

JUSTICE 1 COMMITTEE

Tuesday 16 April 2002
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

11th Meeting 2002, Session 1

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Maureen Macmillan (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

*Lord James Douglas-Hamilton (Lothians) (Con)

*Donald Gorrie (Central Scotland) (LD)

Angus MacKay (Edinburgh South) (Lab)

Paul Martin (Glasgow Springburn) (Lab)

*Michael Matheson (Central Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Stewart Stevenson (Banff and Buchan) (SNP)

WITNESSES

Roger Houchin (Scottish Prison Service)

Bill Rattray (Scottish Prison Service)

ACTING CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

The Chamber

Scottish Parliament

Justice 1 Committee

Tuesday 16 April 2002

(Afternoon)

[THE CONVENER *opened the meeting at 13:49*]

The Convener (Christine Grahame): Good afternoon. I welcome everybody back from what I hope was a refreshing break. We have a heavy agenda today that we will try to deal with at a brisk pace. I promise that we shall have a break at some point.

I have received apologies from Angus MacKay, who had a previous engagement. I welcome Stewart Stevenson to the committee. He is absent just now but he will return when we deal with the Scottish Prison Service witnesses.

Items in Private

The Convener: I propose that we take items 2 and 7 in private. Item 2 deals with the lines of questioning for the witnesses who are giving evidence on the prison estates review. As members know, it is helpful for us to know in advance who is going to deal with which questions. Item 7 deals with the revised draft of the future options paper for our inquiry into the regulation of the legal profession. It would be useful to discuss that in private to allow us to discuss our forward work programme in relation to that item. Of course, all decisions made during the discussions will be made public.

Do we agree to take items 2 and 7 in private?

Members indicated agreement.

The Convener: Do we also agree to discuss, at future meetings, lines of questioning of witnesses in private?

Members indicated agreement.

13:51

Meeting continued in private.

14:01

Meeting continued in public.

Prison Estates Review

The Convener: We have before us copies of the prison estates review consultation document. With the agreement of the committee, I will write to the Minister for Justice to ask that more copies are published as a matter of urgency to ensure that as many people as possible can access the document.

Members may wish to consider the correspondence that we have from Alex Salmond and Jim Wallace in regard to what was said on record about a meeting at Peterhead prison on 26 January 2001. I will read out both letters. On 3 January, Jim Wallace wrote to me saying:

"As you indicate, Tony Cameron has now confirmed that he did not attend the meeting on 26 January between Henry McLeish, Alex Salmond and myself. As I said in the course of the SNP debate on 12 December no one is accusing Tony Cameron of showing bad faith in the evidence he gave to the Committee. Such an accusation would be very serious and I rebut it completely. It was simply a mix-up about dates of and attendance at meetings and I hope we can now let the matter rest.

You ask that I expand on the points to which Tony Cameron refers from the record of the meeting. I have to say that although obviously a verbatim note was not taken, the quote from the record of the meeting sums up the issue fairly well. Throughout this process, we have said that the Estates Review will be looking at options that provide the best value for money to the taxpayer, which is of course an evaluation of both cost and quality.

In the case of Peterhead, therefore, it means the options will be considered not only in terms of the costs (although these cannot be ignored) but also in terms of their ability to secure the delivery of programmes (particularly STOP 2000) for all sex offenders in the long term. I would hope that the Committee would agree with such an approach."

It is important that I read Alex Salmond's response to that letter because it deals with the emphasis on cost and quality. On 13 January, Alex Salmond wrote to me to say:

"Thank you for your letter of 12 December.

I note that Mr Cameron now accepts that he was not present at the meeting on 26 January 2001. I find it difficult to understand how he could have confused a meeting in Edinburgh with the then First Minister with a visit to Peterhead Prison involving the Justice Minister.

The importance of the matter is this. Throughout this long delayed exercise, I had found it difficult, as the constituency MSP for Peterhead, to pin down Mr Cameron on the criteria to be employed in the estates review i.e. whether it was a pure bricks and mortar exercise or whether the QUALITY of provision was to be taken into account and at what stage.

I was very satisfied with the meeting on 26 January precisely because the then First Minister twice went out of his way to emphasise that these qualitative aspects would be recognised in the consultation exercise. I know that

Committee members will understand that at any meeting with Ministers the way in which a point is made can be of considerable importance.

I felt reassured by the manner in which the then First Minister dealt with the issue and the fact that he readily agreed to the point being stressed in my press release from the meeting a copy of which I have already sent to the Committee.

Finally let me raise two other related matters.

I was encouraged that at the same meeting the Justice Minister said that, on the critical question of the importance of the 'total culture' of the prison environment in running successful programmes for sex offenders, he would seek the advice of HMCIP, Mr. Fairweather. I would hope that this commitment still applies within Mr. Fairweather's remaining tenure in post.

I also understand that the Justice Minister has now indicated that the qualitative aspects of delivery of programmes are included in the Estates Review itself and not only in the consultation exercise. I would think that is also to be welcomed, although it has never previously been made clear to me in any meeting that I have had with Mr. Cameron on the issue.

I hope these remarks are of use to the Committee and I would be pleased to discuss them further at any stage ...

ALEX SALMOND MP."

What does the committee want to do in the light of that letter? It relates to evidence that was given by Mr Cameron at the meeting on 23 October.

Maureen Macmillan (Highlands and Islands) (Lab): Do we have to do anything?

The Convener: That is a matter for the committee to decide. It is a fairly important matter when the First Minister apparently expresses the view that the quality of the provision at Peterhead will be as important as the bricks-and-mortar exercise. We may want to consider that. We could ask the former First Minister to give evidence on his view at the time. There are a lot of options open to us. I am asking whether the committee wants to do that, on a fairly crucial matter regarding Peterhead prison.

Lord James Douglas-Hamilton (Lothians) (Con): Surely the point is that the Minister for Justice and the former First Minister indicated the importance of the qualitative aspects of the delivery of programmes. I do not think that there would be any harm in our sending a two-sentence letter to the First Minister and the Minister for Justice, saying that that is our understanding and that we are proceeding on that basis. There should be no criticism of Tony Cameron. In the heat of the moment, when a lot of issues are being discussed, wording can be given that does not necessarily reflect exactly the words of the First Minister.

The Convener: I am interested in the emphasis—it was not an undertaking—that was attributed at that meeting to the former First

Minister. We might want to ask the present First Minister whether he endorses the views of his predecessor.

Lord James Douglas-Hamilton: We might invite him to endorse the views of his predecessor.

The Convener: You are always gentlemanly and tactful, James, unlike me. We will write to Jack McConnell and Jim Wallace in the same terms, to clarify the position.

Lord James Douglas-Hamilton: I hope that there will not be any criticism of Tony Cameron.

The Convener: No. We will simply ask for confirmation of the apparent position that is stated in the letter that we have seen and in the *Official Report* of the meeting of 23 October. Members may correct me if I am wrong, but I do not think that the review mentions the quality of provision. There is a deadly silence in the committee.

Michael Matheson (Central Scotland) (SNP): I do not recall seeing anything about quality.

Stewart Stevenson (Banff and Buchan) (SNP): I concur with Michael Matheson. There is a clear focus on the finance, although there are also issues about the numbers. The amount of space and the consideration given to quality and the reduction of reoffending in the report and the supporting papers is virtually nil.

Maureen Macmillan: I was just reading appendix C of the review. On the delivery of sex offender programmes, it says:

"Scottish Prison Service welcomes and endorses the view of Professor W L Marshall Ph.D., FRSC, a leading international authority on the treatment of sex offenders, that the work being done with sex offenders is of a high standard and represents a significant achievement for the SPS and its staff."

The issue of quality is therefore not absent from the review.

The Convener: I agree that there is a note on it, but it is not part of the evaluation. That is the point that is being made, Maureen. The issue of quality is commented on but is not costed in any way. Rather than develop a debate on the subject, I suggest that it is the first point that we can raise. We will have an opportunity to discuss the subject later.

We should move on. The report is a difficult one for us. Members have received a copy of paper J1/02/11/1, on the appointment of a committee adviser on the prison estates review. Do members of the committee feel that they need an adviser? I know that I need one. First, I invite members to agree in principle to the appointment of an adviser, if that is what we need. Secondly, I invite members to comment on the role of the adviser and the specification for the appointment.

Michael Matheson: When you say adviser, will that person advise on the financial aspects of the review?

The Convener: That would be part of the role. I was thinking not only of the financial aspects of the role, but that we should seek an adviser who could comment on private sector prisons versus public sector prisons—if we can find such a person—as we need to know something of the history and workings of prisons elsewhere.

Michael Matheson: I am unsure about how we could find an individual who is a financial expert and who also has detailed knowledge of the prison system and who can make a comparison between public and private.

The Convener: The note sets out that the focus of the role is to brief us on the financial aspects of the review that are to be considered. To do so would also involve making comparison of costings between private and public. We will not be making comparisons between apples and apples.

Michael Matheson: It would be helpful if the adviser's role focused primarily on the financial aspect of the review. It would also be helpful to have someone with previous academic experience of considering those sorts of issues, perhaps in England where there are a number of private prisons. I find it difficult to imagine finding someone who has detailed knowledge of the prison system and who has financial expertise.

The Convener: I may have misled members. When I said financial, I meant the consideration and evaluation of private and public and an examination of the costings that are involved. We know that certain things that are included in the costings for public prisons are not included in the costings for the private sector.

Michael Matheson: In that case, we are looking for someone who has a track record, possibly from an academic point of view, who can examine the issue of public and private partnerships vis-à-vis public sector investment.

The Convener: As we have to deal with this item pretty quick smart, do members agree to the appointment of an adviser to assist with the financial aspects of the prison estates review and to lead us by the hand through that? Some of us need that.

Michael Matheson: That would be helpful.

Members indicated agreement.

Subordinate Legislation

Adults with Incapacity (Supervision of Welfare Guardians etc by Local Authorities) (Scotland) Regulations 2002 (SSI 2002/95)

Adults with Incapacity (Reports in Relation to Guardianship and Intervention Orders) (Scotland) Regulations 2002 (SSI 2002/96)

Adults with Incapacity (Recall of Guardians' Powers) (Scotland) Regulations 2002 (SSI 2002/97)

Adults with Incapacity (Non-compliance with Decisions of Welfare Guardians) (Scotland) Regulations 2002 (SSI 2002/98)

The Convener: We move on to item 4. The first four instruments deal with adults with incapacity. We also have to consider the Restriction of Liberty Order (Scotland) Amendment Regulations 2002 (SSI 2002/119).

I direct members to paper J1/02/11/2, which accompanies the four instruments that result from the Adults with Incapacity (Scotland) Act 2000. As the instruments are negative instruments, I invite members to make comments or to note the instruments. I have to say that on page 2 of the paper there is a wonderful line:

"The Executive, in a full and courteous reply".

That led me to wonder whether the Executive would make a "full and impolite" reply. I felt that I wanted to know more about that.

The Subordinate Legislation Committee considered the instruments and its views are included in the note. Do members agree to note the instruments?

Members indicated agreement.

Restriction of Liberty Order (Scotland) Amendment Regulations 2002 (SSI 2002/119)

The Convener: We move on to the next instrument, which deals with what is commonly called tagging. As the instrument is also a negative instrument, members may comment on or note it. The Subordinate Legislation Committee has also considered the instrument. As I understand it, the instrument extends the restriction of liberty order pilot scheme to the whole of Scotland from 1 May. That is interesting in the context of trying to reduce prison numbers.

14:15

Lord James Douglas-Hamilton: I think that it applies to the most minor offenders.

The Convener: Do we agree to note the instrument?

Members *indicated agreement.*

Petitions

Road Traffic Deaths (PE29)

Dangerous Driving Deaths (PE55, PE299, PE331)

Road Accidents (Police 999 Calls) (PE111)

The Convener: Item 5 is consideration of several petitions that have come before the committee previously. I refer the committee to paper J1/02/11/4, which is a helpful exposition of the difficulties of road traffic legislation and summarises research carried out by the Department for Transport, Local Government and the Regions.

I also refer the committee to paper J1/02/11/05, which is from Scotland's Campaign against Irresponsible Drivers. I seek your comments and refer you to the options on pages 9 and 10 of paper J1/02/11/4. I know which options I prefer, but let me hear what the committee has to say. As you know, we deferred consideration of the petitions until the DTLR's report came out.

Michael Matheson: The matter goes back to before the Justice and Home Affairs Committee was split into the Justice 1 Committee and Justice 2 Committee. I think that only three of us who were on the Justice and Home Affairs Committee at that time are on this committee—you, Maureen and me. We decided to put off considering several petitions to await the outcome of the DTLR's report, which was published in January this year.

I have had a look at some of the papers for this item, in particular the document that SCID has provided. I do not know whether other members have noted that page 10 of that document includes a table on methodology and participation. That table compares, for example, the analysis of fatal accident files for the DTLR research in England and Scotland. One of the things that is most striking about that table is the sheer lack of any Scottish involvement in the research.

Road traffic legislation is a reserved matter. It is very concerning that the research appears to have been completed without Scottish involvement. That does not appear to have been the fault of the researchers. It appears that the Scottish system was unable to answer a number of the questions that the researchers had asked. It also appears that procurators fiscal were somewhat reluctant to be involved in the research and would only do so if the evidence was not attributed to them.

I have real concerns about the research and whether it reflects what happens in Scotland. Given that we have put it off before, the committee has an obligation to proceed with the matter. It is for members to decide how they want to do that. I

think that we should ask the minister how the Executive intends to respond to the research and whether it is satisfied with the limited participation of Scottish agencies.

The Convener: Michael Matheson is right. The recommendations in paragraphs 19.4 to 19.6 on page 7 of our briefing show that there is a lack of statistics. I am attracted to the requirement that convictions for bad driving offences be kept by the Driver and Vehicle Licensing Agency in an archive, to allow reoffending to be monitored. It is apparent from the full report on the petitions that some people just offend and offend and offend. We must be able to make such people surrender their vehicles.

Lord James Douglas-Hamilton: There is a strong case for writing to the Minister for Justice. Michael Matheson called for us to do that and paragraph 30 suggests that. We could ask the minister questions about what he considers the position to be, according to the expert evidence of his officials. We could also write to the Lord Advocate to put similar points and the comments in paragraph 31.

When I was the minister with responsibility for road safety, the lead department was the Department of Transport in Whitehall. It formulated the policy, although we had input. The decision on whether to recategorise such crimes was not for the Scottish Office. It would be helpful to find out from the Minister for Justice and the Lord Advocate the extent to which the matters are reserved and to which the Parliament can have input.

If we have feedback from both ministers, we will be in a position to take up the option in paragraph 32 and call the ministers before the committee. Before that, we can appoint a reporter on the matter, as paragraph 33 suggests. Until we know the Administration's view on the available facts in Scotland, it is hard for us to express an informed view.

Maureen Macmillan: We have not been presented with this option, but I wonder whether the committee might like to hear from the petitioners again. If we are to hear from the Minister for Justice and the Lord Advocate, perhaps we could see the petitioners too.

The Convener: The idea is that we will first obtain responses from the Lord Advocate and the Minister for Justice. Copies of those responses should be sent to the petitioners as part of the inquiry, as it were, and analysis. I suggest that the committee then considers whether it wants to have the petitioners back to comment and/or to appoint a reporter. We have much work to finish on our timetable before the session ends in April or May next year. I am not kicking the issue into touch, but

we should have the answers before we decide what is required.

Donald Gorrie (Central Scotland) (LD): We should pursue the issue energetically and I am happy that we should write to the Minister for Justice. We should pursue the issue of information and statistics. Although the matter is mostly reserved, surely having decent Scottish statistics is a Scottish issue. Either we do not have the statistics or the officials involved have failed to provide them. We should pursue the issue of statistics.

Another way of ventilating the subject might be for the committee to initiate a debate on the issue in the chamber. Dangerous driving is a wide-ranging issue.

The Convener: Would we have to produce a report?

Donald Gorrie: I do not think that we have to produce a report to initiate a debate. Having a report would help, but as I understand the system from our whip, we can say that we think that the issue is a good general one for a parliamentary discussion.

The Convener: I will have to check the procedure. The norm has been to have a report, but perhaps the committee can lodge a motion. I have no idea, because we have not tried it before, but we can check whether we could lodge a motion for debate in the name of the committee to air all these matters. It would also be useful to ask the minister and the Lord Advocate to respond to all the recommendations highlighted on page 6 of the report, which include a new offence of causing severe injury by dangerous driving. It is worth considering whether those causing severe injury or death by dangerous driving should automatically be remitted to the High Court in the first instance and not on a sheriff's decision later, as that seems to have an impact on sentencing.

Michael Matheson: I endorse what Donald Gorrie said about statistics. In writing to the minister, we should ask a number of questions about interviews. I see that, in England, 10 magistrates, eight justice clerks, four Crown court judges, two coroners, four barristers and six representatives of the Crown Prosecution Service were interviewed. In Scotland, there were five prosecutors, whose views could not be attributed, and two sheriffs, who could make personal observations only. No further information was given by the Crown Office. Why has there been so little participation from agencies in Scotland? I note that, in England and Wales, police, the CPS, magistrates and judges responded to the question on decisions to prosecute. In Scotland, only the police did so. It would be helpful to put those points to the minister and ask why that was the

case.

The Convener: You are right. I am just looking at the report to check the source of the methodology and I see that it is a Transport Research Laboratory study. I do not think that we should put those points to the minister in order of priority; instead, we should highlight all the points and refer to the table in the report. Although the report deals with a reserved matter, I understand that something could be done right now about statistics and about the jurisdiction of the High Court. We shall draft a letter and e-mail it to all committee members for amendments or comments before producing a final version.

Lord James Douglas-Hamilton: The subject is of the greatest sensitivity and has given rise to immense distress. We have a duty to take it very seriously.

The Convener: Absolutely. The cases are horrific. I have children and the thought of the young people who have perished as a consequence of careless or dangerous driving is absolutely appalling. Such a tragedy lives with a family for ever. I am pleased that the committee has been able to consider this serious matter, which we will put back on to the agenda next week or perhaps the following week when we have had further thoughts about it. We will investigate how we can raise the issue as a subject for debate in Parliament.

Prison Estates Review

The Convener: Item 6 on the agenda is the prison estates review. We will be taking oral evidence from Roger Houchin, former governor of HM Prison Barlinnie. Welcome to the committee and thank you for coming to give evidence to us. Your experience and long service at Barlinnie will be useful to us. I remind members that we took evidence previously from the current governors of Barlinnie and Peterhead prisons, who had been in post for a short time only. I will start by asking about your career in the Scottish Prison Service and the position that you now hold.

14:30

Roger Houchin (Scottish Prison Service): I have worked for the SPS since 1973 and have been a governor in charge of a prison since 1982. I worked at Penninghame and Longriggend. For a couple of years in the 1980s, I had a fellowship in Oxford looking into human rights issues. When I came back, I was head of training for the Prison Service from 1990 to 1995. From 1995 until September last year, I was governor of Barlinnie. I now work in Glasgow Caledonian University doing work for the Prison Service and some other work.

The Convener: I would like to clear something out of the way. I do not want to insult the present governor of Barlinnie, who has been before us and who is a worthy gentleman, but rumour had it that you were replaced because hard men were being replaced by softer governors so that the prison estates review would run more easily. What is your view of that?

Roger Houchin: It does not accord with my understanding of what happened. I am 58 and I retire in two years' time. A couple of years ago, I gave notice that I did not want to stop work at 60. Last summer, I said that I was looking to find another career and Tony Cameron helpfully said that, if I carried on doing work for the SPS, he would enable that transition. That was my perception of what happened.

The Convener: I put the point to you simply because someone else would have done.

Roger Houchin: I was flattered by the comments in the newspapers.

The Convener: I cannot remember what I said.

A staff survey in August 2001 showed that staff morale at Barlinnie was low, for reasons that we all understand. One of those reasons was a lack of effective communication between management and staff. During your time, was there a lack of effective communication? What are the important factors in improving staff morale?

Roger Houchin: If staff tell you that communication is inadequate for their needs, you have to listen. I do not think that the survey implied that we were not attentive to the problem or that we did not devote a lot of time and energy to improving communication. The survey took place at an enormously difficult time for the Prison Service, which was confronting issues that it had not confronted for many years. Barlinnie's position was not helped by the press, which repeatedly reported that the prison would be closed or sold to Tesco. However much I tried to communicate to staff that I had been reassured that closure was not on the agenda, the fact that such stories were regularly in the press undermined what I said. Communications in a big organisation are often difficult; in that period, they were especially difficult.

The Convener: Now that Barlinnie appears to be saved—at least in the proposals following the consultation—do you feel that morale will improve?

Roger Houchin: I think that Barlinnie prison now has a clearer idea of what it has to do and what its position is. That will have benefits for staff and for communications in the place.

The Convener: Clive Fairweather's report shows that staff turnover at Barlinnie in 2000-01 was 9 per cent. That figure is similar in other SPS prisons such as those at Greenock and Edinburgh. Can you explain the turnover? The figure seems high to me. Is it high?

Roger Houchin: No. In the SPS in general, and in Barlinnie in particular, there are low rates of turnover. Before coming to this meeting, I had a look at the figures for last year. In Barlinnie, turnover was about 6 per cent. I think that seven junior members of staff—operational staff, that is—left the service. They will all have left for reasons other than retirement. Their position was especially difficult. They were recruited between 1995 and 2000 at a time when it was expected that they would move rapidly through the service into promoted posts. However, because of a decrease in the size of the organisation, that did not happen and they became stuck. A number of them are bright and able people who are now, understandably, looking for careers elsewhere. However, the figure of seven people out of about 100 is not enormously high.

The Convener: We are concerned not only with numbers, but with the quality of the people who are leaving the service. That is an important point.

Roger Houchin: Yes. The loss of such people is worrying for the SPS and has been disappointing for us as an organisation. Following a previous reorganisation in which the pay band of operations staff was created, Barlinnie recruited

113 new staff over a period of slightly more than two years. Some of the people who were recruited at the beginning of that period made rapid progress, but since then, because of the closure of prisons—Barlinnie has had to absorb staff from Longriggend and Dungavel—people have become, as they see it, stuck in their careers. They have to decide whether they wish to stay in the service or whether they wish to leave. However, the rate of staff turnover at Barlinnie would be seen as very low in most organisations.

The Convener: It is proposed that the capacity of Barlinnie be reduced to around 500 prisoners. How would that affect the staff and prisoners at Barlinnie?

Roger Houchin: The report suggests a large decrease in staffing of 260. However, it gives staff the assurance that that decrease will not involve redundancies.

The Convener: The report also says that there will be no impact on staff cash payments. What does that mean?

Roger Houchin: I am not competent to answer that question.

The Convener: I take the statement to refer to pensions. If the 260 staff from Barlinnie relocate—say, to the private sector—they may get the same pay, but they will have no pensions. Is that what the report means?

Roger Houchin: You will have to raise that issue with someone else.

The Convener: That is fine.

You are telling us that the 200-odd prison officers who will no longer be required at Barlinnie will need to be relocated elsewhere in the system.

Roger Houchin: That depends on the time scale. The report is not clear on the time scale for the proposed changes, particularly at Barlinnie, although it says that the changes are likely to take place at the end of the process, which may be six or so years from now. Barlinnie has an annual staff turnover of 6 per cent, which equates to about 40 people a year and to about 240 people over the whole period. During the five years that I was there, Barlinnie managed huge fluctuations, as we opened and closed halls for refurbishment, without redundancies. Sometimes we were over complement and for very brief periods we went under complement. However, those periods were very brief indeed and the shortfalls tended to be in particular positions. No organisation finds that easy, but the situation has been managed for a number of years. There are likely to be five or six years within which to manage the decrease in the staff population at Barlinnie. I am not saying that that is easy, but it is manageable.

The Convener: Do the staff operating at Barlinnie live in or around the area?

Roger Houchin: They live in the central belt.

The Convener: I am wondering whether entire families may need to be relocated.

Roger Houchin: I live outside Stirling, where many staff live. Many staff also live in Ayrshire. The catchment area for staff is a large part of the central belt.

The Convener: The report says that one of the reasons for investing significantly in Barlinnie is its location. Do you believe that the prison's location is important? I have already touched on the issue of staff. You have indicated that it is possible to commute to and from Barlinnie on major roads and by rail. How important is that for staff and inmates?

Roger Houchin: It is most important for a prison of Barlinnie's type—a local prison in which there is a great deal of movement between the community and the prison. The argument about location is fundamental. Much of the work that is done in Barlinnie is done in concert with social work departments, the local health board and health trusts, the police and the courts. Location is an important issue for local prisons.

Maureen Macmillan: The estates review considers a number of options for improving conditions at the prison, including the full refurbishment of halls, rebuilding on the site and the retention of the fully refurbished hall coupled with the building of a new house block, which seems to be the preferred option. Could you give us an idea of the advantages and disadvantages of those options?

Roger Houchin: I will start by talking about the adequacy of the existing buildings. There are five main halls, of which one has been refurbished. That one—D hall—will last for many years and is a good prison facility. It comprises four 50-place units that have been invaluable in allowing Barlinnie to handle vulnerable prisoners and those prisoners who have set about seriously trying to address their drug-using habit and are prepared to continue to do that with support. At one time, it was used to manage sex offenders, but when the young offenders arrived from Longriggend, we had to move the sex offenders to another small area where they are managed independently of the rest of the prison.

Of the other four halls, one has now reopened with integral sanitation and electric power in the cells, but it has not been unitised. It is decent, although still quite difficult to manage.

Maureen Macmillan: What does "unitised" mean?

Roger Houchin: The hall has not been subdivided into four units. The subdivision into units greatly helps the management of the prison. Because of costs and the fact that the future of the prison was uncertain, that step has not yet been taken. The conditions under which another hall will be raised to the standard of that hall are being finalised at the moment. The other two large halls have no integral sanitation and there are no plans to install any.

The buildings of Barlinnie have a number of deficiencies. For a number of years before I went there and during my time as governor, the inspectors and I made the case for the improvement of the prison's physical education facilities, which are poor. The education unit is in an inadequate building, as are the social work unit and the health care unit. Although the segregation unit is reasonably modern, it does not offer a range of facilities that are sufficient to keep people segregated for anything other than short periods of time.

Barlinnie has some good buildings, such as the new visits and staff facility. The administration block is adequate. The large industrial complex is reasonably modern and will be serviceable for a number of years. The other industrial unit, however, is decrepit and I tried to have it closed while I was the governor. It needs to close in the near future.

The Convener: Which one is that?

Roger Houchin: It is at the top end of the prison on the right. Beyond the top end of the halls, there are some low buildings with old-fashioned, asbestos roofing. Those buildings are physically inadequate for their purpose and are probably beyond the end of their proper life. They provide a large area in which there could be redevelopment.

The Convener: What are they used for at the moment?

Roger Houchin: They are used for some workshops and for evening recreation for people from the big halls. They are poor-quality accommodation for those purposes.

The refurbishment of Barlinnie on site would involve a lot of rebuilding if we were to bring it up to modern standards. The argument about the choice between refurbishment of the existing buildings and the provision of new buildings has, in my experience, gone backwards and forwards. When I went to Barlinnie, the advice was that refurbishment was the preferred option. The debate was then reopened and now—reasonably and helpfully—the SPS is saying that it wants to replace its stock with modern, built-for-purpose buildings. The romance—the big cathedrals of Barlinnie—seem to be a loss to the people of Glasgow, but the rational side of me says that it

must be better to provide purpose-built buildings for the redevelopment of Barlinnie.

The proposal is for a 360-place house block. What might happen beyond that is left open. If that block were built, two of the existing halls—the two that have not been modernised—would be demolished. The two that have been partially refurbished would be retained; they might be demolished later or further refurbished, depending on what happens in the intervening years. We are probably eight or 10 years away from having to make that decision. The report is careful to state that the plans for Barlinnie are dependent on the way in which things map out over the intervening years.

14:45

Maureen Macmillan: What about the workshops with asbestos roofs and the inadequate education facilities? How do those issues fit into the picture?

Roger Houchin: Those issues are part of the reason why the report suggests that the prison might be used for remand prisoners, although that is not definite. Less is expected of the services that are provided for remand prisoners than is expected of those that are provided for convicted prisoners. For example, an education service would be expected for remand prisoners, but it would be more limited than the service that is expected for convicted prisoners. Further redevelopment would have to take place in the house blocks. The SPS design for house blocks, which is going ahead in Polmont and in Edinburgh, includes more facilities, group-work rooms and offices than the Kilmarnock model for house blocks does. Following the SPS model, which is more expensive, several of the facilities that would otherwise be provided in remote buildings would be provided in the house blocks.

The Convener: That is interesting. I think that I read somewhere in the reports that the SPS has not designed a prison for 50 or 60 years.

Roger Houchin: Thirty years, I think.

The Convener: The SPS has expertise in building house blocks, however.

Roger Houchin: I am a bit out of touch, but I understand that the contract for a new house block in Edinburgh has recently started and that one is about to start in Polmont. Those have been specified by the SPS and are being built in the private sector. So, yes, there is expertise in designing house blocks in the SPS. However, the SPS has not opened a prison since Shotts prison was opened in the late 1970s.

Maureen Macmillan: We are not totally sure what the difference is between designing a house

block and designing a prison.

Roger Houchin: Another problem with the Barlinnie site is the fact that movement inside the prison is, as you will have seen, carried out in the open, within a large space that is secured only by a perimeter fence. You will have seen prisoners walking with prison officers lining the route that they walk. That is a hugely expensive way of moving prisoners. If you visit Kilmarnock, you will see that the distances that prisoners have to travel between different parts of the prison are shorter and that the prisoners are all moved within secure corridors. That is also the case in Shotts, which has a more modern design, and Glenochil. If Barlinnie were to be fully modernised, it would need extensive development of covered and secure walkways to avoid the additional costs of providing staff to line areas that people walk along and the lack of respect that goes with that. That is not a good way of managing a prison.

The Convener: That happens in Kilmarnock prison, too—prison officers stand in lines, although not in close lines, as prisoners move about.

Roger Houchin: There will always be prison staff who are there to observe, but if you compare the number of prison staff who are required whenever the prisoners go to work in Barlinnie with the number required in Kilmarnock, it is—

The Convener: But you made the point that the modern design of the SPS house block was of better quality than the one in Kilmarnock. I think that I picked that up.

Roger Houchin: I do not think that I said that it was better. The solution that was reached by the SPS includes more facilities within the house block itself.

The Convener: Is that better?

Roger Houchin: It is just another way of doing things. There are two ways in which what we are talking about can be done; we can either move people—

The Convener: But you are the expert, so I am asking you what you think.

Roger Houchin: I do not think that one way is particularly better than the other. If the facilities are within the house block, arguably there can be freer movement between the facilities and where people stay. If the facilities are outside the house block and technology can be used to supervise movement, as at Kilmarnock, people can be given freer access. A modern prison design uses things like—

The Convener: I have seen it all.

Roger Houchin: It uses cards so that people can move reasonably freely. There are different solutions.

The Convener: Prisoners do not need to move about so much if facilities are in the house block. That is the point that I am getting at.

Roger Houchin: I am not prepared to say whether I think that one way is better or worse. People sometimes like going for a wee walk.

Maureen Macmillan: Will the proposals deal with the problem of night sanitation within an acceptable time scale? You said that the process might take six years. Is that the best and shortest estimate? Might it take longer than that?

Roger Houchin: That is the report's estimate, which seems to be reasonable. The report makes it clear that the estimate makes certain assumptions about planning permission and the availability of sites. If those assumptions are correct, the experience of the private sector is that it will be good at building the buildings to time—much better than the public sector.

Maureen Macmillan: You are saying that the estimate depends on the private sector building the buildings.

Roger Houchin: The time scale of six years is reported for the private sector.

Maureen Macmillan: The figure of 10 or 12 years was quoted for the public sector doing the work.

Roger Houchin: The argument behind that estimate is in the report. The time scale would depend on how the public sector did the work. One problem is that the SPS does not have staff with the necessary experience to design and build a prison.

Maureen Macmillan: So if the building work was done by the public sector, we would be looking at 10 or 12 years until the night sanitation issue was sorted at Barlinnie.

Roger Houchin: Yes, that is what I read from the report.

Stewart Stevenson: I understand that surveys were done on the top 10 issues for the prison population and that—at least some years ago—sanitation was item 7. In other words, for the prison population, sanitation is not as big an issue as it is for some of us outside prison—important though it undoubtedly is. Can you confirm that?

Roger Houchin: I cannot confirm that. However, if I had been asked, I would have said that night sanitation was well down the list of priorities. I do not have it in my head that it was number 7, but what you say is consistent with my understanding.

Stewart Stevenson: So, although sanitation is on the top 10 list of issues for prisoners in general, it is comparatively far down the list.

Roger Houchin: The surveys that you refer to were done in 1992 or 1993. At that time, sanitation was not at the top of prisoners' priorities. Their top priority is always access to their families.

Maureen Macmillan: Night sanitation in prisons has been an issue for the committee. For the past two or three years, we have been concerned about progress on that issue.

The report for 2000-01 of Her Majesty's chief inspector of prisons showed that, at the end of March 2001, Barlinnie was 32 per cent overcrowded. How significant is that figure for the daily regime of inmates? Does that mean that prisoners are unavoidably locked up for most of the day?

Roger Houchin: Overcrowding has a different impact on different functions of the prison. The impact for remand prisoners is high, especially in Barlinnie, which does not have integral sanitation. That means that the staff must open prisoners' cells to move prisoners for showers, for going to the toilet and for giving them food. Broadly speaking, if there is 30 per cent overcrowding, it takes 30 per cent longer every time that the staff need to do that. Overcrowding means that the regime of a remand hall is much more difficult to operate, especially when the prison does not have integral sanitation.

At that level of overcrowding, there is also an impact on convicted prisoners. At one time in Barlinnie, there was an impact on the proportion of prisoners who could go to work at all. However, that problem has largely been resolved over the past few years. Prisoners in Barlinnie now generally get to work at some time during the day, but the period that they spend at work has been compressed. The prisoners do not get out for the whole day to go to work, although other things have been developed to keep them better occupied during the rest of the day.

Overcrowding causes a particular problem where there is no integral sanitation. If there is integral sanitation and prisoners have access to television in their cells, the impact on prisoners is considerably moderated.

Maureen Macmillan: As well as the lack of integral sanitation, is there a problem with the fact that there is no power in the cells and that prisoners have no way of washing their hands after they have been to the toilet?

Roger Houchin: In Barlinnie, they can certainly wash their hands after they have been to the toilet. The toilets always have washhand basins.

Maureen Macmillan: The committee heard evidence from the current governor of Barlinnie that overcrowding also means that untried prisoners are housed with convicted prisoners.

What management and staffing issues does that raise?

Roger Houchin: There is a requirement that, as far as is possible, convicted and remand prisoners should be kept separated. We do not like having to manage them in the same area. Because of that recurrent problem, we arranged that remand prisoners would go to a hall for an induction period for the first four days, if I remember correctly. During that time, they would learn about the prison and about their rights. They were also told what facilities—modest though they were—would be available to them in the prison. It was possible to manage that situation reasonably well, but that is far from being the ideal.

Maureen Macmillan: The review suggests that, in the long term, prisoner numbers will continue to rise. I presume that that will have an impact.

Roger Houchin: Barlinnie has a long-standing problem in that its nominal role is to accept people from the court whose sentence is more than four years and to move them to a long-term prison.

During the five years that I was at Barlinnie, the worst situation occurred about three or four years ago, when we had about 240 long-term prisoners waiting for more than a year before we could move them on. That was unsatisfactory. I do not know what the current situation is, but when I left, about 80 long-term prisoners had been waiting for perhaps three or four months before they were moved on. That situation is not ideal, and it is one of the issues that the current review was designed to address.

Maureen Macmillan: Of course, recidivism—or what is known as the revolving door—is also a problem. What programmes were introduced in Barlinnie to reduce the incidence of recidivism?

15:00

Roger Houchin: I am quite proud to say that Barlinnie delivers more accredited programmes than any other prison in Scotland. The committee will be aware of the process of accreditation of programmes in the Scottish Prison Service.

The programmes that are run in Barlinnie and—insofar as it is possible to do so—the sites have been accredited. Before I came to the meeting, I checked the figures with Bill McKinlay. They are still a bit crude, but last year, the target was to deliver 170 completed programmes inside Barlinnie, and that figure was achieved and even exceeded. Each year for the past few years, Barlinnie has done more work in that area than any other prison. That said, it is a drop in the ocean when we consider the number of people who pass through the prison.

Michael Matheson: Some time ago, I visited the sex offenders unit at Barlinnie. I understand that

that unit deals primarily with short-term prisoners, while most long-term prisoners are moved to Peterhead. Is that correct?

Roger Houchin: Yes. For people to take part in the programme, they have to satisfy certain levels of need and risk and must have served a certain period of time in prison. Even though at any given time Barlinnie has about 50 short-term sex offenders, it was never possible to fill the programme from that group. As a result, we offered a service to long-term prisoners, and three or four long-term prisoners have taken part in the programme.

Michael Matheson: I also understand that the sex offenders unit, which is a separate building from the rest of the prison, runs the STOP programme. However, you seem to be suggesting that that programme is different from the STOP programme that is run at Peterhead prison.

Roger Houchin: No. The sex offender programme—the STOP 2000 programme—was accredited by the SPS accreditation panel earlier this year and is run at Peterhead. Exactly the same programme is run at Barlinnie. Unlike Peterhead, Barlinnie is not what is called a monoculture prison—its population is not made up solely of sex offenders. However, the unit at Barlinnie is purely for sex offenders and it runs the same programme.

In the past, Peterhead developed its expertise in working with sex offenders independently of Barlinnie, which has been working with such offenders on a much smaller scale since 1993. Peterhead and Barlinnie developed separate programmes; SPS psychological services then developed a programme that was run inside Barlinnie. However, as I have said, the new STOP 2000 programme has been adopted by both prisons in the past year or so.

Michael Matheson: I visited both the sex offenders unit at Barlinnie and Peterhead prison, and found that the atmosphere in the two places is somewhat different. I do not intend to slight the staff in the Barlinnie unit, but I felt that they had a different attitude from the staff at Peterhead. For example, I was surprised to find that staff at Peterhead do not cut anything out of the newspapers that come into the halls; at Barlinnie, the staff cut out things that might be inappropriate for offenders to see or read.

It might be difficult for you to comment on that—I do not know how well you know Peterhead prison. I noticed a distinct difference between the culture in the sex offenders unit in Barlinnie and the culture in Peterhead. The staff attitudes also seemed to be different.

Roger Houchin: I have to bow to your perception on that. The training that the staff who

work in the sex offenders unit in Barlinnie receive is equivalent to that in Peterhead, as is the importance that the staff attach to the job that they do. They work there through choice and have worked efficiently and effectively in running the unit. If, as you say, you detected a difference, I simply have to acknowledge that.

The part of the programme that is probably better developed in Barlinnie than in Peterhead concerns the relationship between the prison and the agencies that manage or work with the prisoners when they leave. Barlinnie has a well-developed relationship with the social work department, the police and the housing department. For example, three years ago, the first housing officer from Glasgow to work inside Barlinnie arrived. That development happened on the back of work with sex offenders.

Although the programme is the same, the approach in Barlinnie has been different because it reflects the nature of working with short-term prisoners, which is much more about managing their safe return to the community. If you found the climate inside the unit objectionable, I would be concerned about that. However, it might be different.

Michael Matheson: I spoke to some of the prisoners in Peterhead, some of whom had been to other prisons in Scotland. They felt that Peterhead was somewhat different. They felt that the relationship with the staff and the treatment programme were entirely different. One of their concerns about sex offenders units, which are effectively prisons within prisons, was that, in such units, they continued to feel under pressure even though they were, in effect, in a separate prison. There was also considerable concern that their families had been subject to abuse when visiting such prisons, because they were taken to a different area and other families therefore knew that they were the families of sex offenders.

Roger Houchin: That would not have been the case in Barlinnie. The families are not taken to different areas.

Michael Matheson: How does that situation relate to your experience in the Scottish Prison Service?

Roger Houchin: The development of work with sex offenders in Barlinnie has been taking place for seven or eight years. Let me trace one of the elements of that development. Initially, as is the case in most prisons that are not able to make a special arrangement for the management of sex offenders, such offenders spent a lot of their time in their cells without having access to normal facilities. We were determined that that would not happen in Barlinnie.

One of our aims was that sex offenders would

be able to go to work as normal. To achieve that, a work period in one of the workshops each day was assigned to sex offenders. When that idea was first broached in Barlinnie, the staff who had not chosen to work with sex offenders—some members of staff find such work difficult—had real concerns about having to work with sex offenders in the workshop. I think that, if you asked them now, they would say that they would not wish to change from working with sex offenders.

Sex offenders in Barlinnie have been integrated into normal work patterns. They have normal recreational periods. They probably have more time out of their cells than most of the prisoners in Barlinnie. They certainly have more time out of their cells than the remand prisoners in Barlinnie. We were able to normalise their life to a reasonable extent by managing them in a unit.

Barlinnie is the only prison in Scotland apart from Peterhead where sex offenders are managed within a bespoke unit, although it is not the whole prison. Where that does not happen, there are real problems with giving sex offenders access to a way of life that is normal for prisoners.

Having a unit within a prison does not present particular problems, but I would prefer it if there were opportunities to reintegrate prisoners who have completed a programme into the prison population. That is a difficult problem, which we will probably confront during the next few years. I believe that such prisoners had a reasonably normal life—for prisoners—inside Barlinnie.

Michael Matheson: Moving prisoners—particularly those at the top end—into the general population has been a problem. I understand that at Peterhead there was even a problem in moving someone to an open prison. Do you disagree with Professor Bill Marshall who, in a report that was commissioned by the SPS, said that the best environment in which to house sex offenders is a sex offenders-only prison and that in attempting to do so the SPS is

“one of the leaders in the world”?

Roger Houchin: I would not regard the view that Professor Marshall expressed as authoritative, although I understand why he said that. When we address constructively the offending behaviour of sex offenders, it is important to take great care to ensure that they are in a safe environment and that they have proper access to all the normal facilities of prison life. It is extremely difficult to provide that other than by having a specialist unit within a prison. I understand that some problems remain, because where there are differential units within a prison some members of staff do not always understand the work that other staff members do.

Although I appreciate why Professor Marshall

expressed that view, I am sure that one could find other academics who would have reached different conclusions. There is a need for proper care to be taken to ensure that people whose criminal offences were of a sexual nature receive no more punishment than anybody else and are able to tackle their offending behaviour in circumstances in which they feel safe and secure. Such an environment can be provided in another prison.

The Convener: Were there any assaults on sex offenders during your time at Barlinnie? How common were such assaults?

Roger Houchin: I have no memory of any assaults on sex offenders, but I would hate to say that there were no such assaults, only for you to find that there had been two assaults. It was certainly not a problem. In relation to assault, any prisoner would have been safer being housed in the sex offenders unit than being housed in the big open halls of Barlinnie.

The Convener: Was there ever movement that took prisoners in the unit into areas where other inmates were? Did other inmates have opportunities to be in contact with sex offenders or was the unit hermetically sealed?

Roger Houchin: The unit was not hermetically sealed. Contact with other inmates was not a problem. In general, sex offenders were not subjected to assaults.

The Convener: How long has the STOP programme been running? Did you say that it has been running for just the past year? There were programmes before that.

Roger Houchin: There is some confusion on that. There was a programme called STOP, which was developed at Peterhead. That programme is history—Bill Rattray is in a better position than I am to tell you that. The programme that is run in the Scottish Prison Service is called STOP 2000. That programme was developed in England and Wales.

The Convener: That is the one that I am talking about.

Roger Houchin: When that programme was brought to Scotland, the Peterhead staff and the Barlinnie staff were trained at the same time. Barlinnie had run a programme that had been developed by the psychological service in the SPS, whereas Peterhead had developed its STOP programme—which was not STOP 2000. Broadly speaking, all those programmes share the same intellectual basis; they are not dissimilar.

The Convener: Which is the accredited programme—the one that has won the award? I want to work out which STOP programme I am talking about.

Roger Houchin: STOP 2000 is—

The Convener: Has Peterhead won the award for its adaptation—

Roger Houchin: Yes, Peterhead now runs STOP 2000, which was developed by the relevant unit of the Prison Service in England and Wales. In effect, the Scottish Prison Service was licensed to run the programme, which is the one that is run in Barlinnie.

The work that was previously done by Peterhead was recognised broadly as high-quality work. I am not sure that we won any awards for the work that we did in Barlinnie, but we were running the programme that the psychological services in the Scottish Prison Service had developed. It was decided not to progress that programme, but in broad terms to mirror the programme that is run in England and Wales.

At the moment, neither Peterhead nor Barlinnie runs the whole suite of programmes for sex offenders that are available in England and Wales, but there are plans to introduce those in the Scottish Prison Service. That will depend on how the estates review develops. I am aware that the subject is confusing.

15:15

The Convener: I know. I will read the report.

I will bring in Stewart Stevenson and also Maureen Macmillan, who has a specific question. Before I do so, I want to ask a follow-up question about the STOP 2000 programme. You raised the issue of short-term sex offenders—short-termers—and long-termers. From material on the subject, it would seem that the same programmes could not be run for both categories of prisoner. Surely programmes for long-termers would have to be run over a period of years and those for short-termers would have to be run in a different way? How could those programmes be mixed? I do not see how that could work in Barlinnie, where long-term sex offenders are housed with other short-term sex offenders.

Roger Houchin: The STOP 2000 programme lasts for about 170 contact hours and, in broad terms, takes about nine months to deliver. However, the programme was designed as part of a suite of programmes. If people are in prison for longer periods of time, booster programmes can be used. In England, programmes have been developed for people who present a lesser risk than do very high-risk, predatory sex offenders. At the moment, that programme is not available in Scotland. When it is made available, it is likely to be more useful to Barlinnie prison than it would be to Peterhead prison.

We tend to talk about sex offenders as if they

are a different class of people. That is a problem. There are different aetiologies of sex offending and sex offenders have different characteristics, from those who present a high risk of reoffending—and reoffending with violence—to those who present a very low risk of reoffending. We are at a fairly immature stage of developing and introducing those programmes, and although we have been happy to talk about sex offenders we are aware that the specificity of what we do has to improve greatly and, over the next few years, that will happen in the SPS. I am talking about expertise that is developing internationally. Scotland and Britain are at the forefront of that development.

Stewart Stevenson: For future reference and clarification, will you confirm that the programme that we know as STOP 2000 in England and Wales was called the sex offender treatment programme—SOTP?

Roger Houchin: Yes.

Maureen Macmillan: That was a strange question.

What happens once the STOP programme has been completed? You said that the programme takes a few months—you mentioned nine months—and yet, in the case of Barlinnie, prisoners can be there for four years. What happens for the rest of the time? Do prisoners stay in the unit? I also want to know whether there are sex offenders in other prisons. Some young offenders must be sex offenders. What happens to them and to people who will not take part in the programme?

Roger Houchin: I will try to answer each of the questions in turn.

People in Barlinnie on a four-year sentence will be in Barlinnie for two years. The period of a four-year prison sentence is two years. The programme is run for nine months on a slightly higher frequency than once each year. That is one of the problems in ensuring that everyone gets on the programme. When prisoners complete the programme, they stay in the sex offenders unit.

Barlinnie has three officers, two social workers and a psychologist involved in the programme. Work continues with the social work department, the housing department and the police to arrange for the return of the person concerned to the community. That is a very important part of the work that takes place.

Maureen Macmillan: What about young offenders?

Roger Houchin: Bill Rattray is probably best placed to answer that question. I understand that Polmont young offenders institution has recently started running a sex offender programme, but I

am not really on top of that. I see people nodding.

Maureen Macmillan: What happens to people who refuse to take part in the programme?

Roger Houchin: We encourage people to join the programme. Unlike Peterhead, we have not developed ways of working with people who resist facing up to their offending.

The Convener: So Peterhead is doing something with people who are in denial, but that is not happening at Barlinnie.

Roger Houchin: It is not happening in the systematic way in which it is happening at Peterhead.

Lord James Douglas-Hamilton: I would like to ask two questions on another subject.

The Convener: Before we move on, Donald Gorrie has a question about the new prisons.

Donald Gorrie: The document that has been given to us has produced a doctrine that the ideal size for a new prison is 700 places. Do you think that that is the right figure?

Roger Houchin: I find that a fairly abstract argument. If someone asked me what was a good size for a prison, I would have great difficulty in answering. Seven hundred is a manageable size. However, I would have liked the report to be clearer on how that figure will translate into the supply of custodial services to the greater Glasgow catchment area. That is why I say that the figure of 700 is quite abstract. It is a sensible figure for a large prison. How it translates into the provision of prisons for Aberdeen, Glasgow and Edinburgh is another issue, which needs to be thought through more.

Donald Gorrie: Would remedial activity with prisoners in smaller prisons be more successful? The minister responsible for justice in one enlightened European country said that it had no prison with more than 350 places and thought that it was ridiculous to go higher than that.

The Convener: Can you clarify which enlightened European country you are referring to?

Donald Gorrie: It was Norway.

Roger Houchin: Different prison services have different cultures and traditions. Traditionally, Scandinavia has had very small prisons. One can therefore see why the Scandinavians would be resistant to having larger prisons. Whether smaller prisons are a good idea depends very much on how those prisons are managed.

It is easier to do constructive work with prisoners in a large prison than in a small prison, because one needs a certain number of prisoners to run a programme. All the accredited programmes that

we run in Scotland and that are run in England are based on a group of people working together on a particular area of offending. As I indicated, with 50 sex offenders in Barlinnie for up to four years we have had difficulty filling our programme. When the programme was first developed, it was expected that Edinburgh prison would run it. In fact, there were insufficient people available for Edinburgh to do that. That becomes a critical issue in small prisons.

Donald Gorrie: How important is the person-to-person relationship that exists in a prison?

Roger Houchin: It is hugely important.

Donald Gorrie: We have a tradition of large prisons. Do you think that we have a good tradition?

Roger Houchin: It is perfectly possible to run large prisons with good relationships between individuals. One development that has taken place in Barlinnie in the past few years is for each hall to be run independently. When we established the four units in D hall, each had permanent staff that worked in that hall and specialised in such work. It is perfectly possible to do that in a large prison.

A large prison has benefits in supplying basic services more cost-effectively and in the variety of opportunities that it can offer. A small prison cannot offer a great variety. I was once governor of Penninghame prison, where what happened had little variety. A larger prison can provide variety. However, it is important that a large prison is subdivided into units with stable postings of staff who specialise in the area in which they are working.

Donald Gorrie: Is it fair to assume that a prison that is one third overcrowded operates its remedial activities one third worse?

Roger Houchin: No. In Barlinnie, we did not overcrowd any of our prisoner programmes. They ran with the number of people with which they were designed to run. Overcrowding such programmes was never an issue.

Donald Gorrie: I presume that you needed one third more staff to run the programmes for one third more inmates.

Roger Houchin: I will qualify what I said. The provision of educational services was more limited the more overcrowded that the prison became. It was more difficult for people to enlist for educational services. The problems are that the building at Barlinnie in which the educational service is provided is restrictive and that the size of the service is limited.

No prison management is happy with overcrowding. We welcome the prison estates review because one of its aims is to move us away

from continuous or frequent overcrowding.

Donald Gorrie: From your experience, would many of the people who were sent to Barlinnie have done better by doing some vigorous community service activity instead?

Roger Houchin: I doubt that. There is no evidence that such people would have done better. There is evidence that that would have cost the community much less. Effective programmes for working with offenders can be run in the community, but my perception is that they are no more developed than the programmes in the Scottish Prison Service.

Effective work can be done in prisons. The effectiveness of all such programmes is slight, although it is more than marginal. In general, the benefit of community disposals over prison is not that they are more effective. Research suggests not that they are more effective, but that they are more cost-effective.

The Convener: Donald Gorrie asked you about personal relationships in prisons and contact between inmates and prison officers. How important is that?

Roger Houchin: That is the most important aspect to running a prison.

The Convener: That is interesting. My concern about private prisons is that they will reduce staffing levels and use technology instead of people. I accept what you say about lines of officers forming walls to allow prisoners to move from A to B, but are you concerned that using technology to cut costs in a prison will reduce that important personal contact? Staffing is one of the dearest elements.

Roger Houchin: I must accept the evidence of HM chief inspector of prisons, who has not been uncritical of the private prison but has consistently recorded the quality of the relationships between staff and prisoners there. In my two visits to Kilmarnock prison, I have been impressed by the staff's positive attitude. I note in the inspector's report the concerns over very low levels of staffing at certain times, leading to people feeling unsafe. If people feel unsafe in their work, the relationships that they can sustain will necessarily deteriorate.

I find the whole discussion of whether private prisons or public prisons do a better job extremely difficult. It seems to me that private prisons do some things well and that we do some things well. We have done some things inadequately and they have had problems in some areas. However, the chief inspector has consistently reported that he is impressed by the quality of relationships between staff and prisoners.

15:30

The Convener: If there are fewer prison officers to build such relationships, it seems to me that the service will lose something very important. I am thinking of the comparison between simply making sure that things are secure, with people locked up and away from the public, and actually building up some kind of relationship with prisoners with a view to helping them to mend their ways.

Roger Houchin: I cannot agree with your first remark as a general rule for running prisons. In too many prisons over the years, I have seen a large number of prison officers who do not engage with prisoners. I also want to put on record that it is damaging if the number of officers is inadequate and if they feel unsafe. I would, however, hesitate to state general rules.

The Convener: The point that you make about prison officers feeling under siege, unhappy or ill at ease is important. Such feelings will affect any relationships.

Lord James Douglas-Hamilton: Does Mr Houchin feel that special units could play a greater role in the Scottish prison system?

Roger Houchin: I will answer that in two ways. The Scottish Prison Service, at the beginning of the 1990s, had something like 300 or 350 prisoners who were managed in conditions of enormous security and restriction, largely at Peterhead. We introduced a collection of small units to manage those prisoners and to get them back into the general population. The use of small units for that purpose has been very helpful. However, at the moment the SPS does not find it necessary to maintain such a system.

The other way to answer the question is to go back to my description of the four units in D hall. They would not be described as small units, but they manage prisoners with particular problems. For example, a unit of 50 was for prisoners whom we regarded as requiring a higher than normal level of care for various reasons. Some were geriatric, some had mental health problems and some had physical problems. We also had a unit for sex offenders.

Providing units of accommodation with a variety of manageable sizes—which, to me, would be between 20 and 60 or 70 prisoners, depending on the purpose—enormously facilitates the provision of a good prison service. Subdividing the population and having staff who can develop expertise in working with particular people—formally in programmes and informally in getting to understand prisoners' problems—makes for a better prison service.

Lord James Douglas-Hamilton: May I also ask—

The Convener: Very briefly, James.

Lord James Douglas-Hamilton: Yes. Should—

The Convener: You may ask a tiny question because I want to wind up in about two minutes.

Lord James Douglas-Hamilton: Should visiting facilities be specially structured to prevent drugs entering prisons?

Roger Houchin: Yes. One of the successes of Barlinnie in the recent past has been the design of the new visiting facility. We built in very high-quality security measures at the front so that we could allow a low level of staffing at the back, thus allowing relaxed visits. Because of the design of that facility, Barlinnie has consistently had lower levels of positive mandatory drug test results than other prisons. Planning for that must be built in with the brickwork, the technology and the staffing.

The Convener: Stewart Stevenson, do you have a small question?

Stewart Stevenson: My question is slightly larger than my last one, but it is not big.

The document, "Scottish Prison Service Estates Review" says that

"the optimum size for any new prison at the current time is around 700 cells or places"

and goes on to say that

"when a prison gets much above 700 population the overall complexity is such that it tends to diminish efficiency."

Seven weeks before the publication of the estates review, there was in England and Wales a review of private finance initiatives and market testing in the prison service that amounted to an estates review. Paragraph 5.21 of the review document says that the advisers consider the right size for new prisons to be around 1,500 places. It also suggests that economies of scale continue up to around 2,000 places.

Would it surprise you to know that the adviser on the numbers for both reports was the same company, namely, PricewaterhouseCoopers? Have you any idea how the company came to two such divergent opinions?

Roger Houchin: I am not sure that that question probes my expert knowledge as a manager of prisons.

Stewart Stevenson: You were talking about numbers.

Roger Houchin: When the figure of 700 prisoners was raised earlier, I said that I thought that the argument was rather abstract. By far the more important argument relates to the question of providing prison services to various communities and catchment areas. Small prisons and large prisons can both be managed.

The Convener: Now that Stewart Stevenson has had his point included in the *Official Report*, we can all look at it later on.

I thank you for your attendance, Mr Houchin, and ask the former governor of Peterhead prison, Bill Rattray, to come forward to give evidence.

I inform the committee that I hope to conclude this section of the agenda by 4.25. I know that we want to ask a lot of questions about Peterhead but we will try to buzz along swiftly as we still have the regulation of the legal profession inquiry to consider. I do not want the troops to desert before we get to that part.

Mr Rattray, I put the question to you that we put to Mr Houchin. You were portrayed as a hard man who fought for Peterhead but who was replaced to make the job of changing the prison easier. What is your response to that?

Bill Rattray (Scottish Prison Service): Like my colleague, I am flattered but must point out that the reality is different. A governorship would normally last for three to five years. I managed to get six years at Peterhead. After that time, I was pleased to be asked if I would take on a project that related to an area that I have been interested in for a number of years. If I had not taken on that project at that time, I would have regretted it later. It was a career opportunity that I simply could not pass up.

The Convener: So it was a coincidence? Did we read too much into the fact that, at the same time, two highly respected governors were leaving prisons whose future was contentious?

Bill Rattray: I acknowledge what it must have looked like.

The Convener: You said that the opportunity was highly tempting. Were you made "an offer you couldn't refuse"?

Bill Rattray: It would be quite unfair to put it that way. The area is one in which I have been interested for a number of years and have studied academically. Consequently, when I was given the opportunity to carry on that work and undertake a project for the whole of the Scottish Prison Service as opposed to just Peterhead, I believed that I would regret it if I did not take that chance.

The Convener: I wanted to give you the opportunity to put into the public domain what your view is, as opposed to what some of the speculation was and what some of us were thinking at the time. Can you tell us a little bit about your career prior to your moving and exactly what you are doing now, please?

Bill Rattray: Certainly. I started in the Scottish Prison Service in 1976 as an officer at Peterhead. I then moved through the grades. My first

governorship was at HMP Aberdeen in 1991. I moved to Peterhead in 1996 as the governor and left in October last year.

I ask to be spared the necessity of going into the detail of the project that I am working on, as it is a very sensitive operational project. I am on the staff list of SPS headquarters, but I am based at the University of Aberdeen, largely because that is where a lot of the expertise is that I need to tap into for the project.

The Convener: It disturbs me that I cannot ask you what you are doing. Is it related to sex offender programmes?

Bill Rattray: No, not at all. It is an operational project for the Scottish Prison Service. It is specifically a risk management operations project that relates to our organisational requirement for corporate governance. It is specifically concerned with operational risk.

The Convener: It may not be relevant to what we are doing, but we may come back to that. You were pretty key in developing the sex offender programme, were you not?

Bill Rattray: No. In fact the—

The Convener: You were not. That will do.

Bill Rattray: When I arrived at Peterhead in 1996, the programme was already well developed. By 1996, the work of the staff at Peterhead had been acknowledged through, for example, the Butler award. My job was to continue, develop and build on that work, and we increased the population of the prison and implemented a variety of measures to improve on that work.

As Mr Houchin has explained, in 2000 the natural next step was for the STOP programme to amalgamate with the English programme, SOTP. We decided to retain the title STOP and mark the distinction by calling the programme STOP 2000. I was not involved in the development of the programme but, as the manager of the whole prison, I had to ensure that we could resource it properly.

In case I do not get the opportunity to do so later, I would like to put on public record my thoughts about the Peterhead staff.

The Convener: Please do.

Bill Rattray: When I moved to Peterhead as the governor, I learned quickly that I was dealing with a different staff group. They are a skilled, committed, loyal bunch of people. Over and above that, the staff of Peterhead probably took professionalism among prison officers to a new level. During the time that I spent at Peterhead, it was a privilege for me to work with that staff group. I wanted to put that on the record, in case I did not get the opportunity to do so later.

The Convener: I am delighted that you did. Those of us who visited Peterhead would endorse what you have just said. Are you able to provide any information on prison population trends for long-term, male, adult sex offenders?

Bill Rattray: I am sorry, but I do not have command of that information. We know that more and more people are being prosecuted. I think that that has something to do with the fact that sex offending has become far more of a public issue. There is far more public awareness of sex offending and, consequently, people who were victims several years ago are coming forward. The numbers are growing almost as a catch-up, if I can put it that way.

The Convener: That is fair.

Bill Rattray: That is what we are experiencing at the moment.

15:45

Donald Gorrie: As the convener said, we gained a good impression of the morale and dedication of the Peterhead staff; indeed, you have said the same. However, the report from the inspector of prisons suggests that uncertainty was causing low morale. Will you comment on that?

Bill Rattray: Certainly. It was a source of wonderment that, in spite of the staff's anxiety about the future—which of course continues—they never took their eye off the ball. They had a clear understanding of why they were there and why they were doing what they were doing. There was strong victim orientation. Consequently, when people suggested to me that morale at Peterhead must be low, I had to say that I did not find that to be the case. There are certain indicators of low morale, not the least of which is that people no longer commit themselves to the organisational objective. In fact, that was far from the case. The Peterhead staff retained a clear focus on their work. As a result, I do not think that low morale is the right term to use; instead, I say that there is intense anxiety about the future, which might come over to some people as low morale. In using a more objective indicator of morale, I am not so sure that that was the case.

Donald Gorrie: What was your perception of the prospects of the Peterhead team moving to A N Other new prison or reorganised prison for sex offenders in central Scotland?

Bill Rattray: I am sorry. I missed the first part of your question.

Donald Gorrie: From your knowledge of the people involved, what are the prospects that all or most of the team at Peterhead will move to a putative new or reused prison in central Scotland that will be purely for sex offenders?

Bill Rattray: I cannot answer that question. I have no idea what the staff's intentions are.

Lord James Douglas-Hamilton: Mr Rattray is perhaps aware that the review states that maintenance of family links is a major problem for the offender group that is housed at Peterhead, with 24 per cent citing distance as the principal reason for the problem. However, the staff and inmates who spoke to the committee during its recent visit stated that many prisoners believe that the problem of distance is minor compared to other factors. How important is it to resolve that situation? Am I correct in thinking that visiting times at Peterhead are longer than visiting times at prisons in the central belt?

Bill Rattray: I cannot comment on visiting times in other prisons, because I do not have such information at my fingertips. However, when I was governor at Peterhead, I found that a number of prisoners certainly had significant difficulties in receiving visits. Indeed, some prisoners did not receive any visits at all because of the nature of their offences, because they had no relatives or whatever. As a result, the issue was very mixed.

I should also mention that it was difficult to bottom out the issue to discover whether there would have been a dramatic increase in the number of visits if the prisoners were not at Peterhead. I have to say that some prisoners were very vocal about difficulties concerning distance.

Lord James Douglas-Hamilton: You mentioned that in some cases prisoners received no visits. Could those have been cases in which incest had been committed and in which the families did not want close communication with the prisoner?

Bill Rattray: I cannot comment on the specifics of that question, nor can I say that that situation is a fact. However, I can say that a number of prisoners did not get visits for a variety of reasons. I should balance that comment by pointing out that a number of prisoners were also very vocal about difficulties in receiving visits.

Lord James Douglas-Hamilton: Did they complain to you about that?

Bill Rattray: Yes, frequently. The prison complaints commissioner was also involved.

Lord James Douglas-Hamilton: Did a small minority of prisoners make those complaints?

Bill Rattray: I cannot remember the figure. Do you mean in terms of the ratio of such complaints to other grievances?

Lord James Douglas-Hamilton: No, I mean in absolute terms. Was that group a very small percentage of the prisoners who were in Peterhead prison?

Bill Rattray: I am afraid that I really cannot remember.

The Convener: Is there an arrangement by which prisoners can be moved to another prison in their locality? I think that we were told that there was such a solution.

Lord James Douglas-Hamilton: Does that opportunity exist?

Bill Rattray: The opportunity exists for what is known as accumulating visits.

Lord James Douglas-Hamilton: In the event of a family's being unable to come to the prison in Peterhead, are prisoners entitled to move to other prisons so that prison visits can be facilitated?

Bill Rattray: A prisoner would have to accumulate visits over a period of time. That would mean that the prisoner would have to forgo any visits at Peterhead, save those visits up and then transfer to another establishment to receive those visits, usually over a fortnight.

Lord James Douglas-Hamilton: Has that system always been in place for every prison?

Bill Rattray: That system has existed for years.

Lord James Douglas-Hamilton: During the committee's visit to Peterhead, prisoners emphasised the fact that the prison provided a safe location where they could address their offending behaviour while enabling their families to visit without fear for their safety. If sex offenders were in mainstream prisons, would not they be at risk from other prisoners?

Bill Rattray: That has traditionally been the case. However, as Mr Houchin said, the Scottish Prison Service has been learning how to manage sex offenders only since the early 1990s. Prior to that, they were kept locked up for their own safety. Over the past 10 years, we have been learning how to manage sex offenders in an entirely different way. It is very clear that, whatever happens, we would never go back to managing sex offenders as we did before 1990.

Lord James Douglas-Hamilton: Have the positive factors that relate to the excellent sex offenders programme in Peterhead been taken sufficient account of in the estates review?

Bill Rattray: I think that they have. I do not want to get involved in speculation as to whether Peterhead should or should not close. The issue that should be addressed is how, if the prison does close, the period of transition should be managed. The Scottish Prison Service has said in the estates review that it would take a minimum of three years to plan any transition, if that is what it comes to.

Michael Matheson: Stuart Campbell, the

programme's manager at Peterhead, stated that

"in a recent survey, 12 per cent of prisoners at Peterhead said that they were unhappy with visiting arrangements; the rest were quite satisfied with the current system."—[*Official Report, Justice 1 Committee*, 13 November 2001; c 2755.]

Does that ring true in your experience as governor?

Bill Rattray: I know Mr Campbell very well and if he said that, I have absolutely no reason to disagree with him. I have a very high regard for him.

Michael Matheson: Lord James Douglas-Hamilton put another question to you that related to Stuart Campbell's comments, on the question of whether the sex offenders rehabilitation programme that is currently based at Peterhead could be transferred easily to somewhere else if Peterhead prison was closed. Last November, Ian Gunn told the committee in evidence that certain prisoners, such as sex offenders at Peterhead, must be segregated. Could you deliver the programme that is delivered at Peterhead as effectively in a segregated unit in another prison?

Bill Rattray: If that is the decision that the minister makes and that is what happens, it does not become a question of whether I think the programme could be delivered elsewhere; it becomes an issue of how we ensure that that happens. It would have to happen. We have gone far too far down the road of working with sex offenders and we have developed too much expertise in dealing with them to stop now. Whatever happens in relation to Peterhead, that programme cannot be allowed to be damaged in any way. If there is to be a transition, that transition would have to be very carefully managed to ensure that what you suggest does not happen.

Michael Matheson: Stuart Campbell said:

"Peterhead is a totally unusual facility. It is the only such facility in Scotland that has a total culture in which offenders can move about freely."—[*Official Report, Justice 1 Committee*, 13 November 2001; c 2757.]

When Stuart Campbell was asked whether that culture and facility could be attracted to another prison, he responded that he thought that it could not—

The Convener: Sorry—I must stop you there, Michael. I had hoped to deal with all the stuff about the STOP programme and sex offenders later. We have drifted on to that topic, but we will come later to a section in which we can ask about concerns that the programme cannot be transplanted. I understand that Bill Rattray himself is developing concerns about the dismantling of that programme.

However, before we get on to that, Donald

Gorrie wants to ask about single-cell accommodation.

Donald Gorrie: When we visited Peterhead, we were told about a proposal to achieve sanitation in a different way by having electronic doors and that sort of thing. Obviously, overcrowding is not an issue if there is single-room accommodation. What did you feel about that method of achieving night sanitation, which would mean that a lavatory would not need to be installed in every room?

Bill Rattray: My position on that has always been clear. When I went back to Peterhead as governor in 1996, long-term prisoners were living in accommodation in which water was seeping through the walls. During my time as governor, I was absolutely consistent in holding to the view that the buildings were well past their sell-by date, were not fit for purpose and would be far too expensive to refurbish. Consequently, any tinkering to upgrade the existing buildings would be expenditure that would not be repaid because it would not increase the longevity of the buildings. That has been my consistent position.

The Convener: We might come back to that. The structure of the buildings is important. The committee ought to try to get information on how structurally sound the existing buildings are. I do not dispute what Donald Gorrie said, but we might examine that and take up the issue at another point.

I want to allow a reasonable amount of time for questions on the STOP programme, which is a core issue.

Maureen Macmillan: If I may backtrack slightly, I want to ask about the staff who deal with the STOP programme. It must sometimes be distressing to the staff to take part in the programme. What counselling do they receive? What is staff turnover like? Did you find that staff could cope with delivering the programme only for a certain length of time before wanting to be transferred to something else?

Bill Rattray: That is exactly what happened. Some staff worked on the programme for several years and remained comfortable working on it if they had appropriate support. Other staff who worked on the programme would say that they wanted to take a break from the programme but might go back to it later.

At the time, the comments of some experts that I read suggested that there needed to be a high turnover of staff on the programme; however, provided that staff got the appropriate support, that was not the experience at Peterhead. The difficulty arises if there is a managerial expectation that, as the staff have been trained for the programme, they should simply keep working on it. The necessary support must be provided for the

people who do that job. Their needs must be taken into account because theirs is a very demanding role. However, I also took the view that we should not pull staff out of the programme just for the sake of sticking to a rota whose scientific basis I was unsure of.

Maureen Macmillan: We obviously do not need to tell you that Peterhead has been recognised as a centre of excellence. You indicated that the uncertainty of the estates review has had the effect on staff of making them anxious. Will there be a significant effect on delivery of the programme if the recommendations of the estates review are implemented?

Bill Rattray: Do you mean if Peterhead closes?

Maureen Macmillan: Yes.

Bill Rattray: The simple answer is that I do not know. I do not know because the Prison Service has never had to do that. We have closed prisons over the last couple of years, but we have never tried to do anything on the scale of closing Peterhead and shifting a programme as part of a closure.

I go back to what I said earlier: my view is that the programme cannot be allowed to be damaged. Therefore, if Peterhead closes, the process of transferring the programme elsewhere would have to be managed very carefully.

Maureen Macmillan: So, the key is the management of the transition.

Bill Rattray: If the minister's view is that Peterhead should close, that will be his view. As a governor working within the Scottish Prison Service, my view would, in that case, be that we would have to ensure that the transition happens as effectively as possible to ensure continuity of the programme. I would ask what skills we could throw at that to ensure that continuity.

16:00

Maureen Macmillan: What effect would the fact that people do not want to leave Peterhead have on the transition? What would be the effect of the loss of valuable members of staff who say, "I'm sorry. I do not want to go and live in Glasgow. I want to stay."

Bill Rattray: That is a very difficult question. At one stage when I was the governor and there was much anxiety, I thought about surveying the staff to find out how many would be okay about moving to the central belt. However, I decided that that would have been viewed negatively and would merely have added to the anxiety. Consequently, I opted not to survey the staff. The outcome of that is that I am not in a position to answer that question, because I do not know how many staff would move happily and how many would not.

The Convener: We will ask the staff that question. You were sufficiently concerned to think about having a survey.

Bill Rattray: It is clear that the staff should be asked that question. Indeed, if the decision is made to close Peterhead, the SPS will ask them that question.

Michael Matheson: You stated that you do not know what the implications of transferring the programme would be if Peterhead were to be closed. You were governor there for six years. I am concerned that you, with your expertise and experience, say that you do not know what the implications will be, given the prisoner group with which we are dealing. That suggests to me that there is an element of risk. The question is whether that risk was evaluated properly before we ever considered closing Peterhead, never mind before we began the consultation period.

Bill Rattray: I appear before the committee to give evidence. Giving evidence, as I understand it, is about providing factual information. I cannot speculate and try to pass off such a suggestion as factual information. I cannot sit here and tell you the facts of what will happen, because I do not know the answer. It would therefore be wrong of me to pass off my opinion as evidence or fact when it is mere speculation.

The Convener: We are interested in your opinion because it is experienced opinion, so please give it to us.

Bill Rattray: My opinion is that I do not know the answer. I hope that that does not sound as if I am trying to avoid answering the question, because I am not. I am deliberately trying to be as objective as I can. That has to do with the fact that we have never before had to undertake such a closure and programme transfer in the SPS. We therefore do not know how that process will be managed or what the outcome will be if Peterhead closes. We just do not know.

As a professional manager in the SPS, I take the position that, if the decision is made that Peterhead will close, we must manage that transition with all the skill that we have to ensure continuity. That would be my view and my focus.

Michael Matheson: That is fair enough. You say that the decision to close Peterhead should not be allowed to happen because of the loss—

Bill Rattray: Because of the contribution that its programme makes to safety in Scotland.

Michael Matheson: The closure should not be allowed to happen. What, in your professional view and from your experience, would have to happen to ensure that that contribution was not lost?

Bill Rattray: First, we would have to find out how many of the existing Peterhead staff would want to move with the prisoners to whatever would be the new location. The reply to that question would determine the skills shortfall and would inform what we would do to ensure that the new location was ready in time. A complex set of issues is involved, but my starting point would be the staff, because without them there is no programme.

Michael Matheson: Two things arise from that reply. How many staff are prepared to go and who would indicate to the staff where they would be likely to go?

Bill Rattray: I should qualify what I mean by staff. I refer to a skills transfer from Peterhead.

I will return to the subject of managing the process. A large number of staff at Peterhead might say that they did not wish to transfer and that they wished to exit the organisation. If that were to happen, any establishment that was likely to receive prisoners from Peterhead—if Peterhead was to close—would have to be brought up to the same level of skilled staff who have the same set of attitudes that can be found in Peterhead.

Michael Matheson: I will return to the point that I made earlier. You stated that you have to find out which staff at Peterhead are prepared to move elsewhere. You also said that staff should be advised about where they are likely to be moved. Should such information be available before a decision is made on the closure of Peterhead?

Bill Rattray: It is not my job or my role to speculate on that.

The Convener: That is correct. In setting out the premise, Mr Rattray answered the question. He said that that is the very least that should be done.

Michael Matheson: Given that the time scale for the estates review is three years, if the decision is taken to close Peterhead and to transfer or to uprate staff, does that give enough time—

Bill Rattray: I am sorry to interrupt, but, having read the document, I understand that we are not talking about a time scale of three years, but of a minimum of three years. In reality, the time scale will be substantially longer. If that is the case, we have a sufficient planning window. We have to bear it in mind that the original STOP programme at Peterhead was developed and the staff to run the programme were trained within three years.

The Convener: I have a follow-up question about staffing. Even if we were to say that something close to a large minority of staff were prepared to move elsewhere with the programme, would not that damage the programme significantly, given what you said about the extraordinary staff at Peterhead?

We have also heard about the culture at Peterhead. Although I do not want to deify the staff there, over a number of years they have bonded into a unit of which they are proud and to which they are committed over the odds. Despite all their anxieties, they are excited by the work that they do. They are proper prison officers in the sense that they are contributing to rehabilitation in a serious area. Even if a reasonable number of staff move, surely the programme will be damaged, because the prison service will have lost that culture?

Bill Rattray: I am again reluctant to be drawn into that particular conversation—

The Convener: But that is why you are—

Bill Rattray: The question is speculative. The staff at Peterhead who are the most committed to the programme and who are the most effective in the programme—I am talking not only of the group delivery staff—

The Convener: I know that you are not, you are also talking about the others.

Bill Rattray: I am talking about the operations staff—the whole staff group. Those staff are sufficiently committed to what they do. The staff, to echo something that was said earlier, are very proud of their task.

The Convener: They are.

Bill Rattray: They are proud of what they do. To use a horrible buzz term, they make powerful culture carriers. They infect people—including me—with their enthusiasm for what they do. Whenever they meet prison officers from other environments, who might not necessarily have that same level of enthusiasm for the work that is being done at Peterhead, they are pretty persuasive. The short answer to the question, therefore, is that I expect that there would be sufficient numbers who could carry that culture with them.

The Convener: What do you think of Professor Marshall's view that the Peterhead programme would be extremely difficult to transport elsewhere?

Bill Rattray: I have the highest regard for Professor Marshall, whom I have met on several occasions, and his expertise. I would not want to dispute what he says. However, transporting the programme is a separate issue from whether Peterhead closes. If the decision is to close Peterhead, the question then is how we manage the transition. The factors in the decision on whether Peterhead should close—

The Convener: Yes, but the closure decision is not de facto; that is what we are talking about. It is a question of balancing bricks and mortar against a culture and programme that work. Perhaps the

issue—which I might ask others to consider—is whether we should develop the Peterhead programme. What is your view of continuing Peterhead as a centre of excellence for dealing with sex offenders by building a facility in Peterhead and getting on with it?

Bill Rattray: I do not think that it is my role to comment on that.

The Convener: You can just give your opinion.

Bill Rattray: I said that because I, like any civil servant, take seriously my constitutional position. I do not think that it would be appropriate for me to sit in a public forum and speculate on a decision that my minister has yet to make. I do not think that that would be right.

The Convener: I am just asking you whether a good or reasonable alternative would be to keep the sex offenders programme in Peterhead, develop the adjacent premises—there is plenty of land there—and have all the sex offenders in one unit, so that the programme can be developed there and can lead the way. We should not start from the premise that Peterhead will close, but from the premise that we will develop Peterhead. That is an alternative position to take.

Bill Rattray: That is a decision for the minister.

The Convener: It may be his decision, but what is your view?

Bill Rattray: I think that it would be inappropriate for me to comment in advance of the minister making a decision.

Lord James Douglas-Hamilton: Are you aware that, although the minister has expressed an intention, no decision has been made on Peterhead? Do you accept that there is room to build another prison on publicly owned land that is adjacent to Peterhead prison?

Bill Rattray: That is factual. There is any amount of land at Peterhead.

Lord James Douglas-Hamilton: If a decision was eventually made, and was reinforced by Parliament, to transfer the Peterhead expertise elsewhere, for example to Glenochil, what would be the effectiveness of the sex offenders programme in a mainstream prison of that nature?

Bill Rattray: What would the nature of the programme be in—I beg your pardon?

Lord James Douglas-Hamilton: In Glenochil.

Bill Rattray: What would the nature of the programme be?

Lord James Douglas-Hamilton: Yes.

Bill Rattray: If that happens—

Lord James Douglas-Hamilton: I am asking whether the programme would be as effective in that kind of prison. I understand that in Peterhead you have been operating the programme effectively with considerable expertise, but operating it on its own.

Bill Rattray: No, the programme does not run on its own; other programmes surround it.

Lord James Douglas-Hamilton: Yes, but my point is that those who are present in Peterhead prison are sex offenders.

Bill Rattray: Right.

Lord James Douglas-Hamilton: There are no other prisoners. If the programme were transferred to Glenochil, would not there be other prisoners, as well as sex offenders, in the prison?

Bill Rattray: I would probably have to consult the estates review document.

Lord James Douglas-Hamilton: You cannot give expert evidence on that point.

Bill Rattray: My understanding is that the estates review document does not specify that Glenochil would be the alternative location, but that it could be. I would have to consult the document.

Lord James Douglas-Hamilton: The convener asked you about this matter. Professor Marshall suggested that, if an alternative to Peterhead had to be built, there should be two smaller, sex-offender-only prisons, one of which should be in Peterhead and the other in the central belt. As an experienced governor, what is your view of that proposal?

Bill Rattray: I am sorry—I am not aware of that. When did Professor Marshall state that? I am not aware of having read that.

Lord James Douglas-Hamilton: Will you specify the date, Michael? My document does not have the date on it.

The Convener: To avoid getting into a free-for-all, will members please speak through the chair. Has somebody located the reference?

Michael Matheson: The reference occurs on page 2 of the report on Peterhead prison's sexual offender programme, which is dated 20 July 2000.

Lord James Douglas-Hamilton: I have two other questions, which relate to the condition of Peterhead, but perhaps the convener would like to take other questions first.

The Convener: Stewart Stevenson has been very patient. As the constituency MSP, he has become something of an expert on Peterhead.

16:15

Stewart Stevenson: Thank you. No one has accused me of being a patient man until now. I will see what I can do.

One of the key arguments that is deployed against Peterhead is its geographical location—in other words, its remoteness. I want to explore several facets of that. First, I want to correct what Lord James Douglas-Hamilton said about 24 per cent of the prisoners having difficulties with visits. Twenty-four per cent of those who do not receive visits have such difficulties. I understand that when things are bottomed out and prisoners who might have a concern but who do not receive visits are excluded, the figure works out at between 5 and 7 per cent of the total prison population at Peterhead. I am not necessarily asking you to comment on that, because I realise that you might not have the figures in front of you, but I make that observation for the record.

On location, are you aware of the petition from 191 of the 296 prisoners, which asks that the prison be kept open? The petition was received by the Parliament yesterday. With your previous experience as governor, what conclusions on the location might you draw from that?

Bill Rattray: When I heard that on the news last night, it came as no surprise to me. There is no doubt that the prisoners feel safe at Peterhead and feel that they can work on their offending behaviour in a supportive environment. Like any other group, prisoners do not particularly want their established pattern to change. The petition came as no surprise—that is the extent to which I am able to comment on it.

Stewart Stevenson: That is fine. Yesterday I met the Deputy First Minister and Minister for Justice, Jim Wallace, to discuss the estates review in relation to Peterhead. He put another point to me. He indicated that, because of the location of the prison in relation to other prisons, there are difficulties to do with rotating staff from the programmes that are administered at Peterhead, to give them relief from that stressful work.

I invite you to comment on two observations. One comment will have to be an opinion; the other will be factually based. First, I have received a parliamentary answer that shows that the absence rate—one of the key stress indicators in any manager's portfolio—at Peterhead is the lowest of all prisons in the Scottish Prison Service. Secondly, is it possible to make a comparison between the kind of job that prison officers at Peterhead do and the kind of job that psychiatric nurses do over a long career? Psychiatric nurses deal with quite stressful characters and behaviours, of the sort that might be found in the sex offenders population.

Bill Rattray: I am very comfortable commenting on your first question. However, I am not sure that I am qualified to make the comparison, although I can see the comparison clearly in so far as prisons and psychiatric hospitals are both total institutions and involve the cultural issues and everything that goes with that. I also recognise the importance of the quality of interpersonal relations. It may well be that there are parallels.

On your first question, there is absolutely no doubt in my mind why the absence rate at Peterhead is low. Even at a time of significant anxiety over the future of the prison, it is a tribute to the amazing staff at Peterhead that they remain so committed to their work and that they know that their presence at work is important. They know that, if they are not there, something will not happen and that, if something does not happen, that will impact on the programme or work surrounding the programme. The staff have a strong victim orientation constantly at the front of their minds. They are also a well-bonded team and are supportive and helpful to one another. Those two factors—strong interpersonal relationships among the staff, who support and help each other, and their absolute commitment to their task—explain the low absence level.

Stewart Stevenson: So, in your time as governor, you received no feedback from staff to suggest that they had an issue with the geographical location of Peterhead prison.

Bill Rattray: That the staff had an issue with it?

Stewart Stevenson: Yes.

Bill Rattray: From time to time, I received requests from officers who wanted to transfer from Peterhead for a variety of reasons—domestic reasons, and so on—but I would not describe the location as an issue.

Stewart Stevenson: The requests were no more than would be expected in a run-of-the-mill prison?

Bill Rattray: Yes. Absolutely.

Stewart Stevenson: Thank you very much for that.

On another aspect of visits, I understand that the estates review hit the ministers for the first time about a year ago. How many visits did the prison estates review team make to Peterhead? Up to the time when you demitted office at Peterhead, how many visits did the PricewaterhouseCoopers team make to Peterhead?

Bill Rattray: Oh, gosh.

Stewart Stevenson: Tell us in round numbers—you will not be held to the last one.

Bill Rattray: The answer to that question

depends on what you mean by the estates review team. For example, the operations director for the north and east was not a permanent member of that team but he was, nonetheless, an adviser to the team and was a frequent visitor to the prison.

Stewart Stevenson: He is the line manager for the prison governor.

Bill Rattray: That is correct.

Stewart Stevenson: Are you saying that no specific visits were made to the prison by people independent of the line management?

Bill Rattray: No, that is not what I am saying. That would not be accurate. I am slightly hesitant because the personnel of the estates review team changed and different governors worked on the team at different times. I am struggling to remember, but I think that there was a constant backbone, with other people coming in and out of the team. Undoubtedly, other members of the team visited Peterhead at different times but subsequently left the estates review team.

Stewart Stevenson: I asked the question simply to help the committee and me to assess the extent to which those who wrote the report and drew up the conclusions had the opportunity to be exposed to and recognise the special character of the people who work at Peterhead.

Bill Rattray: That goes without saying. The work of the staff is reflected in two places. First, it is reflected in the estates review document, which says that any comment about Peterhead is not a comment about the staff and acknowledges that they are highly skilled people. Secondly, when the Minister for Justice introduced the estates review, he paid tribute to the staff at Peterhead. There was never any doubt that we should consider the staff at Peterhead or any suggestion that nobody cared about them.

Stewart Stevenson: You have made it clear that you are now involved in operational risk assessment. You cannot talk specifically about the projects that you are involved in, but it would be useful to the committee and to me if you could identify some of the key operational risk headings that would be created in transferring the services that are currently provided at Peterhead to a location in the central belt. Perhaps then, when the committee meets other witnesses, it could focus on those areas, to identify witnesses' understanding of the operational risks. You have identified this as the biggest and riskiest move—I am putting words into your mouth slightly—that the SPS has undertaken. Given your particular expertise, it would be useful to know the key headings that you think we should consider.

Bill Rattray: If the minister makes the decision to close Peterhead, it will almost inevitably fall to

me in my current role to articulate those risks. As yet, that is not the case, and I do not know of anyone who is examining such issues at the moment. One of the reasons for that—it is one of the difficulties—is that no decision has been made about Peterhead. No planning can take place for what will happen until after the decision is made, otherwise you know as well as I do that it would look as if the plans were happening in the background during the consultation phase. I can give the committee a categorical assurance that that is not the case.

Stewart Stevenson: But that creates a severe paradox. We appear to be moving to a position where we may make a decision to close Peterhead without any understanding of the operational risks that that would create. In my opinion, you have made it clear that there is substantial operational risk. I put it to you, for example, that based on the normal transfer costs for staff, the mobile staff at Peterhead would cost between £5 million and £8 million to relocate. It is beginning to sound like the operational risks will mean that we may have to have a fully functioning prison in the central belt before we even start to run down Peterhead, and that the prisons may overlap for a number of years. The current budget at Peterhead is £8 million, so for two years it would be £16 million. Add those things together and it can be seen that we could rebuild at Peterhead. Is not it cheaper to build at Peterhead, rather than move?

Bill Rattray: I think you know what my answer will be: that is a matter for the minister.

The Convener: Lord James, you did not get an answer to your question to the governor on the Marshall report and the alternatives to Peterhead. I would like that question to be answered.

Lord James Douglas-Hamilton: I have been informed by the clerks that Bill Marshall's visit was in 1996, although in the papers another date is given. The clerks can clarify that later. I hope that you will be sent a copy of the report. It was clear in that report that the assertion—

Bill Rattray: 1996? I am sorry, I am just not familiar with that report.

The Convener: If I may, I will read it out. We are talking about the proposal submitted at the request of Alec Spencer as director of rehabilitation and care at the SPS. I am sure that you have seen the document, which is Professor Marshall's report into—

Bill Rattray: When was that, convener? I know of a report that Bill Marshall wrote on a visit to Peterhead prison, but it does not sound to me as if that is what you are referring to.

The Convener: There are two reports. This is

what we quote as the official one. We have seen the unofficial one. We will send it to you. It would be useful to let you see it, but the question has not been answered—

Bill Rattray: Excuse me, may I consult Mr Houchin for a moment?

The Convener: Yes.

Bill Rattray: I was at headquarters this morning and a document was passed to me, but I have not had time to read it. That might be the document that you are referring to.

The Convener: I want to pick up on the point that Lord James raised, which has not been answered. It is about the treatment of long-termers, and is referred to on page 2 of the report "Proposal for the Provision of Treatment Services to Sexual Offenders In the Scottish Prison Service".

Lord James Douglas-Hamilton: It is the end of the second paragraph. It states:

"If an alternative to Peterhead is to be built, then perhaps a better option would be to have two smaller-sized sexual offender only prisons, one at Peterhead and one in the central belt."

The Convener: James asked you to give your professional view on that from your experience as governor.

Bill Rattray: You are asking me to comment on something that I have not had the opportunity to think through. I am reluctant to comment on that cold.

The Convener: Perhaps you could write to us with your views. We would be interested to get your views, once you have had a chance to consider the matter. We know how committed you and your former staff were and are to the sex offender programme. It is important that we defer to your experience on the matter. We would value your views on an alternative, if one has to be found. If we may, we will write to you and clarify your view.

Bill Rattray: Yes.

16:30

Lord James Douglas-Hamilton: Convener, can I ask two quick questions?

The Convener: A very tolerant Maureen Macmillan was desperate to get in before I intervened because your point had not been picked up. I would like to finish this part of the meeting shortly.

Maureen Macmillan: I have a supplementary question about the impact of location. You dealt with the impact that location has on the prison staff and the prisoners themselves in regard to visits. Does the location have any impact on the

programme? I am thinking of what the governor of Barlinnie said about how towards the end of a prisoner's stay in Barlinnie they were able to access social work, housing and so on. That would not be possible in Peterhead. Is that an important omission in the way in which sex offenders are dealt with? What happens now?

Bill Rattray: Have you read the Cosgrove panel report?

Maureen Macmillan: I have seen a summary of it.

Bill Rattray: That report highlights a number of throughcare issues. There is no doubt that there are such issues throughout Scotland and that a substantial amount of work is still required on the matter. As someone who was on the Cosgrove panel, I can say that it was clear that provision for released sex offenders was sketchy and that there was no consistent approach throughout Scotland. Consequently, a lot of work is required to achieve that consistency throughout Scotland and to establish how that will happen. From the work that has been done in Glasgow to try to establish throughcare, for example, I know how important we view it as being in the transition from prison back into the community. It is a fundamental part of the work in relation to sex offenders specifically, because of the amount of support that they require for relapse prevention on liberation.

Maureen Macmillan: If the programme were to stay at Peterhead, how would you see the throughcare being delivered?

Bill Rattray: If the programme stays in Peterhead, we have to find a way of delivering throughcare and getting better at it.

Maureen Macmillan: But the prisoners will not be in their home environment.

Bill Rattray: What happened at Peterhead—and I am sure that it must still be the same—is that six weeks to two months prior to the end of their sentence we would transfer prisoners back to their home establishment, with a view to establishing social work contact prior to liberation. The point that Maureen Macmillan raises was one of the reasons for that being done. Another reason was to give the local community an assurance that sex offenders would not be released from the prison gates into the community at Peterhead.

The Convener: I am prepared to extend the evidence-taking session for another 10 minutes, as I know that members want to ask other questions. The quid pro quo is that we will have to continue until later to consider the regulation of the legal profession inquiry. I am content to extend the evidence-taking session, but it means that we will go on past 5 o'clock. Are we agreed?

Members indicated agreement.

The Convener: We will proceed, as this is very interesting. I have forewarned members that we have a longer evening ahead of us.

Michael Matheson: I want to ask about the progression of prisoners at Peterhead. During our visit to the prison, progression was presented as a problem for prisoners in the top end who move to other prisons. When such prisoners go to other prisons, they often have to be put in protective custody because they are from Peterhead. There are problems with that.

I was interested to hear that Peterhead prison—probably during Bill Rattray's governorship—tried to develop community work. It is clear from Bill Rattray's comments that community work has an important role in the rehabilitation of offenders. Professor Bill Marshall undertook research on the issue. He canvassed members of the local population in Peterhead on how they felt about prisoners working in the community. Of those who responded, 98 per cent stated that they were in favour. Why was the local population so willing to allow offenders from Peterhead prison to work in the community?

Bill Rattray: Various factors are involved. I must say that I have no knowledge of Professor Marshall conducting research in the community in Peterhead. Research was done in relation to a community project, but it was driven by a manager from the prison. We might be talking about two entirely different things.

Michael Matheson: My understanding is that a questionnaire was sent to local residents to ask for their opinion.

Bill Rattray: I can talk about the questionnaire that was sent out from the prison. At that time, we were trying to establish what was referred to as an enhanced regime. We did not intend to call it a top-end scheme because that term has a specific legal definition. As part of that enhanced regime, prisoners would have had the opportunity to work under supervision outside the prison, which was different from other community-based projects. We asked the community about the project because we were trying to take a bold and different step and we needed to know that the community would support that step. There would have been no question of going ahead with the project without that support.

The project involved a piece of land behind the prison and the ASCO plc oil base. We wanted to landscape that land to create an almost pleasant walkway. Bearing in mind that cruise ships arrive at the breakwaters at Peterhead, we wanted to beautify the area. We wanted to put something back into the community. We had to go step by step with the local community on that project. We canvassed the local community with

questionnaires and explained the project to them. To be very specific, I will qualify that: by the local community, I mean the prison's immediate neighbours. There is no doubt that they were supportive of the project.

What happened was straightforward. The project was suggested in 1999. Members will remember that that was the year in which the Parliament began. At that time, moving sex offenders into the community was considered too sensitive an issue and it was decided not to take such a bold step in case anything went wrong. The project was thought to be one risk too far. I will quite happily duck my shoulders and say that headquarters pulled the plug on the project.

Michael Matheson: The decision was political.

Bill Rattray: No, it was a decision about operational risk and was based on the sensitivity that surrounded the project. The progress of sex offender programmes and our relationship with the community could have been knocked back severely if something had gone wrong. The project was considered to be a risk too far and too soon.

The Convener: At that political time.

Michael Matheson: Do you mind if I follow up on my question?

The Convener: No. I was agreeing with your point.

Michael Matheson: Is Bill Rattray saying that, had the prison waited until after the elections, the decision might have been different?

Bill Rattray: I do not think that that is correct. If something had gone wrong with such a project during the early stages of the new Parliament, the issue would have become very high profile. That risk was not worth taking.

Michael Matheson: Why did the prison not wait until after the elections or until the Scottish Parliament was up and running—which was three years ago—to revisit the project?

Bill Rattray: I must take responsibility for that. The project was never revisited because, shortly thereafter, we moved into the estates review and started to ask whether there would be a Peterhead prison. It became inappropriate to start the project when so many other things were on our agenda. The reason was quite straightforward.

Michael Matheson: That was surely acting on speculation.

Bill Rattray: I beg your pardon.

Michael Matheson: It is pure speculation whether there will be a Peterhead prison.

Bill Rattray: Touché.

Lord James Douglas-Hamilton: If a decision is made to have a new prison on the Peterhead site, would it not be perfectly feasible to build night sanitation facilities and a new house block or to replace the whole prison on the land that is available with appropriate phasing in over a period of years?

Bill Rattray: The estates review points out that sufficient land is available to do so.

Lord James Douglas-Hamilton: So those options would be feasible.

Bill Rattray: The estates review points out that such options would not be economically feasible.

Lord James Douglas-Hamilton: I think that the estates review mentions 350 prisoners. If the prison were larger, would those options be feasible?

Bill Rattray: When the estates review started, we were asked to submit costings based on a 350-place house block. If the development went ahead, that block would have reduced the overall cost per prisoner place at Peterhead to £19,500, I think. I still have difficulty working out net present values, for example—I am not sure if I fully grasp such things. Nonetheless, the figures are available in the estates review document. To build the house block at Peterhead would have reduced the cost per prisoner place to £19,500.

Lord James Douglas-Hamilton: That is if there were 350 places. The costings for a 500-place prison were not done.

Bill Rattray: I did not do them.

Lord James Douglas-Hamilton: Nor did the review.

Bill Rattray: I cannot comment on that.

The Convener: I want to conclude with the other Bill Marshall report of 20 July 2000, which you commissioned and may be familiar with. I want to ask for your professional views on it. It says:

"I understand there are suggestions being considered to close Peterhead Prison and shift the programme to an institution near the central belt. If this is done it will take a high quality governor and a devoted and fully supportive staff several years to achieve the standards operating at present in Peterhead Prison. This would be a retrograde step and would have to be supported by sound very sound reasoning that is presently not at all apparent to me."

Do you agree with that?

Bill Rattray: That might have been Professor Marshall's view at the time, based almost on a notion of Peterhead prison closing one day and the prisoners being bused down to a new prison the following week. If that were the case, I would absolutely agree with him—that would take years to repair. However, I understand that if the prison

closes, that would not happen. There would be a substantial time frame to manage the transition. I reiterate what I said: it is not a question of whether we can make things work; it is a managerial imperative that we make things work.

The Convener: You are talking as if the prison will close.

Bill Rattray: If I am, I apologise.

The Convener: You must know something that we do not know.

Bill Rattray: I do not wish to speculate.

The Convener: I want to press you on that because—

Bill Rattray: I do not know something that you do not know.

The Convener: I want to press you on the comments in the report that you, with all your experience, commissioned. The report says:

"This would be a retrograde step and would have to be supported by sonic very sound reasoning that is presently not at all apparent to me."

Is that "sonic very sound reasoning" apparent to you?

Bill Rattray: In relation to what?

The Convener: In relation to the prospective closure of Peterhead prison.

Bill Rattray: The decision to close Peterhead prison has not been made so I cannot comment. I do not know what the decision will be.

The Convener: Thank you, gentlemen.

Item 7 is in private. Only members are left anyway. Members promised to stay and endure to discuss the paper on the regulation of the legal profession inquiry, which we will consider and get through as quickly as we can.

16:44

Meeting suspended until 16:53 and thereafter continued in private until 17:18.

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