

JUSTICE 1 COMMITTEE

Tuesday 23 April 2002
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

† 13th 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:

Fiona McLeod (West of Scotland) (SNP)

Stewart Stevenson (Banff and Buchan) (SNP)

WITNESSES

Jim Dawson (Prison Officers Association Scotland)

Alan Denney (Prospect)

Phil Fairlie (Prison Officers Association Scotland)

Neil Powrie (Association of Visiting Committees for Scottish Penal Establishments)

Marjory Russell (Association of Visiting Committees for Scottish Penal Establishments)

John Shannon (Prison Officers Association Scotland)

Malcolm Still (Prison Officers Association Scotland)

ACTING CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 2

† 12th Meeting 2002, Session 1—joint meeting with Justice 2 Committee.

Scottish Parliament

Justice 1 Committee

Tuesday 23 April 2002

(Afternoon)

[THE CONVENER *opened the meeting in private at 13:50*]

14:04

Meeting continued in public.

Item in Private

The Convener (Christine Grahame): We are now meeting in public. I remind members to turn off their mobile phones and pagers. We have received no apologies. I welcome Fiona McLeod to the meeting. She is here for the evidence-taking session on the prison estates review. If Fiona indicates when she wants to ask a question, I will endeavour to let her in after committee members have asked their questions.

Agenda item 6 is consideration of candidates for the post of adviser on the financial aspects of the Scottish prison estates review. The discussion will reveal information about the individuals under consideration, so I do not think that it would be advisable to hold it in public. Are members agreed?

Members indicated agreement.

Freedom of Information (Scotland) Bill

The Convener: The next item on the agenda is our discussion of stage 3 amendments to the Freedom of Information (Scotland) Bill. Members have been circulated with a note that sets out the background to the amendments that I have lodged to the bill. I ask the committee to agree that the amendments be moved on its behalf at stage 3 on Wednesday 24 April. As the note explains, they are probing amendments that consider the alleged effect of the bill on section 23 of the Scotland Act 1998. We are endeavouring to show that the bill does not have such an impact. I would prefer to lodge the amendments in the name of the committee and speak to them from that point of view. Are members agreed?

Angus MacKay (Edinburgh South) (Lab): My question relates to processes, because I am trying to pick things up as I go along. What is the normal custom and practice with such amendments?

The Convener: This is the first time that we have been in this situation, so we are establishing custom and practice. Although I could move the amendments in my name, they are not SNP amendments. In blunt terms, they allow the Executive to develop the argument that the bill does not impact on section 23 of the Scotland Act 1998. They simply allow the matter to be aired.

Michael Matheson (Central Scotland) (SNP): Why did the committee not see the amendments before they were lodged?

The Convener: We were not informed about the matter in time to do so. As a result, I decided that the amendments should be lodged in my name to get them lodged before the deadline. I thought that it would be useful to move the amendments on behalf of the committee. However, if members are unhappy with that, I will simply move them in my own name.

Lord James Douglas-Hamilton (Lothians) (Con): Convener, I would prefer the amendments to proceed in your name, because I have not had the opportunity to scrutinise each phrase and line. We must be very careful with this issue.

The Convener: That is not a problem. If the issue had been raised earlier, we could have debated it in advance. It was just the timing of things. I will move the amendments in my name.

Subordinate Legislation

Adults with Incapacity (Public Guardians' Fees) (Scotland) Amendment Regulations 2002 (SSI 2002/131)

The Convener: Item 4 is consideration of subordinate legislation. I refer members to the clerk's note on the regulations. Members can either comment on the regulations, or simply note them.

By the way, can I have a reaction this time? When we did this before, I had to sit in silence. Do members agree to note the instruments?

Members: Noted!

The Convener: Thank you.

Combined Police Area Amalgamation Schemes 1995 (Amendment) (Scotland) Order 2002 (SSI 2002/140)

Combined Fire Services Area Administration Schemes Variation (Scotland) Order 2002 (SSI 2002/141)

The Convener: Do members agree to note the orders?

Members *indicated agreement.*

Prison Estates Review

The Convener: We now move to item 5 on the agenda. Unfortunately, Donald Gorrie is not here yet; however, I ask Michael Matheson to report back briefly on his visit to Kilmarnock prison yesterday.

Maureen Macmillan (Highlands and Islands) (Lab): Where is this on the agenda?

The Convener: It is under item 5, which is our consideration of the prison estates review. I thought that we would just hear a very short report about yesterday's visit to Kilmarnock prison before we took oral evidence.

Michael Matheson: Donald Gorrie and I, accompanied by the Scottish Prison Service's controller and representatives of Premier Prison Services, spent a useful day at Kilmarnock prison. We visited the workshops, the medical centre, the education centre and one of the halls. We also met prison officers privately. Although Premier Prison Services intended to take part in that meeting, I was not keen for them to do so, because it might have had an impact on how candid the prison officers would be. Premier Prison Services eventually agreed to that.

We also had a session with prisoners, in the company of the SPS controller and representatives from Premier Prison Services. I understand that Jenny Goldsmith is pulling together a brief report that will cover a variety of the issues that were highlighted during our visit.

The Convener: It will be of interest to members that the Audit Committee will take evidence on the SPS accounts at its meeting on 30 April. As Paul Martin is a member of that committee, would the committee consider appointing Paul—if he is prepared to do it—as a reporter on that item, which clashes with our meeting.

Paul Martin (Glasgow Springburn) (Lab): That is very kind of you, convener.

The Convener: You should be more sincere. Do members agree that we should have a formal report on that meeting of the Audit Committee?

Members *indicated agreement.*

The Convener: The clerks are trying to arrange a videoconference evidence session with Professor Bill Marshall, who produced a report on Peterhead prison. We have seen the relevant reports, but we think that we should question Professor Marshall.

I intend to request an informal briefing from the committee's adviser, once he or she is appointed, on the financial aspects of the prison estates review. The briefing will be open to committee

members. We will try to get a slot for a talk to the adviser in advance of the formal committee meeting that the adviser will attend.

Angus MacKay: Is the briefing intended to be for all committee members?

The Convener: Yes. We intend to have an informal briefing, if members think that that would be useful.

We will now take evidence on the prison estates review from the Scottish Prison Service trade unions and the Association of Visiting Committees for Scottish Penal Establishments. I welcome the representatives of the trade unions and ask them to take up their allocated positions. There is a slight adjustment in personnel. I welcome to the committee: Phil Fairlie, who is from the Prison Officers Association Scotland; Jim Dawson, who is assistant secretary of POA Scotland; Alan Denney, who is the national officer for Prospect; John Shannon, who is the national executive committee member for POA Scotland and who represents HM Prison Peterhead; and Mr Malcolm Still, who is vice-chairman of POA Scotland and who represents Barlinnie and Low Moss prisons. We have received apologies from Michael McCann of the Public and Commercial Services Union, who is ill and cannot attend.

We will go immediately to questions, which we will ask of all the witnesses.

Maureen Macmillan: In previous evidence to the committee, it was said that it is difficult to compare the public and the private sectors because the key performance indicators for the public sector are far higher than contractual obligations in the private sector. Will the witnesses describe how the performance indicators for the public sector are higher? Has the analysis of costs in the SPS estates review taken that into account?

Jim Dawson (Prison Officers Association Scotland): The estates review did not take that into account. It is important to make the point that the public and private sectors operate with two different ethos. Kilmarnock's contract is set up on a work basis, not on one of challenging offending behaviour. Other prisons are targeted at providing direct training to tackle offending behaviour and the other courses that go with that, which include sex offender treatment programmes.

Kilmarnock has none of that—it is contracted only to provide work. I do not believe that a cost analysis can be done. How is it possible to weigh up which is the more important? The reality is that Kilmarnock delivers its contract, but we deliver our key performance indicators. The two are totally different.

14:15

The costs that are included in the review are probably the most disingenuous piece of work that has been presented to ministers and the Parliament. In January 2001, the Minister for Justice assured us that PricewaterhouseCoopers was to be appointed to undertake a like-for-like comparison. However, in talking to civil engineers in the field since the review was published, we have established that a like-for-like comparison was not undertaken. PricewaterhouseCoopers was asked to price three private prisons on the model that is used at Kilmarnock. PWC was also asked to price three public prisons using the specification that is used in the public sector. Because the two models are different, it is not possible to make a cost-analysis comparison of them.

The Scottish Prison Service and Premier Prison Services, which is the SPS's main competitor in Scotland, used the same preferred building partner—Skanska, which was previously called Kvaerner. When dealing with private sector contracts, Skanska and other major builders ask for a credit rating on the customer. That would not be required in the case of public sector clients such as the Scottish Prison Service.

If the private and public sector prison services asked Kvaerner or another major builder for a price on a specification, ours would be a small percentage less expensive than the £600 million it would cost the private sector. It would not cost the £1.3 billion that is being quoted based on the present public service specification for a public service prison. The specification of build and facilities is far higher than that which was used at Kilmarnock.

Maureen Macmillan: Are you saying that, if a Kilmarnock-type prison was to be built in the public sector, it would be cheaper to build than the same prison in the private sector?

Jim Dawson: That is correct.

The other thing that is set out in the estates review is that the SPS does not have the knowledge or the technical ability to build prisons. I want to make it plain that neither does Premier Prison Services or any other private company have that ability. They buy in that expertise along with the contract, by virtue of buying in a contract manager and a liaison officer who liases between the client and the builder. There is nothing to stop the Scottish Prison Service or any prison service buying in the same expertise as part of a contract. The bonus of that method is that, when the contract is finished, the client is not left with surplus staff.

Maureen Macmillan: I want to pursue the building angle. In a written submission to the committee—

The Convener: Before Maureen Macmillan moves on, do other members want to follow up on the point that was made? I understood that Lord James Douglas-Hamilton and Paul Martin wanted to go into the costings.

Lord James Douglas-Hamilton: You will be aware that the Parliament debated the subject last week. Would it help if further costings were made available on a range of different options before final decisions were made? I understand that costings were done for a 350-place prison at Peterhead but not for a 500-place prison. I also understand that it was not clear whether the prison was to be built by the private or public sector, whether it was to be built by the private sector and administered by the public sector, or built and operated by the private sector.

Would it help the prison service in Scotland if further costings were prepared that covered every available option that ministers and, ultimately, the Parliament would have to decide upon?

Jim Dawson: That would be a commonsense way to proceed. I will hand over to my colleague John Shannon, who will respond on one of the issues that Lord James Douglas-Hamilton raised, which is public-private partnership. The report sets out that PPP would not work, but we have evidence to suggest that it can.

John Shannon (Prison Officers Association Scotland): I refer members to the review, "Review of PFI and Market Testing in the Prison Service", which Patrick Carter produced in January 2001. One of his findings was:

"Mixed-management has been adopted successfully in France over the last 10 years. Twenty-one new prisons have been built by the private sector with public funding. The core custodial function is performed by public sector employees with the private sector contracted to provide maintenance, logistics, 'hotel services', healthcare",

catering and other such services. The conclusion was:

"Overall, the private sector offers best value in providing new prisons but, given competition, the public sector can match or better private sector operating costs."

The report also concludes:

"All new prisons should be designed, and built by the private sector."

On public-private partnerships, the report says:

"In 1987 France decided to seek private provision in the design, construction and operation of the non-custodial functions (eg catering and programme provision) of 25 new prisons (full privatisation was abandoned ...). Overall responsibility for the management of the prison remained with a Prison Service governor, whilst the supervision of the wings"

and the residential sector

"continued to be undertaken by public sector prison officers."

The Convener: Will Mr Shannon provide us with a copy of that report so that we can distribute it to others?

John Shannon: I will leave a copy of the report.

The Convener: That will be useful.

Lord James Douglas-Hamilton: I was fascinated by Mr Shannon's response. Could you also send in a short paper that outlines your views on mixed management and the other options that you mentioned?

John Shannon: Yes.

Lord James Douglas-Hamilton: That will be a great help.

Paul Martin: I will touch on Jim Dawson's point that prisons can be built more cheaply in the public sector. You said that a civil engineer told you that. We must be more specific about the source of such information. How do we best explore obtaining an independent report? The independent status of the PricewaterhouseCoopers report has been questioned and a report from your association would also have difficulties in that respect. How would the committee best obtain an independent report that clarified once and for all whether it is more expensive for the public sector or the private sector to build a facility?

Jim Dawson: Paul Martin makes the valid point that we should verify independently the numbers that are involved. I can advise the committee only of how we intend to proceed. I will not simply write a report about the sector. We are seeking a firm that is wholly independent of the Prison Officers Association. We will commission an independent report that we will present in our findings for the consultation process. I brought the committee anecdotal evidence because I did not have the time to commission a report to bring with me today.

The Convener: When will such a report be available?

Jim Dawson: I hope to have it by the end of the week.

The Convener: That is useful.

Paul Martin: The association's presenting that report will create some difficulties for its independent status.

Jim Dawson: We seek an independent engineer, who will be appointed by an independent party. That engineer will produce the report on the basis of what we have found. I am told that the matter is basic civil engineering. If the

committee wants more independent views, any firm could verify for the committee what I have said.

The Convener: We will note that and consider whether we require other witnesses.

Angus MacKay: I am extremely interested in Mr Shannon's evidence. I presume that he agrees that the private and public sectors are both capable of building and operating a prison and that there are probably two criteria that fall between the two and on which we must base a decision. The first is cost and the other is service quality. Given that, I want to be clear about what Mr Shannon said. Are you telling the committee that you have evidence of prison facilities in other countries that are privately built and owned, but publicly operated?

John Shannon: Of the 25 prisons that were built in France, four remained in the private sector. The rest remained privately built and publicly run and their services were linked to the contracting out of the residential function to a private operator.

Angus MacKay: In many respects, that arrangement is similar to many of the PFI options in this country in other areas of the public sector.

John Shannon: Yes.

Angus MacKay: You mentioned a name attached to the report. What organisation sponsored the report?

John Shannon: The report was the "Review of PFI and Market Testing in the Prison Service", which Patrick Carter produced for the Home Office.

Jim Dawson: Although Lord James asked us to put this information into a paper, I will state it publicly: there is no trade union side resistance to a public-private partnership if the money and the facility are provided by the private sector and the public sector runs it. We have no difficulty with that.

The Convener: Does that apply to all the witnesses? The witnesses from the POAS are nodding their heads. Is Prospect of the same view?

Alan Denney (Prospect): We are of the same view. We have no difficulty with the concept of private build, as long as the prisons are publicly operated.

Maureen Macmillan: Will you clarify whether the French prisons to which you referred are run by the public sector? Are the officers from the public sector or are the services bought in?

John Shannon: As the review states:

"The core custodial function is performed by public sector employees".

Maureen Macmillan: Might not a risk be involved in that? Risk transfer is often talked about in relation to PPPs. It is said that a private operator would find it unacceptable for a prison that they owned to be run by the public sector because the public sector would think that the risks involved in, for example, private sector maintenance workers coming in would be too great.

John Shannon: The estates review highlighted that it could find no comparators in the world to compare a privately built, publicly operated prison with a publicly built, publicly operated prison. However, such comparators exist. Even Peru has privately built, publicly operated prisons. There are plenty of comparators to look at in the world. Either those who commissioned the report decided not to examine them, or for some reason the specification that they suggested for consideration did not meet any that are in use. If they put their own barriers up, they will find that there is no private build, public operate with which to compare the public build, public operate option. However, if we compare the public build, public operate option with sectors within which privately built prisons are publicly operated, comparators do exist.

The Convener: Are you saying that the comparators were deliberately not found or that they were not found through ignorance?

John Shannon: If I were being cynical, I would say that it was deliberate.

Michael Matheson: Jim Dawson made a point about the different standards that are used when commissioning public and private prisons. Will you illustrate the difference? If the SPS was going to build a prison tomorrow, what would it specify that is different to what Premier Prison Services specified when it built Kilmarnock?

Jim Dawson: We try to put higher-specification facilities in the house blocks to make them self-contained. We also build them so that it is not possible to see from one directly into the other. That is deliberate; it is done for control purposes. It is in Kilmarnock possible to see from one block into the other. That fact has been commented on. We found in the 1980s and 1990s, when the SPS suffered concerted indiscipline among prisoners, that it was important that prisoners in different areas could not see what was happening in other areas because that would make their indiscipline even more concerted. We custom-build our house blocks according to that criteria. We are not constrained by trying to build them as cheaply as possible.

We also build in medical facilities and what we call pantry facilities, which are for keeping meals warm. I note comments in the report by HM chief inspector of prisons that supplying and keeping

meals warm is a problem in Kilmarnock. In our prisons, we have pantry facilities in every hall. That is the type of facility that we build into the specification. I agree that that all adds to the cost and I do not say that we have it completely right, but neither am I saying that the cheap shell in Kilmarnock is right. Somewhere in the middle, there is probably an ideal design.

Michael Matheson: Are you saying that the fabric of a public sector built prison is much more robust than that in a private prison such as Kilmarnock?

Jim Dawson: Yes. A public sector built prison provides more facilities.

Michael Matheson: Are you also suggesting that there are security implications around prisoners' being able to see into rooms in another block, or at least being able to see from one block to the next?

Jim Dawson: That can have security implications in times of difficulty, as we found in the 1980s and early 1990s and, indeed, as we saw a couple of weeks ago at Shotts prison. Keeping prisoners in residential blocks that are isolated from other blocks allows a degree of control at difficult times.

Angus MacKay: I seek clarification. We heard an interesting question about whether the fabric of buildings was more robust. Your answer was that there is a broader range of facilities. I think that the robustness of a structure and the range of the facilities within it are two slightly different issues. The specification of whether it is a public or private sector prison depends entirely on the specification that is asked for by the public sector management when it commissions a building. For example, the Scottish Prison Service could commission exactly the same specification of building from the private sector or the public sector.

Jim Dawson: That is correct, but that is not what was asked for in this case. That is why there is the major discrepancy in the figures. In Great Britain today, it is possible—believe it or not—to buy a prison off the shelf. The prison arrives on a lorry and is bolted together.

Angus MacKay: I understand that.

Jim Dawson: You are correct to say that what you ask for is what you get.

14:30

Angus MacKay: In this debate, we need to arrive at a conclusion that will allow us, forensically and properly, to compare like with like. If it is implied that the private sector or the public sector cannot innately do something, we will not be able to compare like with like. I want us to be

clear where we are going in that matter. However, I am satisfied by Mr Dawson's answer.

The Convener: That is a fair point. Previous evidence suggested that we should be comparing, for example, the costs of incorporating a health centre or a gymnasium in a housing block with the costs of building them separately. The former would be more costly.

I welcome Stewart Stevenson to the committee. Fiona McLeod, who has been very patient, has a question.

Fiona McLeod (West of Scotland) (SNP): My questions might help the committee's search for better figures and how we get comparisons between the public and private sectors. Yesterday, I visited HMP Low Moss, which is in my constituency. It was brought to my attention that approximately two years ago a plan was commissioned by the public sector for new build at Low Moss. I understand that the proposed cost was about £40 million. Are our witnesses aware of that plan for public build at Low Moss? Do they know what happened to that plan and whether PricewaterhouseCoopers had access to that information? I would have thought that that information would have given PWC a good comparator of a plan for a public sector build.

Malcolm Still (Prison Officers Association Scotland): A feasibility study was done on 21 April 2000 on the redevelopment of Low Moss. The study was commissioned by the Scottish Prison Service and was carried out by the prison estates department. Two separate costings were done for two different types of prison. One figure came out at £42.5 million, inclusive of VAT; the other figure was £41.25 million, inclusive of VAT. The study also used the costing for HMP Kilmarnock as a comparator. The figure for that prison was £35 million, exclusive of VAT. I have a copy of the report for the committee.

The Convener: That is another document that we would like to be forwarded to the committee for distribution to members.

Fiona McLeod: That is useful information, which I think the committee will also find useful. Do you know whether PWC had access to that information? If it did, is there an explanation of why it did not use those figures?

Jim Dawson: There is no evidence that PWC had any access to, or saw, those figures.

Fiona McLeod: So there might be a problem because PWC did not have access to full information.

The Convener: We will come to our conclusion about that later. Does Stewart Stevenson want to ask anything on comparative costings?

Stewart Stevenson (Banff and Buchan)

(SNP): First, I apologise for being late. I was at an earlier committee meeting in Fort William, so it took me a while to get here.

I want to pick up on a couple of matters that relate to costings. Do private contractors, such as plumbers and electricians, undertake maintenance in Scottish Prison Service prisons?

John Shannon: Yes.

Stewart Stevenson: Right. So, we are not breaking new ground in having private contractors working inside a prison. The security issues and all the issues in relation to prisoners in bringing private contractors in are already well understood.

John Shannon: Yes.

Stewart Stevenson: Right. We are obviously focusing a lot on risk transfer. Do you share my understanding that in the private prison at Kilmarnock—I believe that the same is true in England and Wales—the private company seeks, in turn, to transfer many of the risks to other people? For example, the contract for Kilmarnock prison requires that Kilmarnock Prison Services Ltd exhibit proof that it has insurance to cover all the risks that are associated with the fabric of the building. Do you believe that such a risk transfer would be available to the Scottish Prison Service if it were operating a building that was owned by a third party and that therefore the risks would not bear upon the Scottish Prison Service?

Jim Dawson: Yes.

The Convener: Those were rather long questions. You are making statements. Could we have questions please?

Stewart Stevenson: What proportion of the value of the construction cost of a new prison do you believe is delivered to the Scottish Prison Service at the end of the 25-year contract, according to the net present value calculation?

The Convener: I am not sure whether the gentleman can answer that.

Jim Dawson: It is a difficult question to answer. It depends upon how you view the net present value—NPV—figure. The NPV is an accountancy tool that, in my opinion, is used to cloud the figures. I would like to give the committee an express and recent example of that.

We have seen the NPV figures in the report. In front of me, I have Clive Fairweather's report that was issued at Kilmarnock prison on Friday. Much as Mr Cameron, the chief executive, likes to talk about NPV, I prefer to talk about what the prison is actually costing because then I know what I have left in my pocket. In the annexe to that report, Clive Fairweather includes a comparator cost per prisoner place across the estate, including

Kilmarnock prison.

At the debate in Parliament last week, we heard much about our comparative pension costs. I make no apologies for our pension. At the end of the day, the state picks up the pension costs regardless of which budget it pays them from. If I take the pension costs and compare them with those of Kilmarnock and I look at Clive Fairweather's figures—not mine—there are only three prisons in Scotland that are presently costing us more money than Kilmarnock.

Each of those three prisons provides a staff-intensive unit—HM Young Offenders Institution Dumfries, HM YOI Polmont and HM Prison and YOI Cornton Vale. Cornton Vale has such a unit because we are dealing with a high percentage of abused and damaged females from various backgrounds. I make no apologies for the high figures for Dumfries and Polmont prisons because if we cannot concentrate on the youth of today, we are wasting our funds.

I shall leave the report if the committee wishes. I have highlighted the figures.

The Convener: We have a copy.

Jim Dawson: I have an example. The most chaotic prison in Scotland is Barlinnie, which is mayhem daily. It presently operates on a cost per prisoner place of £18,969. Kilmarnock prison operates on £26,000 per prisoner.

The Convener: I remind you, Mr Dawson, that most of us on the committee are aware of the difference between cost per prisoner place and cost per prisoner—although perhaps some of the newer members are not. Perhaps you could just repeat that difference to the committee because it took us a year to find that out.

Jim Dawson: It is difficult to explain. Cost per prisoner place is the allocated budget that we have and what we pay out per prisoner. If you look at our annual report, it gives you an overall figure called cost per prisoner place. That figure is massaged because it includes all our overhead costs such as prison service headquarters and everything else.

The Convener: You are not following me. That was not my point. My understanding is that the cost per prisoner place is based on the number of places notionally within a prison. However, when a prison is overcrowded, there are more prisoners so the cost comes down even more. That is what I was trying to get at, just in case some of the newer members had missed that. I know it took 12 months for the penny to drop for some of us. Is that correct?

Jim Dawson: Yes.

Michael Matheson: No.

The Convener: Michael Matheson says no.

Jim Dawson: It is difficult to understand, but it is true. The budget stays the same regardless of the number of prisoners.

Lord James Douglas-Hamilton: Is it not the case that, in 2000, an options appraisal was produced with a view to building a new prison at Peterhead and another phase at Shotts? Do you have any inkling why that was dropped? Is it not the case that PricewaterhouseCoopers did not mention that options appraisal or the figures in its report?

Jim Dawson: What you are referring to is stage 1 of the estates review, which, for some reason, disappeared off the face of the earth. That considered phase 3 of Shotts and the new build at Peterhead, although I think that a new build at Peterhead was first considered in 1990 or 1991 and through various Governments. It did not go ahead.

I can confirm that PWC makes no mention of that and does not give us any comparators of costings from that project.

The Convener: We should now move on to an issue that James Douglas-Hamilton touched on earlier—the extension of prisons. Peterhead has already been mentioned.

Maureen Macmillan: Yes, we should pursue that. In your written submission, Mr Dawson, you said that a number of establishments in Scotland, not only Peterhead, had sufficient expanses of land—within an already secure wall or fence—that could be built on. You also said that to build house blocks of a modular design might take only about 18 weeks from start to finish. The Scottish Executive claims that the building of a new house block is extremely resource intensive for the Scottish Prison Service because each house block has to be integrated, both physically and operationally, into the main prison, a process that demands considerable input from prison managers. Could the required increase in capacity be provided by building new house blocks on existing sites? I believe that that will be done anyway, to cope with part of the increase, but can the increase in prisoner numbers be absorbed by building within existing prisons?

Jim Dawson: That process has recently started: construction is under way at Edinburgh and Polmont. We believe that what you suggest can be done. There are various suitable sites across the estate. However, there is a problem with bureaucracy, which mainly comes down to the working practices of the SPS estates department. Nothing says that the way that it is doing things is correct, and it is certainly not the way that the private sector would do it. In respect of building and commissioning, the private sector has more

expertise and is better at providing buildings.

Maureen Macmillan: Are you suggesting that the private sector could build the house blocks?

Jim Dawson: Yes. The private sector would come with less bureaucracy, as it did at Kilmarnock, where a project engineer was responsible for the project and liaised with the builder and the customer until the building was finished, at which point it was handed over. The bureaucratic policies of the prison service mean that we have several prison managers all putting their penny's worth in and all wanting changes put in for their own benefit. In the words of one contractor, "It's an absolute nightmare to build for them."

Maureen Macmillan: Are you talking about a PPP option for house blocks in a prison? Surely not?

Jim Dawson: The public-private partnership can work as well for house blocks as it can for a new prison. There is nothing to prevent the use of PPP for house blocks. I speak with some knowledge on that, because the secretary on the trade union side and I were involved in putting together a specification for Polmont and Edinburgh. That is now being held against us. We were asked to say what we wanted in the building and we made proposals after first considering what the ideal building would be. Several of those proposals were incorporated, but we were then thumped over the head with the costs during the estates review.

Maureen Macmillan: That is interesting. Would anybody like to follow up on that? I am sorry—that was for you to ask, convener.

The Convener: Thank you, but before I let you slip into deputy convener mode, Angus MacKay has already indicated that he wants to ask a question.

Angus MacKay: How many house blocks have been built at Polmont and Edinburgh?

Jim Dawson: One has been commissioned at Edinburgh and it is fully in use; it is an excellent facility and a second is now under construction. At Polmont, the first is now under construction.

Angus MacKay: How quickly was the first one in Edinburgh built?

Jim Dawson: I could not tell you how quickly it was built from start to finish.

Angus MacKay: Has there been any delay in the occupation and use of the house blocks, either at Edinburgh or Polmont? Once built, have they gone straight into operation?

Jim Dawson: There has been no delay in the house blocks. When we received the designs for

the two new house blocks that are currently under construction, and we learned of the move towards a partnership approach in industrial relations, our local branches at Polmont and Edinburgh entered into a without-prejudice agreement on staffing levels. That developed through looking at the blueprint, talking to local management about what the regime and the class of prisoners would be, provisionally agreeing on staffing levels and costs, and then starting the building. It was a new approach, developed for the future.

Angus MacKay: And it meant no delay?

Jim Dawson: It meant no delay.

The Convener: One of the lines that we get from the estates review is that, if things were to be public build, public operate, it would take a long time—some 11 years—whereas private build, private operate would take a much shorter time. Bearing in mind the background of things such as slopping out—which is demeaning, not least for prison officers—what is your opinion of the time scales?

Jim Dawson: If we adopted the principles that the private sector adopts for design, commissioning and building, long time scales would not apply. The only impediments to a short public sector time scale are bureaucracy and political will. We could choose to adopt the same method as the private sector. If we asked our preferred partner, Skanska, to design the building and manage the contract—Skanska has the experience to do that—and to give us a liaison officer in case we want any changes to be made, we could build on the same time scale as the private sector. There is no doubt about that.

14:45

The Convener: I am concerned about comparing apples with apples. We must know that we are talking about exactly the same model of prison, so that a proper comparison can be made. Angus MacKay raised that. Are the figures based on the building of exactly the same kind of prison?

Jim Dawson: The figures are based on the building of prisons that would not be exactly the same. The figures that you have been provided with are based on our £1.3 billion specification and the private sector's £600 million specification. The differences in managing the contract arise because the Scottish Prison Service says that it does not have the technology or the people. The SPS has included in its price the cost of having to get the technology and the people, but it does not need to do that.

Paul Martin: Are you happy for the public sector to take on the risk of the project costs escalating? I dare to mention the Scottish Parliament building,

which is effectively a public sector project.

The Convener: That is a different situation.

Paul Martin: The same principle of asking the public sector to take on the risk of escalating costs is involved. We know that a prison building is a complex project, as is the Scottish Parliament. What are your views on that? Should the public purse take on such a risk? I do not have any particular views on the issue—I merely want to explore it.

Jim Dawson: Your point is perfectly relevant. The debate in the Parliament last week dealt with a hypothesis. On the basis of that hypothesis, the private sector builder's risk is exactly the same as the public sector risk. Both sectors would have a risk. If you are asking me whether we should opt for the public-private partnership and let the private sector take the risk, I am not really in a position to answer. There is a risk regardless of whether the public sector or the private sector builds the prison. Somebody must take that risk.

Angus MacKay: You mentioned the two figures that were being talked about—the figure for the public sector option and the figure for the private sector option. You said that comparing those two figures did not represent a comparison of like with like, as the specifications were different. Perhaps you could forward to the committee an indication of some of the differences in the specification, so that we are clear about that. That would help us with future evidence taking.

Jim Dawson: Yes, we could do that.

The Convener: You mentioned internal facilities as opposed to central facilities. Clarification would be helpful.

Fiona McLeod: You painted quite a dire picture of estates management within the Scottish Prison Service. You seemed to infer from that that giving a new build to the private sector was the only thing that could be done to manage it effectively. Surely PWC should have looked at why the SPS estates department is in the position that it is in. Should the SPS estates department be examined?

Jim Dawson: That is a hypothetical question. In my opinion, that should not be done. We have such a picture of the estates department because it has not been asked to commission a full prison in more than 13 years. We just do not have the expertise to do it. When we commission a new prison build, it would be prudent to commission the necessary expertise and technology with the build. That would mean that when the build has been completed, we would not be left with an excess of experienced staff who do not have a job. We do not want to operate that way, with people on short-term contracts. We should buy the technology and the people with the contract. It is unrealistic to

expect the SPS to have carried all the relevant experience for the past 13 years, during which time it has not been building prisons.

Stewart Stevenson: Do I recall correctly that the PWC report shows that the risk cost associated with a private contractor to Kilmarnock Prison Services—because it did not build the prison; another company did—was of the order of 10 per cent of the total build cost? That made it possible to identify and transfer the risk and make a choice about it. Is that the figure that you recall?

Jim Dawson: I think that that figure is right. I am not always confident about what is quoted as a risk transfer and how it is dealt with. Perhaps I am a cynic, but I think of the excessive amount of money that the taxpayer may have to pick up in respect of Yarlwood detention centre. Until there was a riot there, none of us knew about that. What would happen if there were a serious riot at Kilmarnock prison and the fabric of the building was destroyed? What would we pay? I do not know the detail of the contract's small print and what we would end up paying—I do not have all the intricacies of the contract. People had a view on what we would pay if anything went wrong at Yarlwood, but it turns out that they were not correct.

The Convener: I have lodged parliamentary questions on the matter. Following the Auditor General's report, I am still not clear who has taken on board risks in respect of Kilmarnock prison. I have written to the director of Kilmarnock Prison Services to find out. Committee members can see on the website what the Auditor General says. Apparently, each side thinks that it has transferred risk to the other side. Is that your understanding of the situation?

Jim Dawson: Yes. However, with respect, matters are more complex than that. It was brought to our attention that Premier Prison Services accounts show that Kilmarnock prison was transferred to the Home Office for £37.7 million. We have done some background work to establish who actually owns Kilmarnock prison. The question was posed to Miss Christine Carlton, the deputy director of human resources, who assured us that that was a mistake. We have written to Premier Prison Services. It has been alleged that the mistake was pointed out some time ago, but has never been corrected, so we do not know who owns the prison, far less who takes the risks.

The Convener: I asked who has the registered title, but I do not have the answer. We will not go further into the matter, as questions are still up in the air and we await important answers. Angus MacKay has a further question.

Angus MacKay: Before we leave this general

area, I want to touch on a matter that the trade union side raised. It was said that you were not hostile to a public-private partnership for building new prisons in respect of the private sector building and perhaps owning and the public sector operating services. As part and parcel of that, are the trade unions willing to negotiate with flexibility on new working practices? I do not necessarily mean changing or reducing terms and conditions, but rather discussing and agreeing new working practices in such establishments. Is that what you have in mind?

Jim Dawson: In the past 12 months, we have made considerable advances on industrial relations in the SPS. We cannot colour that we had a sad day in our history on 23 April last year that resulted in industrial action, but since then both sides have worked constructively. We have signed off a voluntary industrial relations agreement that monitors how we do business and resolve conflict. There is no longer a need to strike. We have signed off new attendance systems. Both sides worked pragmatically to produce a new pay system, which was accepted by more than 70 per cent of staff membership.

If you had asked me that question a year ago, I would probably have said that difficult times were ahead of us, but now, most of the difficult times are behind us in respect of flexibility and how we do our business. Indeed, we met the SPS board yesterday afternoon and we are making major advances on signing up to a partnership agreement. We agreed a statement of intent and apportioned pieces of work to be done. By the end of September, the SPS TUS as a whole will have signed off a partnership agreement with the SPS board. We are flexible and are moving into a new era of more constructive industrial relations. I do not think that a 23 April situation need occur again.

Angus MacKay: I hear what you are saying. That is a full description of a range of activities in the past year. There seems to be an improvement in the relationship between the staff side and the management side. On the back of that, are you optimistic about prospective negotiations on working practices that might have to take place between the trade union side and the management side in respect of any possible future PPP prisons in Scotland?

Jim Dawson: Our confidence in the management of the Scottish Prison Service is probably higher now than it has been for many years because of the voluntary industrial relations agreement and the commitment to a partnership agreement. For example, although there is a national framework for attendance systems, the national committees were not involved in the local negotiations because the need to be flexible was recognised. There is no single attendance pattern

that will suit all sixteen of the establishments and the two special units. The national framework is agreed and then the governors and the branch committees decide what best suits their establishments.

John Shannon: I would like to say something about the report that I was asked about earlier. It is called the "Review of PFI and Market Testing in the Prison Service" and deals with the question of how best to develop the contribution of the private sector—particularly through the private finance initiative—to the objectives of the SPS. On the issue of who should build and run new prisons, it states that there are three alternative operating models: public sector; private sector; and mixed management, which involves responsibility being shared between the public and private sectors. It says:

"Recent tests have demonstrated that the public sector can, with competition, match or better the private sector in price and quality and the trade unions are to be congratulated on their goodwill and imaginative input".

The report deals with England and Wales but I would presume that we would operate in the same way.

Angus MacKay: As we heard in the debate in the chamber, many members have considered the options that have been assessed in the prison estates review and are aware that there are only those three options. There is nothing fancy about it. Many members have asked whether it is possible to fashion a joint model that could impact favourably on the overall level of costs while meeting the objectives of management and trade unions. A lot of us feel that, in order to do that, there will need to be a further coming together of management and trade union thinking. I am asking you this question in order to allow you to put on record your willingness to talk constructively about new working practices in new prisons.

Jim Dawson: Working constructively in that manner is not new to us. As long ago as the beginning of the 1990s, Barlinnie market tested privatisation of the works areas. Private contractors still do maintenance in Barlinnie, but with our assistance rather than being in conflict with us. The pharmacy is private and we have private services for social work, medical care and dentistry. All of those elements are part and parcel of any prison establishment and we all work towards making them work. We do not try to put spanners in the works.

The Convener: I see what you are saying, but the information that we are receiving indicates that the terms and conditions for prison officers, whose salaries make up the largest cost for a prison, are not as good in the private sector. We understand that the working conditions, promotion structure, pay, hours and so on are different in the private

sector. I would like to hear your views on that.

Jim Dawson: In 1995, we went through a staff and structure review that brought in a two-tier system for prison officers. That recognised that not all prison staff had the same input and quality of contact with prisoners and that, because of that, officers who do peripheral activities should not be paid as much as those who work intensively with prisoners. For those who do peripheral activities, the starting wage went down by £3,000 to £12,500 and has not increased in seven years.

The Convener: Is that in the public sector?

Jim Dawson: Yes. Those officers also have a comprehensive pension scheme. I make no apologies for that scheme being in place. The political view at the moment is that everyone should make their own provision and should not be a burden on the state. However, if we did not have that pension scheme, where would the bill go? Kilmarnock and other Premier Prison Services establishments provide no pension scheme, which means that the public sector picks up the bill, albeit from another budget.

It emerged from the debate last week that members wanted to break away from holding central negotiations and instigate local pay bargaining, local allowances and so on. With respect to the committee, I think that that would be a total disaster. Premier Prison Services can do that because it has one prison; we cannot do it, because we run a national prison service. It is a mobile service, the members of which can be posted to any of our establishments at any notice at any time.

That became a very important factor in the 1980s and 1990s, when anarchy almost reigned in our prisons. It was every hand to the pump. Every member of the Scottish Prison Service worked as a single unit against that. If we have local pay bargaining and local pay and conditions, I cannot imagine that we could maintain that unity and continue to provide that service.

15:00

The Convener: You have addressed that point, but—forgive me, I am not sure whether I heard correctly—you did not address the differentials between private sector pay in Kilmarnock prison and SPS pay. Could you address and clarify that for me?

Alan Denney: We will clarify that as best we can. In last year's pay negotiations, we repeatedly had thrown at us the competitive position of Kilmarnock prison. We repeatedly asked for information so that we could make the comparison, but that was not provided. Our information and understanding is that there is a

significant difference in pay. The rate at Kilmarnock is possibly as low as 60 per cent of the SPS pay rate for the operational front-end prison officer or staff member. That is reflected in the report of the chief inspector of prisons. Why else is there a lack of commitment to the job and a 30 per cent turnover in the number of staff at Kilmarnock? People there have no real commitment to the future of the rehabilitation programme and the prisoners.

There is a significant difference, which cuts to the core of the argument over whether prisons should be privately built and privately run, privately built and publicly run or publicly built and publicly run—public-public for short. Do we really want the work that is required to rehabilitate and develop offenders in order to bring them back into the community to be undertaken on basic minimum-wage levels? It is a fundamental issue, and we have to ask ourselves whether that is what we want. If it is, we should go for the privately built, privately run model and face the consequences.

Stewart Stevenson: How many days' training a year do staff get in the public sector on average, and how many do they get in the private sector?

John Shannon: In the public sector, every officer is guaranteed five days' training per year and every first-line manager is guaranteed seven days. We could not comment on that in relation to Kilmarnock, as we do not know the figures. However, in the establishment where I work, a new member of staff was recruited from Kilmarnock. He was a fully qualified prison custody officer, specialised in short-duration breathing apparatus training and control-and-restraint training. He already had all the skills required to work at Kilmarnock. When he joined the SPS, he asked whether he still had to attend the full training course, given that he had those skills. The answer was yes, because the public sector has far superior training compared with what is required in the private sector.

Michael Matheson: I would like to raise a point about Kilmarnock prison, but are we on to that yet?

The Convener: Not quite, but bear with me.

Michael Matheson: Could I put this point to the witnesses in any case? I was at Kilmarnock prison yesterday, and my understanding is that staff who work there undergo training similar to that undergone by those in public sector establishments. I understand that they undertake a seven-week training course. What would the unions' view be if an officer in the public sector who had completed his seven-week training programme were put straight into a hall to work with long-term offenders?

Jim Dawson: We would view that as slightly reckless. We would be endangering the health and safety of the newly trained custody officer. Our system involves a probationary period, during which the officer undergoes six Scottish vocational qualifications. He can move on to certain parts of his training only on attaining those SVQs.

Coming into contact with prisoners requires a certain degree of experience. Our new recruits go into peripheral activities, such as escorting prisoners and other security activities. An officer would carry out those tasks for at least a year before going into residential blocks. That acclimatises them to the prison regime and gives them an insight before they become intensively involved with prisoners. That is right and proper and ensures not only the security of the prison but the health and safety of the staff. It may seem like a rigmarole, but we do a complex job, and over the years it has been established that officers need that kind of training. Until 18 months ago, there was a two-year probationary period.

Michael Matheson: If the SPS said to you that it wanted all the new recruits to go straight into the halls, what would you say?

Jim Dawson: I would say that that would be most disingenuous, bearing in mind that the staffing structure review and the two-tier prison officer system were the idea of the Scottish Prison Service—the trade union side never agreed with it. We must be the only industry in the past 40 years to have gone down the road of introducing demarcation lines. Before the staffing structure review, we had a fully flexible work force in which everyone could do every job. We do not have that now. That was the route that the SPS chose to follow in 1995. We would be happy to return to a one-tier prison officer system.

Michael Matheson: In your experience, is a custody officer who has completed his seven weeks' training ready to move into work with long-term offenders immediately?

Jim Dawson: Yes, but not on his own. When my colleagues and I did our prison officer training, on return from the training school we went to work with prisoners, but only as the second man. We were never in charge. We always had a number one man in the gallery as a mentor and leader. The number one man was responsible for running the gallery and the second man was still undergoing training. We did not get to be in the number one position until we had successfully completed all our training.

The Convener: How long would that take?

Jim Dawson: At that time it was a year.

Maureen Macmillan: Can I go back to comparing the costs of running the public sector

and the private sector? I hear what you say about pay and conditions in the private sector, but I am not sure whether we are comparing like with like. In the review, there is a vast difference between the costs of running a prison in the public sector—even a privately built prison in the public sector—and the costs of running a prison in the private sector. Is the review comparing what it would cost to run a similar type of prison in the public sector and private sector, or is everything that is done in the public sector lumped together? Have you any idea how it was worked out? Do you think that the costs in the public sector could be brought down?

Jim Dawson: I do not know what mechanism was used. The comparator that one would use is the cost per prisoner place. Clive Fairweather's report breaks it down by individual establishment. The Scottish Prison Service's annual report, which is available in libraries and such places, includes the cost per prisoner place, across the board. This year, that figure is something like £29,000, which takes into account the fact that we have a central stores area, the SPS headquarters and the college. Those are all costs that we bear but Kilmarnock prison does not. Indeed, we do some of the training for Kilmarnock, which has neither a training school nor a prison service headquarters. I am not saying that that is wrong, but it is a fact. Kilmarnock is one prison and has no need of a prison service headquarters.

The way in which we unravel all the costs and take out those elements is what dictates whether we have a true comparator.

Maureen Macmillan: Thank you. I do not think that we have got that.

Angus MacKay: I want to go back to the issue of pensions. I wonder whether you are selling the current position a little short. For the benefit of the committee, can you tell us what sort of pensions scheme the Prison Service operates? Is it a fully contributory scheme?

Jim Dawson: With respect, you could answer your own question. We are all in the same scheme—the principal civil service pension scheme.

Angus MacKay: Right.

When you said that the public sector would end up picking up the tab somewhere, what did you mean? I cannot envisage a way in which the public sector would deliver an equivalent pension to someone who was not working in the sector.

Jim Dawson: The answer to that question is fundamental to the argument about employment costs. Contributions to the Scottish Prison Service pension scheme vary between 12 and 26 per cent. From my experience, I would say that the average figure of 16 per cent that was supplied to the

committee is probably correct, because there are more people in the lower ranges of the pay scale.

The private prisons do not provide a pension scheme. The state picks up the pensions bill through the Department for Work and Pensions. Rather than funding pensions for staff working in private prisons through the price of prisons—as we do in the public sector—we fund them through DWP benefits.

Angus MacKay: I understand the general comparison that you are making. However, I was cavilling at the suggestion that the value to individuals of benefits or of a state pension would be equivalent to the value of the Scottish Prison Service pension scheme in which your members currently participate. I do not say that to suggest that there is a possible cost saving from private prisons. I am trying to make the point that we are dealing with individuals' terms and conditions, which are clearly important to them, their families and their communities. I want to be clear about the worth of the Scottish Prison Service pension scheme.

Jim Dawson: Angus MacKay is correct. However, with regard to pension schemes we need to decide what is right and what is wrong. The political will of the moment is for people to make provision for their retirement themselves. In the past nine or 10 weeks, it has been projected that people will need to work until they are 69 because of shortfalls in private pension schemes. In the public sector we do not face that situation because of the prudence of the Treasury and of chancellors, and because of contributions that have been made to the principal pension scheme. That scheme is about to change, as the new Prison Service pension arrangements will soon come to fruition.

I do not think that it is right and proper that the existence of the Scottish Prison Service pension scheme should be cited as a disadvantage of prisons remaining in the public sector. Indeed, I regard the fact that the state can predict pension costs wholly in advance as an advantage.

Angus MacKay: We agree that the pension scheme is a valuable benefit to your members.

Jim Dawson: Clearly it is.

The Convener: I would like to extend this evidence session by another 20 minutes. Would members like to proceed to consider specifically the situation at Barlinnie and Peterhead, or would they like to address other issues relating to staff morale that we have touched on? I am in the hands of the committee.

Lord James Douglas-Hamilton: If necessary, we must have an extra meeting. This issue is so important that we cannot neglect any part of the

evidence that the prison officers have to give.

The Convener: That is perfectly all right. I will take guidance from the committee.

Michael Matheson: We intended to ask some questions about Kilmarnock. However, yesterday Donald Gorrie and I met trade union representatives at Kilmarnock, who are timetabled to give us evidence. I suggest that we omit consideration of Kilmarnock now and move straight to questions about the SPS establishments.

The Convener: I would be happy to do that. Are members content with the suggestion that Michael Matheson has made?

Members indicated agreement.

The Convener: Do members have any further questions about staff morale?

Lord James Douglas-Hamilton: Yes. How do you think that negotiations with management in the SPS will be affected if proposals to build one or more extra private prisons in Scotland go ahead?

Jim Dawson: We will have to deal with that if it happens. Although the building of further private prisons would cause consternation among our members and on our national committee, it would not prevent us from acting professionally or from representing our members in the remaining public sector prisons. We will continue to do that. We acknowledge that to some extent decisions that are made as a result of the estates review are not the responsibility of the board of the Scottish Prison Service. We recognise that the SPS is our employer and that we must work with it.

Alan Denney: As trade unions, we have wide experience of decisions being taken that we do not like. We take a pragmatic approach to representing our members after such decisions have been taken and do so in a professional way.

Angus MacKay: The witnesses do not have the privilege of seeing our list of prepared questions, but question 7 was effectively dealt with in previous discussions. I will run through my remaining three questions briefly.

The Scottish Prison Service is on record as saying that the delivery of a privately built, publicly operated prison would “present extreme difficulties”, as it believes that

“the integrity of the physical fabric of a prison is inextricably linked to its operation”.

Do you agree with that view?

Jim Dawson: No, I do not agree with that at all. The evidence in the report that my colleague just quoted is that such a prison could be operated successfully and pragmatically without our taking

on extra costs. The report talks about areas where we do not have experience, but I think that we should buy that experience with the contract. That is a hypothetical question, because we have not operated such a prison, and there might be a degree of suck-and-see in it.

John Shannon: Why does the public sector have to build to standards that price us out of the market, although the SPS is quite happy to accept the private sector building prisons to the standard and specification that have been prescribed?

15:15

The Convener: It depends on what one wants a prison to be like. We are not talking about the same kind of build. The operation of a prison is integral to the build. Either a prison has men all moving about—as they do just now at Kilmarnock—to centralised health centres or gymnasiums, with a great deal of movement of prisoners, or those facilities are built elsewhere, in the house blocks, where no movement is necessary. That changes the balance of the costings. That is the problem for us.

Michael Matheson: I presume that the spec of Kilmarnock was approved by the SPS.

Jim Dawson: Yes.

John Shannon: Yes.

Michael Matheson: The SPS obviously felt that what was proposed by Premier Prison Services was sufficient for its purposes. However, when it comes to building something in one of its own establishments, it sets entirely different standards.

Jim Dawson: Yes.

Michael Matheson: Why?

Jim Dawson: That is the question that we are asking and which nobody can answer.

Angus MacKay: When did the SPS last build a prison?

Jim Dawson: It built Shotts prison 13 years ago.

Angus MacKay: When was Kilmarnock prison built?

Jim Dawson: About three years ago. However, in that time new house blocks have been built.

Angus MacKay: That is different from building a whole new prison, although it is building work. This is perhaps not the place to ask about that. We should perhaps ask SPS representatives.

Donald Gorrie (Central Scotland) (LD): I apologise for the lateness of my arrival at the committee.

The Convener: It is all right, Donald. I meant to welcome you some time ago, for the *Official*

Report—you have not just appeared.

Donald Gorrie: I was working on the Freedom of Information (Scotland) Bill, which we will have to struggle with tomorrow.

An issue that arises from the report is the fixed idea that 700 inmates is the right figure for a prison. Do you think that that is right? Do you think that smaller prisons can provide a better personal service to rehabilitate the offenders, or would you like prisons to hold more than 700 inmates? What do you think is the best figure?

Jim Dawson: I think that 700 is a reasonable figure. If we get the staffing levels and regimes right, we can deliver what we want to deliver. The report makes the point that the smaller the prison and the fewer inmates it holds, the greater the costs are. There is a balance to be struck. I speak from my experience of existing prisons. Barlinnie has sometimes held up to 1,300 inmates, which gives a really chaotic day-to-day mix and is a nightmare to run. As a figure to aspire to having, 700 does not seem unreasonable. It is manageable.

The Convener: I have a further question about the building, what you are building it for and how you are going to operate it with prisoners. We have not addressed rehabilitation and I do not want to open up the whole package. However, if rehabilitation is higher up the agenda, how will that impact on the design of the prison? I do not know whether that will have an impact—I am asking you. Will it change the requirements in any way?

Jim Dawson: Rehabilitation could impact on the design. It could also impact on the financial returns. The Kilmarnock contract is a work contract, not an offending behaviour contract. There is a return through its work sheds and what it produces. Obviously, less time is spent at work on a rehabilitation and challenging offending behaviour contract. I note that, according to the chief inspector of prisons, penalties are imposed on prisoners if they miss a certain number of work periods, for whatever reason.

We need facilities for challenging offending behaviour, for drug rehabilitation and for expanding mandatory drug testing. How much is needed depends on the size of the jail and how much we want to do. For example, the present target for mandatory drug testing is a minimum of 10 per cent. I have no doubt that the minister would like to see that extended in future, so we would need more facilities, which would have cost implications.

The Convener: We are now digging deeper into the business of comparing apples with apples.

We have another few minutes before we begin to discuss Peterhead and the sex offender

programme. If members have questions that are not about Peterhead, they should ask them now before we move on.

Angus MacKay: The estates review states that, for the same cost, two prisoner places of an equivalent quality can be provided by the private sector for each place that the public sector provides. Do you agree with that statement? I would be very surprised if you did. What are your views?

Jim Dawson: It depends on the type and standard of facility that you want prisoners to be incarcerated in. If you want us to build Kilmarnock-type prisons, we can do it for the same price. If you want us to maintain our high standard of specifications—with the sort of facilities that the convener has hinted would be available in the new buildings, such as weight-training and fitness rooms, medical rooms and pantries—either we can sacrifice standards and provide the same number of prisoner places, or we can maintain our standards with a view to encouraging the private sector to increase its standards at some point in the future. It is a matter of balancing what you want, and we have to ask, “Do you want like for like?”

Angus MacKay: My problem is that the question does not really leave much room for fudging the issue. Somebody is wrong, because the SPS's assertion in the estates review is that the private sector could provide two prisoner places for the same cost as the public sector could provide one place of an equivalent quality.

Alan Denney: I fundamentally disagree with that statement.

Phil Fairlie (Prison Officers Association Scotland): It is important to note that that is based on the assumption that the estates review is comparing apples with apples. That is where those figures come from. Our contention is that the comparison that is made is completely inappropriate.

Angus MacKay: We shall raise the matter with representatives of the SPS when they come before the committee, but it is useful to get your views on record.

The Convener: In other words, we are looking at the difficulty in costing prisoner places. That takes us back to what you said about all the factors that are involved and how you can tease out the other assets of the SPS that are put into that prisoner place cost.

Stewart Stevenson: My question refers back to something that was mentioned earlier. Do you know how many staff in the Scottish Prison Service and how many staff employed by Kilmarnock Prison Services are in receipt of

working families tax credit?

Jim Dawson: We have only anecdotal evidence. We know that some of our own staff are in receipt of family tax credits, because the low starting wage that has got them out of unemployment does not meet the basic standards. As far as Kilmarnock is concerned, we have heard stories, but they are no more than that and we could not say anything specific about them.

Stewart Stevenson: That is a question that the committee might want to direct to Kilmarnock Prison Services or the unions that represent Kilmarnock staff. Because working families tax credit is paid through payroll, the statistics will be available to the employer.

The Convener: I would like to close this part of the discussion. I know that everybody feels constrained and rushed, and it is extremely difficult to get all the answers that members want. I will try to return to issues that we have not managed to address. I now want to move on to Lord James Douglas-Hamilton and Michael Matheson, who have questions about the situation at Peterhead prison and the sex offender programme, which is the kernel of the argument about whether to keep Peterhead open.

Lord James Douglas-Hamilton: The minister suggested that the buildings at Peterhead were out of date and would have to be renewed. In your experience, how do the buildings at Peterhead compare with other elderly prisons, such as Barlinnie, Saughton, Perth, Aberdeen and Inverness? Are they considerably worse or are they on a par?

John Shannon: I will refer to Aberdeen, where I work. Aberdeen prison is a Victorian prison that was built at roughly the same time, to the same design and with the same internal dimensions as Peterhead. Every cell in Aberdeen prison has integral sanitation and power.

Lord James Douglas-Hamilton: Peterhead's structure is not unique.

The minister suggested that a problem with visiting facilities is that before prisoners in sex offenders units are released, they are taken to other prisons, and that it is more convenient for social workers who live in the central belt to visit those prisoners at prisons other than Peterhead. How important is the consideration that a situation might be more convenient for social workers?

Jim Dawson: To reintegrate sex offenders into society, such contact is extremely important. I do not necessarily agree that having to transport such prisoners at the end of their sentences is a minus. What is important is having such prisoners in a facility that can concentrate more on challenging their offending behaviour and delivering the

treatment and rehabilitation that they require. The fact that we bring them to a central position—although it is not always central, as the whole of Scotland is used—for release is not a drawback.

Lord James Douglas-Hamilton: In other words, social workers could travel to Peterhead, if necessary.

Jim Dawson: Yes.

John Shannon: The Prison Service's agreement on the areas from which prisoners come is that no prisoner will be liberated from Peterhead into the community without first returning to the prison that is nearest the community from which they come and to which they will return.

Lord James Douglas-Hamilton: In a written submission last October, the Prison Officers Association said in relation to the proposed closure of Peterhead that

"the closure of a successful prison would have a demoralising effect on all S.P.S employees."

Will you elaborate on why that would demoralise all in the service? Is the implication that the prison's closure would have a serious knock-on effect elsewhere, which would be to the detriment of the Prison Service as a whole?

Jim Dawson: There are a couple of reasons for that comment. One is that success is being met with closure. For example, the governor of Dungavel achieved 100 per cent drug-free status, which is a commendable achievement, only for Dungavel to be closed. Staff see success being attacked. Peterhead is in the top three in the world for what it provides, so why would we consider closing it? That has a demoralising effect that will pervade other prisons.

If the worst scenario occurred and Peterhead closed, we would make every effort to retain the former Peterhead staff at whatever facility sex offenders went to, because a tremendous amount of investment has been made in those people's training. We also have the evidence of what those staff provide and how they can provide it.

Such a move would have a knock-on effect on the staff at the prison to which the Peterhead staff went, because the Peterhead staff would replace them. I live in Glenochil, which is being mooted as the new sex offender prison. Staff morale is reducing and staff tension is increasing there every day, because staff wonder where they will go if Peterhead closes and its staff move to Glenochil.

Lord James Douglas-Hamilton: Do you imply that closing Peterhead and moving the sex offenders unit to Glenochil would displace a large number of prison officers at Glenochil, who would become unemployed or have to move elsewhere?

Jim Dawson: There would be a domino effect. I am talking about what the closure of Peterhead would mean for people in other areas.

Phil Fairlie: The rest of the staff in the service hold Peterhead in the same esteem as committee members and people who have visited the prison do. The concern is that if such a well-renowned establishment faces a threat, the rest of the service is a hell of a lot more vulnerable. If Peterhead is up for closure, no establishment is safe.

The Convener: Have the prison officers at Peterhead discussed or been given information on their options? The association has taken the position that all the staff should go together, but have the staff been party to any discussions?

Jim Dawson: The staff have received a visit from an operational director, who has explained the recommendation, its possible ramifications and how long the procedure will take.

There will be an option of transfer, and the Scottish Prison Service will keep its options open on severance packages and so on. There has been a basic amount of information; there will be no more than that until concrete decisions are made and we know what is actually happening.

In my opinion and in that of many specialists, the staff at Peterhead have the most difficult role in the Scottish Prison Service. To work in an environment that involves challenging the offending behaviour of sex offenders is a specialist role, which we are not all cut out to fill. It brings with it certain stresses and a requirement to set personal opinions aside. It is a very testing role.

The Convener: As you may know, we are to have a presentation on Peterhead.

15:30

Michael Matheson: I wish to focus on the STOP 2000 programme, which is predominantly delivered at Peterhead, although there is also a unit at Barlinnie, which I will come to later.

In his report last year, Clive Fairweather stated:

"Peterhead had become an internationally recognised centre of excellence for the management of sex offenders through the STOP programme".

If Peterhead were to close, what would be the implications for the delivery of that internationally renowned programme?

Jim Dawson: I cannot answer that question fully without knowing where the prisoners are going. I can say that the success of Peterhead prison is based solely on the fact that there are no prisoners there other than sex offenders. The result is that prisoners are not under constant physical and verbal abuse, as they are when they

are contained in other establishments. More importantly for the prisoners, their visitors do not get verbal and physical abuse in the visit room or in the run-up to the prison.

Michael Matheson: If Peterhead prison were closed, prisoners would be transferred to specialist units within other SPS establishments, for example HMP Glenochil. Can STOP 2000 be delivered as effectively in an isolated unit within another prison as it can through the current arrangements at Peterhead?

Jim Dawson: A prison that is not a total sex-offender prison would be an absolute disaster, and the Scottish public deserve better.

Michael Matheson: Why do you say that it would be "an absolute disaster"?

Jim Dawson: Because prisoners who are sex offenders who are integrated into other prisons, where normal prisoners are going about, are looked upon as being second-class citizens—and I have heard a lot of other adjectives. The effect of that is that the sex offenders shut themselves away and stay behind their doors, in their cells. They will not participate and they do not integrate. That would be an absolute disaster. It would wreck our programmes for challenging offending behaviour.

Michael Matheson: In evidence last week, the former governor of Barlinnie prison pointed out that the STOP 2000 programme is delivered in the sex offenders unit there.

Jim Dawson: There is nothing in the evaluation that has been carried out to suggest that the STOP programme satellite units are anywhere near as successful in the long term as the facility at Peterhead.

Michael Matheson: Let us be clear: which evaluation are you referring to?

Jim Dawson: Any evaluation. There is nothing to show that the small satellites that operate at Shotts, Edinburgh and Barlinnie are achieving as high a success rate as has been achieved at Peterhead. Peterhead has been evaluated not by us but by international specialists. That has not been done at the small units at Shotts, Edinburgh or Barlinnie. Until there is evidence to suggest that those small units can be successful, I would very much doubt any anecdotal evidence that is supplied.

Michael Matheson: Would it be fair to say that your view is that it would be wrong even to consider closing Peterhead and moving towards having segregated units in other establishments until the existing segregated facilities at other prisons have been properly evaluated?

Jim Dawson: That is the first step that is

required. We would need to see evidence that such segregated units can work. Our experience to date suggests exactly the opposite. The pressure on prisoners comes not only from what happens to them or how they are treated, but from what happens to their visitors and how they are treated. Not every establishment in Scotland has the ability or the facilities to separate visit arrangements for sex offenders and ordinary prisoners, if I can put it like that. If such facilities are not available, we denigrate the STOP programme and take a road to ruin.

The Convener: Are there any further questions from Donald Gorrie or Lord James Douglas-Hamilton on the STOP programme, before we move on to discuss the fabric of the building? Donald Gorrie visited Peterhead.

Donald Gorrie: I am content with the information that we gained when we were at Peterhead.

The Convener: I see that Stewart Stevenson wants to come in. Could you be brief? I have been very generous because I know that you have a great interest in the issue, but we will have plenty of other opportunities to discuss the points.

Stewart Stevenson: I am immensely grateful for your indulgence.

The Convener: That did not sound sincere, but on you go.

Stewart Stevenson: Oh it is sincere, believe me.

Does Mr Dawson have any indication of the costs that might be associated with closing Peterhead, transferring staff and building up a new unit elsewhere?

Jim Dawson: We would need to know the effect on the provisions that staff may have made. It is highly likely that some staff will wish to transfer, but some will wish to stay where they are—mainly, I imagine, because they are approaching retirement, have made provisions for that and feel that it is late in their career to consider moving away. We do not have a cost for staff transfer.

Glenochil is being touted as the replacement jail. It will require some refurbishment—the young offenders institution there is about to be knocked down. With capital costs, the costs of transferring staff and severance packages and so on, we do not even have a guesstimate figure.

Stewart Stevenson: Do the reports that are before the Parliament take no account of any transition costs?

Jim Dawson: It is impossible to have a guesstimate figure.

The Convener: I did not want to crush you,

Stewart: the constituency MSP is perfectly entitled to ask questions.

We move now to discuss the fabric of the property.

Maureen Macmillan: We have been told that Peterhead is on its last legs, that it has no integral sanitation, that it has problems with power and hot and cold running water, and that its foundations are crumbling. Mr Rattray, the former governor, said that water was seeping in. I would not have thought that there is much life left in the building. We are considering the best options.

Jim Dawson: What you say about the building is perfectly fair. Around 1989 or 1990, plans were drawn up for a replacement prison on the site. For whatever political reasons—from a bygone age—it was decided that the replacement would not go ahead. However, the plans have been kept to one side.

The fact that a replacement was considered means that, since then, investment in the existing prison has been minimal. I cannot dispute the statement that work has to be done on the fabric of the building. Because of the building's construction, it would probably be cheaper to demolish it and build a new prison. I do not have all the figures in front of me to enable me to make that statement with full confidence, but I feel that the proposition is perfectly reasonable. The building is old and requires greater investment in its upkeep as well as in its fabric, so it may be prudent to build a new prison. We suggest that such a new prison should be built on the site. Construction could start now. The land is there and the plan has been there since around 1990.

Maureen Macmillan: What size would that prison be? The figure of 300 places has been mentioned.

Jim Dawson: If we include the satellites and the main prison, the ideal figure would probably be around 500.

Maureen Macmillan: Would that figure include young offenders or offenders with very short sentences?

Jim Dawson: One reason for excluding young offenders is the rules in the Prisons (Scotland) Act 1989, which say that adult and young offenders should not be integrated. With the lack of facilities at Peterhead, it would be impossible to keep them apart. If keeping them apart was on a wish list for a new build, there is no reason why it could not happen. I do not have the figures for young offenders or sex offenders to allow me to say what would be feasible or cost-effective. That would require further research.

Maureen Macmillan: It may not be good practice to have young offenders in with the older

offenders, even if they are all sex offenders.

Jim Dawson: I agree that it is not best practice to keep them together. If we are going ahead with a new build, and if we have identified a need for a specialised unit for young offenders, such provision could be made. We have two units within Shotts prison that operate completely independently of the main prison.

Maureen Macmillan: What about short-term prisoners? It has been said that it is important for short-term prisoners to remain close to their communities because they need a lot of interaction with social work and housing services and so on. If they are in prison for only a couple of years, they should not be sent as far away as Peterhead.

Jim Dawson: We need to reconsider what we mean by a short-term prisoner. It is a fallacy that a short-term prisoner is one who is serving up to four years. That is not short term in my view. I consider a short-term prisoner, and so someone whom I would not seek to put in a specialist unit so that they could keep in contact with various services and so on, to be someone who is serving seven, 14 or 21 days—certainly not someone who is a sex offender. Whatever they do with the prison rules, someone who is serving four years is not a short-term prisoner. Furthermore, somebody who is serving two years should not be denied access to specialist treatment and courses if they require them, simply because they are called a short-term prisoner.

John Shannon: If there was a 500-place prison in Peterhead, it could be filled with prisoners of like offences without any difficulty.

The Convener: I want to clarify something about the building having reached the end of its useful life. I visited the prison and I accept that there is no sanitation or electricity in the cells, but the building itself seems sound. We are not talking about the huts at Low Moss—Peterhead is a solid-looking establishment. What is your view of the structure of the building?

Jim Dawson: The building's structure is robust and with repairs it could last for quite a long time. However, that is not the problem. The problem is its suitability for upgrading, to provide the 21st century facilities that we want to provide. Our newer prisons and house blocks have in-cell sanitation and power sources.

The Convener: That was not a challenge. I want to clarify the situation. At Low Moss, the building is ready to fall down, and that is not the case at Peterhead. However, Peterhead lacks other facilities and it may not be possible to adapt it. My point is that the building is not about to collapse.

Jim Dawson: The problem is not the building, but its upkeep and upgrading.

Stewart Stevenson: I believe that the chief inspector of prisons' report on Peterhead, which is due shortly, will cover extensively the state of the building.

Lord James Douglas-Hamilton: Am I correct in thinking that there are something like 500 sex offenders in the prison system and that a prison for 500 would broadly accommodate the current number of sex offenders? Is it correct to say that of those sex offenders, many offended against members of their immediate family, so that the demand for visiting is not the same as in other prisons?

Jim Dawson: That is correct. It is fair to say that a 500-place prison would be full almost as soon as it opened, because we would seek to centralise all sex offenders. We would not have satellite provision at Shotts, Barlinnie and Edinburgh.

The demand for prison visits for sex offenders is quite low in comparison with the demand for other prisoners, because many sex offenders have offended against family members and the family often wants to keep well away. Those are simple and well-known facts. That opens up another discussion about where sex offenders are placed, the infrastructure that is needed to cope with them and all the other questions that snowball from that.

Donald Gorrie: For good reasons, the deputation was keen that the new prison at Peterhead should be for 500 prisoners, rather than 350 as it is at present. Is there enough space on the Peterhead estate to build a modern prison that is suitable for 500 people?

Jim Dawson: I have walked the estate and its size is more than adequate for a 500-place prison.

15:45

Angus MacKay: When you say that the size of the site is more than adequate, is it more than adequate without knocking down the existing prison or are you allowing for knocking down the prison that is there?

Jim Dawson: We could build without knocking down the existing prison. That might mean sacrificing some regimes while we do that. Once we had completed the task, we would have a custom-built prison, with areas available for work parties, social work rooms, visit facilities, or any specialist facilities that we wanted. The site is very large.

The Convener: I know that members are busy, but I recommend a quick site inspection. It is difficult to appreciate the site and the facilities without going there.

Paul Martin: A percentage of prisoners at Peterhead—those who have not offended against family members—are entitled to visits. How do we deal with that? We should move away from family members being prevented from visiting on medical grounds. I understand that about 40 per cent of prisoners have not offended against family members. Are not those prisoners entitled to local access?

Jim Dawson: They are entitled to access; whether they are entitled to local access is the subject of debate. We must examine our experiences to date. No prisoner has gone to the prison ombudsman about being incarcerated in Peterhead because it is too far away. We have an accumulated visits system, whereby a prisoner can serve so long and then return to a prison near his home for a number of visits. Such measures are in place and are used by prisoners. We make every effort. I must stress that incarcerating people in Peterhead does not represent a conscious decision to cut people off. A percentage of prisoners deserve and want visits and every effort is made to give them those visits. Organisations such as SACRO—Safeguarding Communities Reducing Offending—run special buses to Peterhead every month to accommodate people who are probably not in a financial position to make the visit under their own steam. Those people are well looked after by such organisations.

The Convener: I am conscious that we are running well over time. I ask for the forbearance of the members of the Association of Visiting Committees for Scottish Penal Establishments. We had expected to finish the present part of the evidence-taking session by 3.20 pm, but I will allow Paul Martin to ask about Barlinnie.

Paul Martin: What are the union's views on the proposed reduction in capacity to 500 prisoners?

Jim Dawson: I refer you to our Barlinnie resident, Mr Still.

Malcolm Still: We would like Barlinnie's capacity to be brought up to 800 places. Further public investment would be necessary to achieve the required standards. Renovation is going on. B hall has recently been renovated and untried prisoners have moved in. C hall is about to be renovated and D hall has been renovated. We seek further investment to bring Barlinnie up to a capacity of 800 places.

Paul Martin: The survey that was carried out in August 2001 identified serious staff morale issues, one of which was connected to communication with management. Has communication improved since the publication of that report?

Malcolm Still: Staff morale is still very low, although we hope that things will improve during the coming months.

Paul Martin: Is morale low because of communications with management?

Jim Dawson: There was a communication problem. We have had a change of governor at Barlinnie. We welcome the change and await the results of his different style of management. It was a lack of communication rather than the style of communication that caused a problem. It is difficult to slate the local management for that because, like us, it was waiting for information from the estates review. The fact that there was not a lot to communicate was the reason for the impact on staff morale, not just at Barlinnie—which, I appreciate, is your special interest—but right across the board. A domino effect takes place when negative announcements are made. Even a prison officer who was not in a prison that was going to be closed would have worried about what would happen to his prison as a consequence of the review. That feeling was pervasive across the prison estate.

Paul Martin: The estates review considered a number of options for improving conditions at Barlinnie: full refurbishment of the halls; rebuilding on the site; and the retention of the fully refurbished hall, coupled with the building of a new house block, which is the recommended option. What is the union's view on those options, particularly the recommended one?

Jim Dawson: There are various ways of looking at the question. I am told that the building fabric of Barlinnie is second to none and that anything can be done with it because it is robust and thick. The problem with such a building is that it is expensive to change. I would prefer a custom-built facility—such as Glenesk hall in Edinburgh prison, which I recommend that members visit—which is easily heated and has good facilities, to be the option for the future.

Paul Martin: That is almost a political answer. Are you saying that the building of new facilities would be your preferred option?

Jim Dawson: Having seen what can be incorporated in new buildings and how much more user-friendly they are, obviously I consider that to be my preferred option. Barlinnie, Perth and Peterhead do not want to move into the 20th century; they want to move into the 21st century with everyone else. Glenesk hall demonstrates the sort of prison building that it is possible to build. It is much more user-friendly for staff and, importantly, prisoners.

The Convener: We have made arrangements for some of us to visit the new build at Edinburgh prison.

It would be unfair to leave out Low Moss prison, so I will ask a couple of short questions about it. First, the SPS claims that there is absolutely no

debate about the unsuitability of Low Moss. Will you comment on that?

Secondly, if Low Moss were to close, 170 staff would be displaced. Can you tell us how their morale is? Bearing in mind what has been said about the domino effect, can you tell us what would happen to the staff?

Malcolm Still: I am the representative for Low Moss and can tell you that staff morale there is the lowest that I have ever seen. As I said, a feasibility study was published on 21 April 2000. As far as staff were aware, work on that was moving at a rapid pace under the then governor, Eric Murch, but the issue seemed to fall off the shelf at some point and nothing has been done with it since.

The Convener: Do you agree that the buildings at Low Moss are past saving?

Jim Dawson: Yes.

Malcolm Still: Without a doubt. The local branch committee and staff accept that and were happy with what the report said about new build on the Low Moss site.

The Convener: We will read that report and get back to you with some written questions if we have to.

I apologise that the reference to Low Moss was brief. We have a range of issues to cover and are under pressure to do so within a set time scale.

I thank our witnesses for their evidence and welcome the extremely tolerant representatives from the Association of Visiting Committees for Scottish Penal Establishments. We have with us Marjory Russell, the convener, and Neil Powrie, a sub-committee member. Both have attended the committee before.

Good afternoon. I know that you have listened to the previous evidence and I hope that you found it useful, although it took a long time. For those members who have not seen you give evidence before, please briefly tell us about the association and your position within it and explain the role of the committees, so that we have some background.

Marjory Russell (Association of Visiting Committees for Scottish Penal Establishments): The association has a representative from each prison visiting committee. Every prison and every young offenders institution has a visiting committee. The association elects a convener for three years and I am just approaching the end of that sentence. Neil Powrie is on the committee to represent open prisons. Again, that is a three-year appointment.

The Convener: What is a visiting committee's role?

Marjory Russell: Every prison is visited by two of us every fortnight. We look at whatever we want to look at. Mostly we take complaints from prisoners, but we generally talk to prisoners, members of staff and the governor. We are obliged to make a report. We try to solve any problems that arise with the prisoners. We do that all over the country in every prison.

The Convener: How does the work of the individual committees filter into the association's role at the top of the pyramid of committees?

Marjory Russell: The association meets every two months and goes round the prisons as well. We always meet in a prison so that we can judge for ourselves what the place is like. We have recently visited prisons such as Peterhead and Low Moss, which were mentioned today. That keeps us up to date on exactly what is happening. We know what the worries and high spots are in the different establishments.

The Convener: To clarify for the record, are your visits to prisons prearranged?

Marjory Russell: The visits that we make as the association are prearranged. The visits that we make as visiting committees are not prearranged. We are entitled to drop into the prison at any time of the day or night. We try to carry out our visits with sensitivity to lock-up arrangements, but we have the right to visit whenever we have a worry.

The Convener: Perhaps this is not a lady-like question—I have greying hair too—but how long have you been involved in visiting prisons?

Marjory Russell: Thirty years.

The Convener: And how long has Mr Powrie been involved?

Neil Powrie (Association of Visiting Committees for Scottish Penal Establishments): Since 1996.

The Convener: I know that, in its juvenile days, this committee was remiss in not asking the visiting committees to present evidence, but I am glad to say that problem has been remedied. You have expressed concern that the Minister for Justice did not take into account your report, which you forwarded to members of this committee. Will you comment on your relationship with the Minister for Justice? For instance, how often have you met him this year? What topics did you deal with?

Marjory Russell: We have not met him at all and we have not had a reply to our letter. He has not been able to come to our conference or to any of our meetings.

The Convener: Have you had any response at all from the minister or from his department?

Marjory Russell: Our only response was from someone saying that the minister could not come. Perhaps Neil Powrie can think of something else.

Neil Powrie: No. That about sums it up. I might add that Mrs Russell and I have just returned from attending the annual conference of Northern Ireland's Board of Visitors and Visiting Committees, which receives excellent back-up and support from the minister, who attends the conference and dinner. That is slightly different from our experience with our current minister.

The Convener: What was the position prior to the Scottish Parliament? Did you have communications with the then minister at the Scottish Office?

Marjory Russell: Yes. In fact, I remember Lord James Douglas-Hamilton attending one of our conferences. Brian Wilson also came, as did Michael Forsyth.

The Convener: So is it only with the establishment of the Scottish Parliament and with the current minister in charge that things have deteriorated?

Marjory Russell: Yes. It has deteriorated.

The Convener: With the committee's leave, I think that we will want to contact the minister about his failure to respond to the association's overtures. That seems to be completely different to what is happening elsewhere. In my role as convener, I will write to the minister about that situation. I do not want to cause alarm, but I find that pretty disgraceful. Were your views sought as part of the prison estates review?

Marjory Russell: Yes. Two and a half years ago we were asked about it. You may have seen the report that we produced at the time, in which we said that we were very disappointed. We wanted vision. Do you have the bullet points that we issued today?

The Convener: We do not.

Marjory Russell: I have them with me and will give them to you later.

The Convener: Were the bullet points sent by post to the clerks?

Marjory Russell: Our clerk was planning to fax them to you.

The Convener: Nothing has landed on our desks or on those of the clerks. We met at lunchtime and nothing had been received. Clearly, something has gone wrong.

16:00

Marjory Russell: I shall leave a copy of the bullet points with you.

We are disappointed that all the talk has been of prisoners as blank numbers and of blocks for 700 people. We are not happy with that, as prisoners come in many different categories and require many different things. Members will be aware that more and more youngsters—children under 18—are coming into prisons.

We hoped that the estates review would be an opportunity to discuss better ways of dealing with that problem. In the past year alone, 47 girls under the age of 18 have been remanded in custody at Cornton Vale, although many of them did not receive custodial sentences. That worries us. We wanted the estates review to include consideration of specialist arrangements for groups such as women and young people. We are disappointed by the fact that the prison estate was considered entirely in terms of raw numbers.

During the consultation we were told that the estates review was about providing places for prisoners and identifying the things that were most important on governors' wish lists. All of us came away from that meeting very disappointed, and we recorded our disappointment at the time.

Michael Matheson: I would like to explore this issue further. I may be wrong, but from what you are saying I detect that you feel the estates review is based on figures that indicate a rising prisoner population and that it does not address the wider issue of alternatives to custody. Is that a fair reflection of what you are saying?

Marjory Russell: Yes. We have read about all the alternatives that were going to be tried, but at the end of the review we discover that more people will be imprisoned, even though it was said that attempts would be made to prevent that happening.

One of our bullet points indicates that Texas imprisons a higher percentage of the population than we do, but has a more violent society than we have. We reckon that to have a safer Scotland we must start to consider the needs of offenders. We cannot imprison 15 and 16-year-old girls who have killed people—which is terrifying—unless we make the correct arrangements for them. Tipping such girls into a general prison will not help and will not make the country safer.

Michael Matheson: The estates review suggests that any new prisons will be for males rather than females.

Marjory Russell: I accept that only 3 per cent of prisoners are women.

Michael Matheson: Do you believe that an evaluation of alternatives to custody should have been part of the estates review and that the possibility of expanding those programmes, with a view to reducing the number of people who are

placed in custody, should have been considered? Should we have done that before considering how many prisoner places we require in our prisons?

Marjory Russell: Yes. We assume that correctional excellence will reduce recidivism and that consequently the number of people in prison must fall. To build for 25 years seems mad to us.

The Convener: Am I correct in saying that you believe that there should be an emphasis not only on alternatives to custody, but on rehabilitation of people who have to be placed in custody? Is that correct? I do not want to put words in your mouth.

Marjory Russell: Yes.

Angus MacKay: We cannot view the predicted movements in prisoner populations as heading unequivocally in one direction or another. It is absolutely right to try to pursue a more consistently rehabilitative approach in prisons, but Executive policy on drugs, for example, means that an increasing number of those who have committed drug-related offences will be incarcerated for longer periods of time, particularly those who are accused and convicted of serious drug-dealing offences. That means that the picture of the number of prisoner places that will be required cannot be considered in any rose-tinted way. There will be conflicting demands on the system.

At the end of the day, the Executive has to make policy recommendations that must be approved by the Parliament. It must try to make a judgment about the long-term number of prisoner places that are required and therefore the number of prisons that are required, and that judgment should have some relationship to sentencing policy. However, sentencing is carried out by a separate part of the public polity in Scotland, over which it cannot have control. Therefore, managing down prisoner numbers in the way that you suggest is difficult. There will always be an imperative to ensure that there is a fail-safe of additional places that may sometimes be required beyond what is predicted. I would be interested in your comments on that.

Marjory Russell: Forecasting is difficult, but we were disappointed that all the forecasts were going up. There was no suggestion that forecasts might go down.

The Convener: Do you mean that an integral part of the estates review should have been positive alternatives to custody being worked into balance sheets? I accept what Angus MacKay said: sentences are handed down by the courts. Should that have been part of the estates review?

Marjory Russell: Yes.

Fiona McLeod: I want to explore that issue further. You said that you thought that the estates review looked at raw prisoner numbers. You know

that the debate is about whether the public sector or the private sector can provide the prison service that Scotland needs. I take it that you are concerned that the prison estates review should have considered not just numbers, but services that are provided to prisoners. Did the estates review do that? If it did not, are we unable to compare public service provision of not just a cell but a support service with private service provision of a cell and a workplace?

Marjory Russell: It is difficult to compare even apples with apples. We have all found that there is far more to a prison than just a cell and far more to a prison than integral sanitation. I do not want integral sanitation in the middle of a cell where a prisoner must eat all their meals and I do not think that many people want that, but it is an improvement on slopping out.

The association is fully in favour of getting rid of slopping out, but it is worried about things going private because of a lack of flexibility, accountability and openness. It is hard to find out exactly what is happening in the private sector. One cannot be as sure that one will get figures, because of commercial confidentiality. I am not happy about the idea that everybody is much the same and that putting them into 700-person prisons is an answer. I do not think that it is.

Angus MacKay: What do you consider to be the key challenges that will face the SPS over the next 20 to 30 years? Is the top priority to end overcrowding? Is it to implement a more advanced rehabilitation regime? Is it to end slopping out? What do you consider to be the key priority or priorities?

Neil Powrie: The most important priority at the moment is obviously to end slopping out. We support the moves in that direction. The estates review seems to be a rather long obituary notice for the SPS. It is crammed with things such as public-private partnerships, best practices, best value, benchmarking, measuring outputs and building platforms, but it fails to address the most fundamental matter—rehabilitation of the offender. A greater emphasis should have been placed on addressing reoffending and on education.

Angus MacKay: You mentioned a range of terms. Do you object to those terms or practices?

Neil Powrie: Not as such, but I do not understand how we can make progress when the estates review is totally isolated from ensuring that adequate rehabilitation regimes are in place. The debate seems to be about who provides prisons, not why we need them, for which categories of crimes we need them and how best to rehabilitate. That all seems to have been missed out.

The previous witnesses mentioned that private prisons are in the business to make money. The

emphasis is on contracts for outside companies and organisations so that work can be provided, but that work need not be sufficient for the purposes of the prisoners.

Premier Prison Services conducted its own survey on the matter. Fifty-two per cent of prisoners questioned said that they were not receiving adequate assistance in addressing their offending behaviour. Only 29 per cent thought that the job that they were doing in the prison would help them to get a job on the outside. Even the chief inspector of prisons thought that there were significant weaknesses in the education provision at Kilmarnock and that it was unimaginative.

We must realise that the most important function of prison is to rehabilitate people. On the point about education, 70 per cent of the prisoners who go through our prisons are functionally illiterate. In my view and in the AVCSPE's view, we are not doing nearly enough to rehabilitate prisoners so that, when they are released, they are able to go back into society instead of going through the ghastly cycle of returning to prison.

Angus MacKay: Let me check that I have understood you correctly. I think that you said that the first objective is to end slopping out and the second objective is to improve the quality of rehabilitation that takes place in prisons.

Neil Powrie: That is what I said.

Angus MacKay: The committee's work has a long way to go, particularly on drilling down into the figures that have been presented in the estates review conclusion, which is out to consultation at the moment. We do not know where that consultation will go. If we come to a point at which we are faced with a choice of ending slopping out more quickly by taking the private sector option or not to do so, what would your view be?

Neil Powrie: We do not necessarily need to privatise to end slopping out. I do not understand where the SPS is coming from. The thrust of the estates review seems to be that the SPS is incapable of achieving its objectives and that the only way to achieve them is to privatise.

Angus MacKay: I did not ask for a view on that; I asked a direct question. We may come to a view that the figures that we have been given do not add up and that we can go for the entirely public sector option, but we may not. If, having scrutinised those figures, we come to the view that the only way in which the Executive can afford to proceed with new building is to build, for example, two new private prisons, what would your position be on your primary objective, which is to end slopping out?

The Convener: Could you clarify that? Are you

referring to private prisons that are privately run?

Angus MacKay: Yes. I am trying to work from the same basis as the estates review. We may move away from that proposal—which I assume is a worst-case scenario for most people—or we may not.

Neil Powrie: You really cannot separate the rest of the package and concentrate solely on achieving an end to slopping out. If the only way forward is to build two new prisons by private means, then okay—go ahead. I think that we should support a view that was expressed earlier, which is that that is okay, provided that the public sector runs those prisons. That is where we believe the expertise and professionalism exists. If private build is the way to end slopping out swiftly, that is okay.

16:15

Donald Gorrie: In the light of your remarks about education and our visits to prisons, what is your view on short sentences, which have led to a revolving-door situation? Is there a period that you consider so short that a prison cannot do any proper rehabilitation or education work within it? If so, what length of time would that be?

Marjory Russell: There are definitely short sentences that are no use to anybody. Sentences of two nights give rise to a lot of extra bureaucratic work and, in my opinion, are totally unnecessary. Short sentences of six months are also a waste of time as far as rehabilitation is concerned. Three months of a six-month sentence tend to be served, at which point prisoners will not even have got themselves on a list for rehabilitation. There are big queues of prisoners waiting to go on anger management courses, for example.

Short sentences are not much use for rehabilitation, although I would have thought that they almost certainly should be a deterrent for anyone over the age of 25. Under that age, short sentences do not seem to be a deterrent.

Donald Gorrie: Have your studies and visits given you any views on alternatives to custody, or on well-structured community service obligations under careful control? I am not sure whether that comes into your sphere of activity.

Marjory Russell: That does not come under our remit as members of visiting committees, although we see young people who are in prison because they have breached their conditions outside. One of them took off their tag. They do not seem to be able to see the connection between taking off a tag and ending up in prison. They sometimes have a strange way of thinking about such things. Breaching orders is another thing that they do not understand, and they claim not to understand why

doing so can mean that they end up in prison. That makes us wonder whether it has been properly explained to them in the first place.

The Convener: You mentioned in passing the huge number of people who are waiting for anger management courses. If, in our considerations, we put rehabilitation into the pot in one way or another, where can we find the figures or statistics for inmates who are waiting for courses?

Marjory Russell: I do not think that those figures are centralised. We hear of the situation only when we speak to a prisoner and find out how long it will be before that person can get on a drug course, for example. People want to get on to anger management courses, and I know how difficult it is for them to get on them.

The Convener: In which prisons, as a matter of interest?

Marjory Russell: I am talking about Cornton Vale, but the same is true for Polmont.

The Convener: If the committee wanted to get general, wider information about rehabilitation, we would have to do that prison by prison.

Marjory Russell: Yes, and you might be surprised to know how little information there is about waiting lists for courses.

Lord James Douglas-Hamilton: We have heard that maintaining family links is a "major problem" for offenders at Peterhead prison due to the

"distance and awkwardness of those whose families do visit".

What is the perception of the local visiting committees? To what extent is that a problem, and is it being resolved satisfactorily by prisoners being transferred to prisons in the central belt for accumulated visits, possibly for substantial periods of time?

Marjory Russell: When we were at Peterhead prison last summer, we asked that question of prisoners and found that only a small proportion of them had visitors. Those whose families visited said that SACRO helped with travel if necessary, and that they tended to accumulate their visits and arrange to receive them back at Barlinnie, for example, possibly spending a week there.

Lord James Douglas-Hamilton: As far as you are concerned, this was not a particular problem and no complaints were made to you.

Marjory Russell: It was not raised as a problem and not one complaint was made to us.

Lord James Douglas-Hamilton: I understand that the Peterhead prisoners have emphasised the fact that the prison provides a safe location where they can address their offending behaviour in

safety, without the threat of being attacked by other prisoners. It also enables family members to visit without fear for their safety. Has that view been communicated to your visiting committee?

Marjory Russell: As our submission says, prisoners are definitely more at ease at Peterhead. Even those prisoners who are not on the STOP 2000 programme, and who have not yet accepted that they have committed a crime, are much more willing to move about.

Lord James Douglas-Hamilton: Could it be that the minister's fears relate to the situation 25 years ago, before the sex offenders unit was established and when complaints were made?

Marjory Russell: Until today, I had not heard that visitors were being ill-treated by other visitors.

Lord James Douglas-Hamilton: I do not think that that is an allegation that has been made to us. In the past, there was a problem when many of the most dangerous murderers in Scotland were centralised—or congregated—in Peterhead, rather than being dispersed throughout the system.

In your report, you say that staff morale has never been so low. What are the reasons for that?

Marjory Russell: Any change makes people cross and worried. Are you referring to Peterhead specifically?

Lord James Douglas-Hamilton: Not exclusively.

Marjory Russell: The big changes have upset people throughout the system. Often, partners both work in the prison service and we have had complaints that they cannot go on holiday with their children because of the new rotas. There are also complaints that staff are never able to see their children because they are not home at weekends. That is usually because both partners are involved in the prison service. That would cause problems no matter what service they were in. I am not sure about that point.

Lord James Douglas-Hamilton: Having heard the evidence, would you feel able to send us a letter outlining your key priorities in the field and what your wishes would be?

The Convener: I think that that is covered in the bullet points, which will be available at our next meeting.

Michael Matheson: I presume that you have had reports from the visiting committee in Kilmarnock prison. What things has the committee highlighted?

Marjory Russell: We visited Kilmarnock not so long ago. Before coming here, I phoned all the chairmen of the visiting committees to ensure that everyone would agree with what we put in our

bullet points or said to the committee. I knew that Kilmarnock prison might be the odd one out.

The chairman of the visiting committee at Kilmarnock speaks very highly of the prison. He is fortunate in that the director of Kilmarnock prison gives him access to decision-making meetings and allows him the freedom to move about the prison—that sticks out a mile from the situation in other prisons. His role is an important part of the prison. It is strange how that came across to all of us. The relationship is more like the one in England and Northern Ireland, and it means that the Kilmarnock visiting committee chairman thinks that his prison is the best in Scotland. It is difficult, therefore, for me to separate his views from our views. The rest of the committee chairpeople did not feel the same way as him.

The first thing that we noticed at Kilmarnock was that members of staff—including the social workers and the admin staff—who work in the upstairs area of the prison operate in circumstances that I am sure do not comply with the health and safety at work requirements. Their offices are about the size of this table and they have no windows. In the offices, two social workers have to share one small table. Kilmarnock has saved on office accommodation, but, under those circumstances, it is difficult to conduct the relaxed social work interview that people want to take place. We do not think that that situation is very good, but the Kilmarnock visiting committee chairman seems to be happy with the situation.

Michael Matheson: Why do you think that Kilmarnock prison takes a different approach from SPS establishments? The chairman of the visiting committee at Kilmarnock appears to have been taken fully on board.

Marjory Russell: Perhaps it is historical. Only the appointments to the young offenders' visiting committees, which used to be made by the secretary of state, are made by the Minister for Justice.

Michael Matheson: I am not too clear what you mean by that.

Marjory Russell: The adult visiting committees are appointed by local authorities.

Michael Matheson: Yes. However, I presume that that is also the case at Kilmarnock?

Marjory Russell: Exactly. That is why the Kilmarnock visiting committee chairman stands out. The other visiting committee chairmen are envious—

Michael Matheson: I would like to clarify the situation, or I will become even more confused.

The Kilmarnock visiting committee chairman is appointed on the same basis as any other

chairperson of any other visiting committee to any SPS establishment that deals with adult offenders.

Marjory Russell: Exactly.

Michael Matheson: Right. The chairman in Kilmarnock seems to have been taken into the system to the extent that he has been made a key part of the decision-making process. Why is that? Does that happen in SPS establishments?

Marjory Russell: That would be hard for me to assess.

The Convener: You cannot—you would be speculating.

Neil Powrie: The relationship between the governor and the staff in establishments depends largely on the governor. Some are less helpful than others are—let me just put it like that.

In the main, the relationship between the prison visiting committees and governors and senior managers in the prisons can be very good. However, I have personal experience, as do others, of dreadful relationships between the visiting committee and the governor. In Kilmarnock, it probably all comes down to personalities and to openness. That does not mean that the relationship at Kilmarnock is any better or any less of a relationship than it is at other prisons. The situation depends largely upon how keen the governor is to assist the visiting committee in undertaking its duties.

Michael Matheson: To summarise what you said about the visit to Kilmarnock, did the chairpeople of the other visiting committees come to a different view about the prison than the chairman of the visiting committee at Kilmarnock?

Marjory Russell: Yes. They saw snags that he did not see. However, everybody came away thinking that the prison was a whole lot better than we had been led to expect.

Angus MacKay: It is curious that a difference of opinion should exist between that individual and the other chairpersons of the visiting committees. How many times did the other chairpersons visit Kilmarnock? Was that visit a one-off?

Marjory Russell: No. I think that most of them had been more than once. I have visited Kilmarnock four times. We have all been round it.

Angus MacKay: Has the chairman of the Kilmarnock visiting committee visited other prisons?

Marjory Russell: Yes.

Angus MacKay: Has he acted as a chairman of other prison visiting committees?

Marjory Russell: No. He does not have previous involvement in the prison service.

Angus MacKay: You had the opportunity to visit Kilmarnock more than once, and to look around it at length. He also had the opportunity to visit other parts of the prison service more than once and at length. Despite that, you came to different views. Is that the case?

Marjory Russell: Yes.

16:30

The Convener: How long has the Kilmarnock visiting committee chairman served on visiting committees? You have told us how long you have served.

Marjory Russell: Just since Kilmarnock.

The Convener: Three years.

Marjory Russell: Yes.

The Convener: We need to put that on the record.

Maureen Macmillan: I want to pick up on something that Lord James Douglas-Hamilton asked about visits from prisoners' families. I became confused about the answers. Forgive me if I have got the answer down incorrectly, but I understand that the prisoners at Peterhead were not too bothered that their families did not visit them often. Is that the case?

Marjory Russell: Quite a high proportion of the prisoners in Peterhead do not have visits from their families.

Maureen Macmillan: Some of the families that visited Peterhead were taken to the prison in a SACRO bus. At other times, prisoners were taken to Barlinnie and their families visited them there. We have heard that one of the reasons that the Peterhead situation and set-up is important is that prisoners' families do not get any aggravation from other visitors at non-sex-offender prisons. When prisoners are taken to Barlinnie, is any intimidation directed towards the families who come to meet them there?

Marjory Russell: We had not heard of that. The first that I heard of it was from the evidence that was given by the Prison Officers Association Scotland.

Maureen Macmillan: Does that mean that no prisoner has said that, because their relatives would be intimidated, they did not want to be taken to Barlinnie?

Marjory Russell: Not as far as we know.

Lord James Douglas-Hamilton: Prisoners who apply for accumulated visits can be taken to Barlinnie or Shotts to see their families. As far as we know, a bar has never been put on that, nor have complaints been made.

Marjory Russell: Not as far as I know.

The Convener: Unless other members have questions, I will ask the witnesses if there is anything else that they wish to draw to our attention with respect to the prison estates review. We are quite capable of having omitted something.

Marjory Russell: We support the suggestions for Barlinnie and Low Moss.

The Convener: Are those included in your bullet points?

Marjory Russell: Yes.

The Convener: If you read them out, they will be put into the *Official Report*.

Marjory Russell: That is all right. We have covered everything else.

The Convener: In any event, your document will be made public, as it forms part of our evidence.

Thank you very much indeed.

Marjory Russell: Thank you.

The Convener: We now move into private session.

16:35

Meeting continued in private until 16:45.

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