I say with respect that it is not completely new.

The Convener: It is.

Philip Rycroft: You will be familiar with the fact that there have been elements of central Government funding around—

The Convener: We are talking about one specific area. I am not talking about the broad remit. As far as the areas that we are discussing are concerned, this is a completely new situation.

Philip Rycroft: The novelty of the situation involves a reduction in ring fencing around a number of specific budget lines.

The Convener: Let us not argue about semantics and the difference between “novelty” and “completely new”—we will leave that sticking to the wall. However, I would ask you to revert to us in writing on the powers that are potentially available to address the matter.

Andrew Welsh: I wonder if you could explain the constitutional position regarding ministerial powers and the role of officials. Surely politicians, whether at local or national level, have responsibility for creating the concordat and are answerable for it. Am I right in thinking that your work, as officials, is to do detailed work on behalf of your ministers and to report to them on outcomes? Is it not your role to report back and to alert ministers to problems relating to their remit? Constitutionally, however, you surely cannot ever be responsible for the actual concordat; rather, you as officials are responsible for reporting to the minister, who, along with those others who have signed the concordat, has responsibility for it.

Philip Rycroft: There may well have been a loose use of the word “we” in that context. When we are talking about the various responsibilities in a Government context, it is clearly ministers who are ultimately responsible to Parliament. We are there to work for and service ministers, which puts a certain restriction on the sorts of questions that you may ask officials who come before you—which you have respected today, I hope.

George Foulkes: I have an easy question for Mr Rycroft, which is well within the responsibility of officials. I am a new member of the committee, and I am not sure how such reports from the Auditor General for Scotland are dealt with within Government. The report before us was published in August 2007. What interdepartmental meetings have you had to consider its recommendations?

Have you had meetings with local authorities? How do you plan to follow up the report?

Philip Rycroft: I will ask Colin Maclean to give you a bit more detail, but as far as the general picture is concerned, the reports do not simply fall out of the sky. We know about the work programme, and we are involved in giving evidence to Audit Scotland about what is going on.

George Foulkes: Donna Bell was on the advisory committee.

Philip Rycroft: Yes. There is a co-operative process that underpins the whole thing. Ultimately, the judgments on what is put into its reports are for Audit Scotland. I can give you the absolute assurance that the reports are dealt with extremely seriously. We never take them lightly. We are always invited to respond to what is said in the reports. We cannot do that from some isolated pocket within the Executive, particularly on a subject such as that which we are discussing.

The most important point is to build recommendations from reports into future policy development. As Colin Maclean will confirm, that involves detailed discussions within Government. I hope that members have again heard the message that, as we develop the work, we will not do so in isolation from our delivery partners, particularly local government.

Colin Maclean: How we respond to such reports varies depending on when during the cycle they come in. “Dealing with offending by young people” arrived when we were about to get into discussions with COSLA about the spending review, which would at least explore the relationship between local and central Government and many of the issues in the report are relevant to that.

The report came at a time when ministers had asked us to develop a new youth justice strategy and fed strongly into our processes. Although we will respond specifically to the recommendations in the Audit Scotland report—as we are doing today—we are also using it as a basis for feeding into that wider decision making. In doing so, we are conscious that we need to respond to all the issues raised in the report.

George Foulkes: As Stuart McMillan pointed out in his perceptive question earlier, the recommendations in the 2002 report have not really been implemented.

Colin Maclean: Many of those recommendations have been implemented and there have been positive responses to what we did. Some work is still to be done. The 2002 recommendations encouraged us in work that we were developing anyway and other specific points on which we need to place more emphasis were picked up. We accept that.

George Foulkes: Will you sit round the table with local authority representatives with the report in front of you and go through the recommendations seriatim?

Colin Maclean: As part of the process of discussing the new strategy with COSLA and other agencies, we will look at the report and a number of other documents. We will discuss with COSLA all the available evidence and agree with it the broad direction of travel.

George Foulkes: A lot of work and money have gone into the reports. They must not lie on a shelf and gather dust.

Philip Rycroft: They do not.

The Convener: I draw the discussion to a close and thank Philip Rycroft, Colin Maclean and Donna Bell for their contributions today.

Section 22 Report (Mental Health Tribunal for Scotland Administration)

12:12

The Convener: The next item on the agenda is a section 22 report.

Mr Robert Black (Auditor General for Scotland): A section 22 report has been prepared on the Mental Health Tribunal for Scotland Administration accounts for 2006-07. I took the judgment that I needed to draw it to the attention of Parliament that the governance arrangements appropriate for such a body were not in place for the agency in 2006-07 and that they needed to be developed as a priority.

The report reminds the committee of what the agency does—it is an executive agency of the Scottish Government that supports the work of the separate Mental Health Tribunal for Scotland. Some 330 publicly appointed tribunal members from various backgrounds take important decisions about the compulsory care and treatment of people with mental disorders.

Back in 2005-06—the antecedent financial year—the auditor highlighted in a report at the end of the year significant gaps in the agency's governance arrangements and recommended improvements. I took the decision that a section 22 report was not appropriate at that stage because the agency was a new organisation and quite a small one; therefore it was entitled to a reasonable period in order to bring its organisation together.

In the 2006-07 audit—of the financial year that ended last March—Audit Scotland carried out a follow-up review of the governance arrangements. The auditors found that although the agency had accepted the need to improve, it had still not made the necessary basic changes to the way in which it directs and controls its work.

The gaps in governance are detailed in paragraph 5 of the section 22 report, but I will highlight them briefly. Each agency requires to have in place a framework document setting out the responsibilities and accountabilities of that agency, but that is still not in place for the body in question two years on. The auditors commented on the urgent need to strengthen financial management in the agency and suggested that it should consider its options, including permanent recruitment. The auditors confirmed that no formal board was in place during 2006-07 to direct and control the agency. That was still the case in August 2007, when they made their report to me. Finally, the agency had no independent non-

executive directors and no audit committee in place to provide assurance on risk management, governance and internal control.

12:15

I consider it essential that the recommended improvements are made as soon as possible. HM Treasury's "Code of Good Practice Relating to Corporate Governance in Central Government Departments" recommends that a board should be formed to manage the operations of an organisation. It also states that the board should include independent non-executive members to ensure that executive officials are supported and, of course, constructively challenged in their role. An audit committee with independent members is also central to good governance, in order to provide assurances on risk management, governance and internal control. It is the agency's responsibility to make the necessary improvements in those and other areas as quickly as possible. The agency now has an agreed action plan, which has the support of Audit Scotland, with the aim of completing the improvements by January 2008. I have asked Audit Scotland to keep me informed of progress. I look forward to getting an assurance that the important commitments to which I have referred have been implemented satisfactorily within that timescale.

As ever, I am happy to answer any questions, with support from the Audit Scotland team.

Willie Coffey: I have a simple question. Why were the previous recommendations not implemented?

Mr Black: We do not find it terribly easy to answer that question. The question would be best directed to the relevant department. I find it rather puzzling that it has taken a comparatively small body such as the Mental Health Tribunal for Scotland Administration so long to attempt to put the arrangements in place.

Willie Coffey: The responsibilities with respect to internal control, internal audit, risk management and so on that are set out in the code of good practice are fairly well established by now, so it is a shock and surprise to discover that the body has not complied with the previous recommendations.

Mr Black: I agree—that is why I felt obliged to make a report this year. Although the body is comparatively small, it should adhere to the standards of governance that are expected across the public sector.

Murdo Fraser: Are you aware whether any progress has been made since the report was completed? I know that you expect to be advised of that early next year, but do you have any interim

indications of whether things are moving in the right direction?

Mr Black: I do not have comprehensive information, but the limited information that is available to us is not particularly reassuring. For example, the framework document was due to be in place by now, but it is still not in place. The reasons for that are not clear to us, which is a concern.

George Foulkes: Who makes the decision? I am not clear about who is responsible. Is it the Cabinet Secretary for Health and Wellbeing?

Mr Black: In this case, the accountable officer is the accountable officer for health, sport and related matters, Kevin Woods. The president of the tribunal and civil servants are also involved, but ultimately the cabinet secretary must assure himself or herself that appropriate arrangements are in place, through the accountable officer.

Andrew Welsh: Should not the cabinet secretary be informed that the body is in breach of its standing orders?

Mr Black: I am not sure that I am in a position to answer that question. By definition, the Treasury guidance that I mentioned is not mandatory, but it is the accepted good standard for setting up governance arrangements.

Andrew Welsh: This is a quango. Do you have any reason to doubt that the improvements will be completed by early next year? It is amazing that the arrangements are not in place now. Will there be more prevarication? Does the body need a shove?

Mr Black: I am sorry, but I cannot answer that question.

Andrew Welsh: Will you give it a shove?

Mr Black: Unfortunately, that power is not given to me.

The Convener: As there are no further questions, I thank the Auditor General for his report.

Item 4 will be considered in private. I ask members of the public to leave the room.

12:19

Meeting continued in private until 12:36.

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