

JUSTICE 1 COMMITTEE

Thursday 23 May 2002
(*Morning*)

Session 1

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JUSTICE 1 COMMITTEE

22nd Meeting 2002, Session 1

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Maureen Macmillan (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

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

*Donald Gorrie (Central Scotland) (LD)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael Matheson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED :

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)

WITNESSES

Tony Cameron (Scottish Prison Service)

Mr Jim Wallace (Deputy First Minister and Minister for Justice)

ACTING CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 2

Scottish Parliament

Justice 1 Committee

Thursday 23 May 2002

(Morning)

[THE CONVENER *opened the meeting in private at 10:16*]

10:29

Meeting continued in public.

The Convener (Christine Grahame): Good morning. In particular, I say good morning to my colleagues. We have bonded all week. This is the 22nd meeting of the Justice 1 Committee. I remind everyone that the committee opened in private to discuss lines of questioning for witnesses, which we felt it would not be appropriate to do in public. I remind members yet again—although I am sure that they have done this already—to switch off all mobile phones and pagers.

Apologies have been received from Wendy Alexander.

Item in Private

The Convener: Before I welcome the witnesses, I ask the committee to agree to defer items 4 and 5 to a future meeting, in view of how heavy our work load has been this week, and to agree to consider item 6 in private, as it relates to the consideration of candidates for the post of adviser to the committee on the proposed title conditions bill, which is likely to be referred to the committee. That item will reveal information about individuals who are being considered. I do not think that the committee would wish that discussion to be held in public. Is that agreed?

Members *indicated agreement.*

Lord James Douglas-Hamilton (Lothians) (Con): I agree, but my interest in the register of members' interests with regard to item 6 should be noted.

Prison Estates Review

The Convener: I welcome to the committee Jim Wallace, who is the Minister for Justice, and Tony Cameron, who is the chief executive of the Scottish Prison Service—the usual suspects, as we might say.

I will start with a question for both of you. An issue that has concerned me, and perhaps other members, is briefings to witnesses before they appear before the committee. The matter was brought to my attention when we sought the appearance of the governors of Low Moss, Barlinnie and Kilmarnock prisons before the committee on 30 April. The clerks were originally told that there was inadequate time for the governors to receive a briefing before their appearance. The word “briefing” slipped off the language agenda and became “operational matters”. Are people briefed before they come before the committee?

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): I am certainly briefed before I come to the committee.

The Convener: Are people from the SPS, such as prison officers and governors, briefed fully before they come before the committee?

Tony Cameron (Scottish Prison Service): Yes.

The Convener: Well, that is now in the air.

There has been a huge delay in the production of the prison estates review. Can you explain the reason for the delay? It has taken two and a half years to get to the financial stage of the review.

Mr Wallace: I can explain what happened from the point when ministers received the estates review from the SPS, and Mr Cameron no doubt can advise the committee on the process that took the review to that position.

We were aware that the SPS was undertaking an estates review and we received some of the preliminary findings of that review. When it became clear in 2000 which prisons were not going to be affected in any material way, we thought it only right and proper that that information should be placed in the public domain. That was not done with a parliamentary question, but there was a way of putting into the public domain the names of the prisons that were not the focus of the review. The prisons that were the focus of the review, namely Low Moss, Peterhead and Barlinnie, continued to be the subject of scrutiny during the preparation of the estates review that was subsequently passed to ministers.

I have made it clear on a number of occasions

that when ministers—in particular Henry McLeish, when he was First Minister, and I—received the review, we found the gap between private build, private operate and public build, public operate to be breathtaking. The fact that so many parliamentary colleagues had a similar reaction when I announced the outcome to the Parliament in March shows that it is a substantial gap.

The Convener: We will have questions on why members think it is breathtaking. Can I ask you—

Mr Wallace: Allow me to add to the answer, convener. Because of that, the former First Minister and I wanted the figures to be robustly verified. At that point, we asked that they be examined independently by a firm of accountants and that work was done. Shortly thereafter, we also wanted the private build, public operate option to be evaluated. It took a considerable amount of time for PricewaterhouseCoopers to do that.

The Convener: Why was that not in the original remit? If the remit was to examine private-private and public-public, it would make sense to include private-public as well.

Mr Wallace: The SPS was conducting the estates review. That option was not included but Henry McLeish and I thought that it should be evaluated.

The Convener: I am sorry to interrupt, but perhaps Mr Cameron could answer my question. We know quite a lot about the timings, but we still do not know why that option was not included in the original brief.

Tony Cameron: We worked from existing models of which we had experience. Most of our work was concerned with either building and operating a prison ourselves or contracting the design, building and operation of a prison to a third party. We and some other jurisdictions in the world had experience of those models, so we focused our attention on them and discussed them with others who had similar experience. We do not yet know whether the intermediate model—if we can call it that—exists anywhere.

The Convener: Do you now think that that option should have been included in the original brief as that would have shortened the period?

Tony Cameron: No. The work that we did has been robustly backed by the work of PricewaterhouseCoopers. Ministers decided that a model that had been used in other sectors should be considered as well, although there were no examples of it that could be discovered. Quite a lot of work had to be done on the theoretical model.

The Convener: Do you accept that, given that the problem has continued for two and a half years, there have been consequences that it has

been difficult for the staff—and the prisoners, to some extent—to deal with?

Mr Wallace: If you read my answers to parliamentary questions, you will see that I have acknowledged that. I have indicated that I was concerned about the delay. The process took far longer than I anticipated. I remember asking—perhaps naively, in retrospect—for the further option to be evaluated, but I did not think that it would take as long as it did. However, it is proper that we asked for that option to be evaluated because, if we had not, the committee would now be criticising us for not doing so.

The Convener: By how much did that request delay the process?

Tony Cameron: Many months.

Mr Wallace: There was a further delay. The proposals were taken to the Cabinet when Mr McLeish was the First Minister and it was decided that further work should be done on the fine detail rather than on the broad principles. After that, Mr McConnell formed his Cabinet. The members of that Cabinet had not been given the original presentation and made it clear that they wanted more work to be done, not least with regard to the prisoner number projections which, although they are only projections, surprised us, given what we are trying to do with alternatives to custody. That work was done and further work was done by the Cabinet group that Mr McConnell set up.

The Convener: By how much did the Cabinet reshuffles knock the time scale back?

Mr Wallace: What might have been announced in December was not announced until March.

Michael Matheson (Central Scotland) (SNP):

The estates review is predicated on an ever-increasing prisoner population over the next eight to 10 years or so. You will be aware that, two and a half years ago, the Justice and Home Affairs Committee was told that the prison population was expected to stabilise, if not decrease. The figures that are before us now were given to us by the same people who gave us the figures two and a half years ago. Given that those figures were found to be wrong, why should we trust the figures now?

Mr Wallace: Before answering Michael Matheson's question, I would like first to correct part of the hypothesis on which the question is based. The prison estates review does not proceed solely on projected prison numbers. The review proceeds on the basis that our physical prison estate is, in some cases, outdated. The review also proceeds on the basis that we want to end slopping out. A significant element of the number of places that we have to provide is accounted for by the need to modernise the prison

estate and end slopping out. We should not lose sight of the fact that those factors are also important.

I indicated earlier that the figures are projections. We tried to give considerable detail on the figures in the appendix to the estates review. The average prison population has risen from 4,800 in 1991 to 5,900 in 2000. In a reply that I made this week to a parliamentary question, I said that the average was 6,666 on Thursday of last week.

If members look carefully at the figures that we produce, they will see that they range from 6,700 to 8,500. The figure that we have used is at the lower end of the range. In the past, I made it clear that we are doing so because we have taken account of what we hope to achieve through promoting alternatives to custody. In the parliamentary answer that I gave this week on the latest projections, I certainly made clear that the figures do not vary much—in some of the projections, they vary by about 100.

The figures are projections. They are calculated by professional statisticians who are employed by the Scottish Executive and who study long-term trends. I assure the committee that the numbers were pored over, not least in the period that followed the establishment of the new Cabinet. It is one of the issues that the Cabinet has looked at in considerable detail. My deputy, Richard Simpson, has gone over the figures with the statisticians in painstaking detail. We have to have a basis on which to operate. Those are the figures that we have been given. It would be irresponsible of us to pretend that the figures did not exist.

Michael Matheson: I have no doubt that considerable time has been spent on pulling the figures together. I question how reliable they are and how much faith we can have in them for the future planning of the prison service. Last week, Clive Fairweather, the chief inspector of prisons for Scotland, gave evidence to the committee. He said:

"From what I have seen, I would have faith in the statistics for the next year; perhaps even in those for the next two years." —[*Official Report, Justice 1 Committee*, 14 May 2002; c 3555.]

As part of the prison estates review, we could find ourselves entering into 25-year contracts for private prisons in Scotland on the basis of figures for the prison population that are reliable only for the next year or two.

Mr Wallace: A projection is an extrapolation of past trends. I agree with Clive Fairweather that it is more likely that the projections are going to be right one or two years down the line. It is true to say that the further into the future we go, the less robust are the figures. That is why we have a wide

range of figures, from 6,700 to 8,500. Ministers have to plan on some basis. I hope that the Parliament shares that responsibility. If we reached 2011 and the figures proved to be right, we would be considered irresponsible if we had not made adequate provision. Some committee of our successors—or even some of those here today—would say that the ministers in 2002 did not address the issues. If the consequence of that was that we had to let people out because there was no room for them, it would force some difficult decisions.

We came to a judgment according to a combination of the number of places that must be provided to modernise the prison estate and to end slopping out, and the range of the projection. Anyone who proposes a different figure or makes a different judgment would have to advance the basis for that. We have been totally open as to the basis on which we have made our judgment.

10:45

Michael Matheson: Those assumptions are very important and play a significant part in the overall prison estates review. In evidence to the committee last week, the chief inspector of prisons said that back in 1995 it was estimated that the prison population of Scotland in five years would be anything between 7,000 and 8,000 prisoners, yet it is not. The problem is that the use of private prisons locks us into a 25-year contract. It does not lock us into a contract for those two or three years for which the estimates might be reasonable. If we are locked into having such prisons for 25 years, where does that leave the overall estate? Will there be a gradual reduction in the public estate because we are already locked into a private contract?

Mr Wallace: If the prison population reduced significantly we would have to make a judgment on that. There would be several factors to take into account, such as the balance between local prisons and prisons for longer-term offenders, the relative security of prisons, the number of open prison places and so on. We must plan for the future on some basis. The only basis that we have is the projections that have been made over some time. Of the 3,300 new places that the prison estates review identifies as being required, 900 are estimated additional places. That leaves 2,400 places that would be required in any event. The projected number of prisoners is not the figure that drives most of the need for new places. I hope that anyone who says that we should not pay heed to projections will suggest another basis on which we should be planning. It is only responsible for us to plan on the projections that we have.

Michael Matheson: We have heard evidence that highlights the long-term concern that if the

estates review goes forward as proposed, some 38 per cent of our prisoners will be located in private establishments. If we find that there is a reduction in the prison population, the likelihood is that any reduction in prisoner places will take place in the public sector. Therefore, the proportion of our prisoners in the private sector prisons will gradually increase.

Considerable concern has been expressed to the committee that the prison estates review has taken place in a vacuum and does not relate to penal reform. It has been suggested that it would be better to invest in community sentencing programmes in order to reduce the number of people in prison. For example, 82 per cent of our prisoners are in prison for six months. We have heard considerable evidence, which is confirmed by what we learned on our visits to prisons, that staff can do nothing to deal with the offending behaviour of people who are in prison for only six months.

Before we consider extending the prison estate, would it not be better for us to examine ways of tackling the issue of continually escalating prisoner numbers? It is questionable whether some prisoners should be in prison in the first place.

Mr Wallace: We do not have to choose between extending the prison estate and tackling the issue of prisoner numbers. If we allowed the prison estate to remain in its present shape, in the hope that the projections for prisoner numbers would go away, we could be accused of irresponsibility—with some justification. If I were doing nothing to end slopping out, I would be under considerable attack. I remind members that the estimate of future needs is based only in part on projections for prisoner numbers. Modernisation of the prison estate and ending slopping out are also important factors. On a number of occasions, members have called for slopping out to be ended.

The Convener: You raise an important issue. Are you saying that the estimate—or guesstimate—of prisoner numbers that you have made takes into account penal reform to reduce the number of prisoners who are serving sentences of six months or less? If so, how many prisoners have been taken out of the estimate?

Mr Wallace: In the parliamentary answer that I gave this week, I made clear that the projections are based on past trends and do not take account of penal reform. We were presented with projections for prisoner numbers ranging from 6,700 to 8,500. The fact that our estimate was within 500 of the bottom of that range is a mark of our faith in our programmes for promoting alternatives to custody.

I told Mr Matheson that we did not have to choose between extending the prison estate and

tackling the issue of prisoner numbers. This Administration has probably done more than any Administration in living memory to promote alternatives to custody. Consider the range of measures that we are putting in place. Next Tuesday, we will have an opportunity to debate those in Parliament in Aberdeen. Some of the proposals appear in the Criminal Justice (Scotland) Bill, which the Justice 2 Committee is considering. There are proposals for electronic monitoring, there are drug treatment and testing orders and there are supervised attendance orders.

The Convener: We know about those measures. We simply want to know how they have been quantified.

Mr Wallace: Reducing the number of very short-term prisoners would have an impact on receptions. It would have a smaller impact on the daily average number of prisoners. To make an impact on the average daily number of prisoners, the reduction in the number of short-term prisoners must be substantial.

I emphasise the fact that we are seeking to reduce the prison population. I support that approach. For some offenders, a prison sentence is not appropriate. However, we cannot overlook the fact that the number of longer-term prisoners is increasing. If detection rates are at their highest level since the end of the second world war, more people will be brought before the courts. Judges also tend to issue longer sentences today than they issued 10 years ago. That is linked to the independence of the judiciary—we do not have control of sentencing.

I assure the committee that our commitment to promoting alternatives to custody is genuine. Next week, we will have a full opportunity to discuss those. In an important respect, our decision to pitch our estimate of future prisoner numbers at the lower end of the range reflects our belief that some of the work that we are doing to promote alternatives to custody will bear fruit. However, as members know, we must secure both public and judicial confidence in alternatives to custody. That is why we are establishing 11 criminal justice social work units in mainland Scotland. We want local authorities to give higher priority to criminal justice social work, to ensure higher and more uniform standards for the handling of community-based disposals. Sheriffs will use the sentences only if we can persuade them that imposing them is worth while. I assure the committee that we are trying to do that.

Michael Matheson: Perhaps the members of the committee will raise this in the debate next week. We have received evidence from the Association of Directors of Social Work's subcommittee on criminal justice, which raised

serious concerns about funding of criminal justice social work and other community-based disposals. Given what you have said, it will be interesting to hear what your response is to the justice committees' recommendations on the budget and what we consider to be a lack of funding in those areas. We have made concrete proposals about where we think funding should be increased.

Mr Wallace: As you would expect, I will give the recommendations full and proper consideration. I welcome the confidence that the committee places in the disposals by recommending increased funding for them. I cannot remember the figures off the top of my head, but I know that criminal justice social work, which is 100 per cent funded, has had a substantial increase in funding. I hope that, given that the committee has recommended the increase, it will give us guidance on what we should be cutting in the justice budget.

The Convener: I take this opportunity to invite Brian Fitzpatrick to sit down. I thought that he was still waiting for his nameplate.

The impression that we get is that the prisons review was about slopping out and the state of the buildings, rather than penal reform, for which we would have commended the Executive, as we have visited many prisons and seen that they are like a revolving door for many people.

Donald Gorrie (Central Scotland) (LD): Paragraph 30 of appendix F of the estates review states:

"These effects have not been allowed for in the projections".

That statement must be important, because it has been highlighted. "These effects" are the alternatives to custody. I am not quite sure whether they have been allowed for or whether they have been forecast at the lower end of the alleged range of possibilities.

Mr Wallace: When professional statisticians work out the prison population projections, they extrapolate trends and examine past trends. I do not doubt that some members of the Institute of Statisticians will say how the work should be done, but the nature of it is to extrapolate trends; it is not intended to take into account future changes in penal policy. The sentence that Mr Gorrie read out reflects the statistical approach that is taken. I am picking up the point that Michael Matheson made earlier. The further into the future we go, the broader the range is. That is the inevitability of trying to do these projections.

The projections produced a range from 6,700 to 8,500 10 years hence. We could have said that the figure would be 8,500 and that we will have to plan for 8,500, or we could have said that the figure would be 6,700, in which case we came within 34 of it last week. I am not claiming science

for this, but we went to the lower end of the range, because we are promoting alternatives to custody. If we were doing absolutely nothing and were creating more offences with custodial sentences, we might have gone to the higher end of the range. The figure of 7,200 was based on our judgment, whereas the statisticians gave a range.

The Convener: With respect, minister, that has been explained to us. However, Donald Gorrie has raised a crucial point—if you wish to return to it, Donald, please do so—about what is said in paragraph 30. Perhaps Donald would like to read out the sentence that says:

"However, Government policies may impact on the sentencing practice affecting the prison population."

Paragraph 30 continues:

"These effects have not been allowed for in the projections".

That is as plain as a pikestaff. The projections were not made in the context of penal policy and reform. It is as if the situation were static.

11:00

Mr Wallace: Let me see if I can put it into even simpler language.

The Convener: Oh!

Mr Wallace: Are we agreed that there is a range, or a projection, from 6,700—

The Convener: I understand that there is a range. That is quite simple, but—

Mr Wallace: The range is from 6,700 to 8,500. Those figures do not take account of any change in Government policy or the possibility that Parliament might decide to reintroduce the death penalty, which would allow us to get rid of a good number. I do not think that—

The Convener: Let us go the other way.

Mr Wallace: I do not think that that would happen, before anyone runs off with that hare.

The projections in appendix F are between 6,700 to 8,500. The figure of 7,200 falls within that range, and obviously takes account of the projections for longer-term prisoners. I do not think that anyone is suggesting alternatives to custody for serious drug dealers or people who are engaged in violent, serious or sexual crimes. There is a limit to our use of alternatives to custody. We sought to reach the lower end of that range—

The Convener: I understand that. I will let Donald Gorrie back in.

Mr Wallace: We sought to reach the lower end of the range in order to take account of, or to import, Government policy.

The Convener: I ask Donald to comment on your response.

Donald Gorrie: I would like to pursue the issue in a different way. I know that the minister is personally enthused by and committed to alternatives to custody. Safeguarding Communities Reducing Offending—SACRO—Barnardo's and other organisations run good, successful projects that are designed to keep both younger and older people out of trouble. Everyone says that those schemes are excellent, but I cannot understand why we never replicate them. If we had 100 Freagarrachs, instead of only one, we could tear up the estates review.

Why do you not put serious investment into those projects? I accept that you have put some investment into them, but if you are prepared to put £600 million into some jails, are you also prepared to put £100 million into preventing people from going to jail? If you did so, you could free up that £600 million.

Mr Wallace: I do not think that we could just tear up the estates review, even if we were to invest more in projects. I would still be concerned, because, as I indicated earlier, places must be built simply to modernise the prison estate.

I sympathise with Donald Gorrie's point. Without betraying too many Cabinet committee secrets, the youth crime working group wants to pursue that point about Freagarrach. There are a number of good projects and we want to see what can be done to replicate them. While there is a good project at Freagarrach, we are investing in a number of projects in other areas—we are putting in substantial resources in order to promote them. There is also an issue about whether the personnel is available to replicate those projects, but I share Donald's view that we should expand the good practice that exists.

I do not believe that that allows us simply to walk away from the prison estate. For example, in my opinion, Freagarrach is not a suitable disposal option for a rapist. I emphasise the fact that, if we did not imprison some of those offenders with lower tariff sentences, we would make an impact on prison receptions. However, we would have to increase substantially the number of such offenders before we made a significant impact on the daily prison population. There are also trends for longer-term prisoners. Although I am an advocate of alternatives to custody, I have certainly not been arguing for alternatives to custody for more serious offenders.

Donald Gorrie: If we accept that slopping out has to be ended and that serious offenders have to be locked up for quite a long time, does the Executive have so little confidence in its policies of social inclusion, improving education, making communities better, providing throughcare in

prisons and dealing with drugs in a more sensible way—a policy that has a huge effect on the prison population—that it thinks that those policies will have no effect on the mathematical projection of future prisoner numbers?

Mr Wallace: I do not lack confidence in our policies; I think that they are the proper policies. I acknowledge that the benefits of measures such as early intervention take a long time to work through and achieve the dividend of lower recidivism. Making a judgment in that regard would be like wetting your finger to test the wind direction. We could not possibly plan on such a basis. I remind the committee that we came within 35 prisoners of the lower end of the projection only last week. The fact that we are not dealing with an exact science should not deter us from pursuing alternatives to custody or from being responsible in modernising our prison estate to ensure that there are decent conditions for those who are in prison. We should also pay some attention to the figures that are staring us in the face.

The Convener: I want the minister to have his say, but I appeal for brevity. You are repeating material—for example, we already know how you have worked out the figures. I have let things run on and there are many questions that we want to ask. I will give Maureen Macmillan the chance to ask a specific question and I would appreciate a short answer. That will be followed by a short question from Brian Fitzpatrick, which I hope will also receive a short answer, so that we can move on to the next section. We have been up to our ears in prisons for weeks and we are full of questions.

Maureen Macmillan (Highlands and Islands (Lab): I will continue with what we have been discussing. I understand your explanation of the range and the figure for the lower end of the range that you put in the document. Nevertheless, in the evidence that SACRO gave, it indicated that if short sentences were replaced by other disposals, and if initiatives that are being piloted were rolled out, there could be 2,000 fewer prisoner places. I asked Mr Spencer, the director of rehabilitation, about that and he agreed that the number of prisoner places could be reduced, although he put the figure at 1,500. That represents a significant difference to what you suggest. Dr McManus, who is the director of the patrol board—

The Convener: The Parole Board. It has been a long week.

Maureen Macmillan: There are no blue lights flashing. Dr McManus pointed out that the average cost of a prison place is £26,000 a year and that it would be much more cost-effective to allocate those resources to the criminal justice system for dealing with people in the community. He said that we are not spending enough money in that area.

Mr Wallace: Our budget is finite. I look forward to hearing suggestions about where we should make cuts in order to put more money into that.

Maureen Macmillan: The idea is that the money that you intend to spend on building new prisons would be better spent at the other end of the system.

Mr Wallace: Even if one were to accept the figure of 1,500 for the number of those who would not need to go into prison as a result of what we are doing, that would still bring us to a figure of 7,200, taking the upper end of the range of the projection. We are pursuing the issue on that basis. That solution would not answer the problems of improving and modernising the prison estate and of ending slopping out.

I accept the argument that non-custodial disposal often costs less to the public purse than a prisoner place. Drug treatment and testing orders are a valuable disposal that is available to judges. The orders are intensive, but probably cost the public purse less and, I suspect, are more effective in achieving a positive outcome for the offender. The fact that they make it less likely that the offender will reoffend offers notional savings to the wider community. I am totally with you and signed up to that. However, it would be the easiest thing in the world for me to say, "The figure will be 2,000 and we are just going to walk away from doing anything about the prison estate." By 2011, I will probably not be here to answer questions.

Maureen Macmillan: The issue concerns balance. Not all the money should go into the new prisons. If 1,500 fewer people go into the prisons and a new prison will be for 700 people, we will need at least one new prison less and the money for the other new prison can be directed to other disposals.

Mr Wallace: More money is going into alternatives to custody. We are rolling out electronic monitoring, for example, and that means that significantly more money is going in.

The Convener: We are talking about the imbalance.

Mr Wallace: We must also ensure that there is confidence in sheriffs. That is why there is progression. I cannot start to think what the committee would say to me if I were to say that we were not going to do anything more in respect of prisons, that we will put all that money in, sheriffs will continue to send people to prison and I will have to let people out because there is no room for them. That is the dilemma. Matters must be weighed up and balanced. In our strong commitment to and provision of resources for promoting alternatives to custody and trying to take a responsible view in respect of the prison estate, we are achieving a balance. I do not

pretend that there is a scientific solution.

The Convener: Brian Fitzpatrick has a quick question. I hope that there will be a quick answer. We will then move to the next section.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): Minister, yesterday, I joined my fellow MSPs at the committee meeting. The committee took evidence from Mr Brewer of PricewaterhouseCoopers on the independent verification that had been conducted. He seemed unsure as to whether PricewaterhouseCoopers had seen a study called "Constructing the Future" that was carried out in April 2000 by Mr Murch at Low Moss prison. You will be aware that I have asked you a number of parliamentary questions on the report. Have any of the officials in the justice department seen that report? If so, who has seen it? When did they see it? In what context did they see it?

Mr Wallace: I am aware of the report, but it was not taken into account in the estates review. "Constructing the Future" was one of a number of submissions—perhaps Mr Cameron will want to elaborate on that. A number of submissions were prepared by individual SPS establishments for internal consideration on the possibilities for developments. None was a full option appraisal, nor did they include comparative analyses with the option of developing new prisons. The estates review considered the broader picture of the prison estate. I do not want to disparage "Constructing the Future" and its proposals for the development of the Low Moss site, but I can confirm that it did not form part of the prison estates review.

Brian Fitzpatrick: Can I take it that the assessment in "Constructing the Future" has been devolved to the SPS, given that neither the justice department nor PricewaterhouseCoopers seem to have seen it?

Mr Wallace: That concerns day-to-day operational matters for the SPS. Mr Cameron may be able to shed more light on the issue.

Brian Fitzpatrick: Before that, are you aware that we were given evidence that no account had been taken of the cost implications across the prison estate of transfers of staff from low-wage areas to high-wage areas?

Mr Wallace: Correct me if I am wrong, but SPS staff have a national wage agreement.

Brian Fitzpatrick: Various options that are being canvassed relate to the proposal that there should be private build, private run prisons. No assumptions seem to have been made about the costs of transfer from low-wage areas to high-wage areas.

Mr Wallace: For whom?

Brian Fitzpatrick: For instance, if there was a desire to build a 700-place prison in my constituency, the fact that it might cost more to get the bodies must be taken into account.

Mr Wallace: The private prison service pays regional wage rates, so the rate may be higher than in other parts of Scotland, but I am not sure that that would make a significant dent in the £700 million gap.

The Convener: You were sneaky in asking questions about Low Moss when members were waiting. I will watch you next time, Mr Fitzpatrick.

Brian Fitzpatrick: With your leave, convener, I will ask about the general work that has been done on the prison estate. We have evidence that the built-in commissioning delay for public sector procurement might result in delays of about a factor of two, which is extraordinary. No allowance is made for any buy-in of expertise on commissioning or procurement.

11:15

Mr Wallace: The experience of Shotts was that a long time elapsed between the decision and the commissioning. The difference is that the core work of the SPS is not construction work. Time must be spent on the project management of such work. Not more than one and a half projects, if they overlapped—certainly not two or three—could be undertaken at the same time. If the SPS built in the public sector, the commissioning would have to be in the public sector. Expertise could not necessarily be bought in, as I suspect that the expertise on such commissioning rests in the SPS.

We would not pay for a private option until it was delivered and could take prisoners. Therefore, the building work and the possibility of any delays would not count against the public purse, whereas if a public option were taken, delays would count against the public purse. Mr Cameron could talk about what commissioning would involve.

Brian Fitzpatrick: Does it trouble you that, according to the SPS's figures, we are £700 million adrift?

Mr Wallace: Yes. As I said, I was staggered when I saw that gap. I do not necessarily think that it reflects well, but it may be the result of years of monopoly practice, which one can see in many other areas.

Brian Fitzpatrick: For the SPS, what flows from your being staggered?

Mr Wallace: More efficiency is undoubtedly needed. The work that has been done to change attendance patterns recognises some of that.

The Convener: I am sorry. I want to stop this—

Mr Wallace: To be fair, Mr Fitzpatrick asked an important question, and I am trying to give him—

The Convener: He asked an important question, but we will deal with that topic later. I would like to give members who have ferreted at the subject, Mr Fitzpatrick included, the opportunity to ask questions on it. I was happy about Mr Fitzpatrick's questions on Low Moss, which were contained, but the drift in the figures is different and we will return to it.

Lord James Douglas-Hamilton: I will ask a few questions about comparability. Many witnesses have told the committee that the analysis of the three options in the estates review does not compare like with like and that the conclusion that the private build, private operate model is the best option is not based on sound information, because the specifications for public and private builds are different. Do you accept the view that it is difficult to obtain exact comparability?

Mr Wallace: I do not. We consider the outcome costs of building and operating a prison to the required levels of security and with delivery on a range of prisoner services. That is the product that the Executive, the community and the state want, so the comparisons properly reflect the relative costs of achieving that outcome. I remind the committee that some allowance was made for reducing the public sector cost by 30 per cent, to try to address some such concerns. Even then, the cost to the public purse of the public build, public operate prison was still considerably higher, as it says in paragraph 82 of the estates review.

Lord James Douglas-Hamilton: I would like to ask one or two more questions about that. We have heard evidence that there have been substantial changes in the way in which private prisons operate south of the border. Do you accept that that has happened?

Mr Wallace: There have been changes. Paragraph 3.3 of the PricewaterhouseCoopers report says:

"The Altcourse and Parc prisons were the first two PPP Private Build Private Operate prisons in the UK".

It indicates that there have been changes, and continues:

"For this reason, we do not consider that the pricing of these prisons represents the current market and we have disregarded them in establishing a market value price."

In some respects, therefore, the older contracts in England were not taken into consideration, not so much in an accounting sense but in the sense that the most recent private prison in England—Dovegate—has what could be described as a more therapeutic element to it. That is clearly mentioned in the PWC study and is obviously something that we want to have regard to.

Lord James Douglas-Hamilton: There have been substantial changes in the private prison estate south of the border. Do you also accept that, over the past 20 to 25 years, there have been substantial changes in the prison estate in Scotland, with the new special unit at Shotts being brought on stream? Incidentally, that is something that Mr Brewer of PricewaterhouseCoopers was completely unaware of when he gave evidence to us yesterday. Do you accept that there have been substantial changes?

Mr Wallace: I certainly accept that there have been changes. Shotts was opened in 1977, was it not?

Lord James Douglas-Hamilton: It was opened after 1987.

Mr Wallace: It took some considerable time, but over the past 25 years Shotts—

Tony Cameron: It first opened in 1977.

Lord James Douglas-Hamilton: I am asking whether you are aware that there have been substantial changes in the Scottish public sector prison estate over the past 20 to 25 years, in the buildings and in the regimes.

Mr Wallace: The regimes have undoubtedly changed. A considerable amount of work has been done over the past 10 years to promote changes in regimes. If you ask me about the prison estate in general, I must obviously refer to Shotts prison and to the new house blocks that have been built in a number of prisons. One of the issues that arises from the prison estates review is just how much of the Scottish prison estate has not changed over a very long period of time. The fact that we are still trying to deal with Victorian-built prisons is one of the challenges that we face.

Lord James Douglas-Hamilton: If that is your position and you think that the prison estate is still substantially outdated, do you think that that applies more to Peterhead than it does to Barlinnie, Saughton, Inverness, Perth or Aberdeen?

Mr Wallace: There are specific issues at Peterhead that relate very much to the difficulties with the buildings. If you will bear with me, I have a note of some of them.

The Convener: I am sorry to interrupt. I appreciate that members want to go into detail, but for the time being I would like to keep to the generalities of comparability. We will talk about Peterhead later and Lord James will have a chance to ask more questions then.

Lord James Douglas-Hamilton: I would like to say one more thing. Tony Cameron was right to say that half of Shotts prison was opened in 1977, but a substantial part of it was not opened until

1987.

Tony Cameron: It took a long time—10 to 13 years—for the prison to open. That happened in stages. The prison took a total of 19 years from conception to completion.

Lord James Douglas-Hamilton: I turn to the evidence that we have heard on comparability. The Prison Officers Association Scotland has said that it is difficult to compare the public sector with the private sector because the performance indicators for the public sector are set far higher than those set by the contractual obligations on the private sector. The association argued that a wider range of programmes is available in public sector prisons than in HMP Kilmarnock, for example. Do you accept that it is difficult to make the comparison, because the range of provision offered in the public sector service is wider?

Mr Wallace: A wider range of provision is offered in some public sector prisons than is the case at HMP Kilmarnock. I do not accept what you said about the performance indicators being more demanding in the public sector than in the private sector. SPS operating standards were one of the key drivers of the Kilmarnock contract. About 50 key indicators have to be met by the operators of Kilmarnock. That is why an SPS monitor is present at Kilmarnock, to monitor compliance with those various indicators. The set of requirements is demanding. That was an important part of the contract for Kilmarnock.

Kilmarnock is working up programmes. It has a more employment-focused approach than some other prisons, with the result that more employment activity is being done by prisoners there. However, I do not accept that standards are lax.

Lord James Douglas-Hamilton: On the point about comparability, is it your plan to update the specification for whatever private prisons exist in Scotland to ensure that the necessary range of services, programmes and rehabilitation courses is offered before prisoners are released?

Mr Wallace: Yes.

Lord James Douglas-Hamilton: How often will that take place?

Mr Wallace: It is impossible to set that down. The Kilmarnock contract allows for flexibility. If there were changes in approach, we would want to reflect that. I emphasise again what I said in my statement and in the debate: rehabilitation is an important part of the prison service's work, whether in the public or the private sector.

Lord James Douglas-Hamilton: It has been suggested that the prison estates review uses a narrow definition of value for money, which excludes all kinds of social and economic costs.

Are you confident that the review has taken all the necessary factors into account?

Mr Wallace: I am confident that ministers recognise that the work that is done on the rehabilitative process in our prisons is an important part of the prison estates review. I believe that the review says as much.

Lord James Douglas-Hamilton: The prison estates review states that the private sector can provide two prisoner places of equivalent quality and for the same cost as the public sector can provide one. Given the evidence that the committee has heard, are you confident that that statement was accurate?

Mr Wallace: On the basis of net present value, that was the outcome of the work that was validated by PricewaterhouseCoopers. I have not seen any significant body of work that has challenged that.

Lord James Douglas-Hamilton: Will you assure us that your policy is driven by the need to have the highest standards in the public and private sectors and is not driven by a need for huge savings to find funds from the Scottish block for other areas?

Mr Wallace: Our policy has a number of aims. It seeks to ensure sufficient places for the prisoner population; conditions of decency and security; and an end to slopping out as quickly as possible. It seeks to ensure that prisons are a place for work and rehabilitation and also seeks best value—

The Convener: With respect, minister, we take all that as read. The question could have been answered with a yes or a no. If your policy is not driven just by reducing costs, the answer is no. You have told us about the rest. I am conscious that you want to have your say—and I do not want to suppress you—but I think that the committee wants shorter, crisper answers to questions.

Mr Wallace: I will give them, provided that I have an assurance that shorter answers, which do not tell the whole story, are not used against me.

The Convener: We have gone over the figures. I want to move on. Michael Matheson, Paul Martin and Brian Fitzpatrick all have sharp questions. We hope that they will receive sharp answers.

Michael Matheson: I want to come to the issue of comparing like with like. It has been suggested that building standards for SPS prisons differ from those in the private sector. Will the minister explain the difference?

11:30

Mr Wallace: Kilmarnock is built differently from Shotts; anyone who has been to both prisons will recognise the differences, some of which are

because of the times in which they were built. Kilmarnock was built later, which allowed the inclusion of developments in modern technology, such as closed-circuit television and swipe cards that allow prisoners to move from one place to another.

Michael Matheson: I know that. I am asking whether the prison estates review compares like with like when it sets a higher standard for building a new prison through the public sector option.

Mr Wallace: It does not. We tried to be fair and to allow for the public sector option to use a comparable plan to the private sector one.

Tony Cameron: The start point for designing a prison is how one wants to run it. How we run prisons in the public sector is different from how new entrants in the market run theirs. There is no standardised model. We do not build to a higher standard than the private sector; we build to a more expensive standard because we have more staff and we work in a less efficient way, which means that we need more room. Space equals cost and time. It is important that we do not build a prison that someone else could run but which we could not.

Mr Wallace: For brevity's sake, I refer members to paragraph 73 of the review.

Michael Matheson: I ask Mr Cameron what would be different in an SPS prison. What additional features would it have?

Tony Cameron: It would have a larger space in almost every dimension.

Michael Matheson: What do you mean?

Tony Cameron: An SPS prison would have more space. It would have bigger buildings and the site would be bigger.

Michael Matheson: What would that space be for?

Tony Cameron: It would be for staff and prisoners, but mostly for staff, because we have more of them.

Michael Matheson: I understand why more space is required for staff but not why more is required for prisoners.

Tony Cameron: There would be more interaction because there would be more people, which means that it would be more crowded.

Michael Matheson: For simplicity's sake, let me give an example. One wing at Kilmarnock has 64 prisoners and two prison officers, which is one in each flat. In an SPS prison, there would be four prison officers, which is two in each flat.

Tony Cameron: There might be six or eight officers.

Michael Matheson: Okay. I understand your point that more physical space is required for the officers—perhaps for an office—but what additional space is required for the prisoners?

Tony Cameron: The total size of the block would almost certainly be larger.

Michael Matheson: Would that be to accommodate an office for the staff?

Tony Cameron: No, it would not be only for an office. What is required is the amount of space in which people feel it is appropriate to work.

Michael Matheson: Why?

Tony Cameron: Because that is the way in which public sector prisons operate.

Michael Matheson: Why?

Tony Cameron: Because they have always been like that, as a result of being a monopoly.

Michael Matheson: That does not fit. Is there any reason why the SPS could not build a prison similar to Kilmarnock other than the fact that additional office space for the staff would have to be provided?

Tony Cameron: Yes. A careful analysis was carried out by us and PricewaterhouseCoopers to determine the differences, which are significant because the prison is run in a different way.

Michael Matheson: No. That is not what I am asking. I am not asking about operational matters. I am talking about the physical structure of the building. You are saying that, because there has been a monopoly in the past, the SPS tends to build prisons with so many extra metres.

Tony Cameron: Yes. In most dimensions.

Michael Matheson: Right. The additional operational costs will be the staff costs, and there will be some capital cost to provide them with physical facilities.

Tony Cameron: Yes.

Michael Matheson: Why does the rest of the building have to be bigger?

Tony Cameron: Those facilities make the building bigger. I am not saying that the rest of it is.

Michael Matheson: An office for the staff makes the building significantly bigger?

Tony Cameron: I have not referred to offices.

Michael Matheson: Can you explain to me why the physical perimeters of the building have to be significantly different?

Tony Cameron: If there are more people in the building, it tends to have to be larger.

Michael Matheson: So, if there are more prison officers in a building, we have to make it larger.

Tony Cameron: I am talking about all staff, not just prison officers.

Michael Matheson: Why do we have to create more space in the prison itself if the staff are carrying out normal, routine duties and we have only to provide accommodation for them? Why does the building have to be bigger overall?

Tony Cameron: Because that is the way in which we have designed our buildings in the past. New entrants to the market might decide to do things in a different way.

Michael Matheson: Why, then, have you not chosen to design buildings as they are designed in the private sector?

Tony Cameron: The second option looks at a private sector build, public sector operate—

Michael Matheson: No. That is not what I am asking. Why can you not build a prison—including the perimeter—in the public sector to the same standard as one that is built in the private sector?

Tony Cameron: Because we do not think that we could operate it properly.

Michael Matheson: Because of what?

Tony Cameron: Because of restrictive practices on over-manning.

Michael Matheson: Would that mean staff bumping into each other, trying to walk through a hall?

Tony Cameron: No. I am talking about the willingness to operate the prison at all.

Michael Matheson: So, it is a staff reduction issue—an operational issue.

Tony Cameron: It is an operational issue. That is what I have been talking about.

Michael Matheson: But why should there be a difference in the capital cost of the building?

Tony Cameron: Because a greater amount of space is needed before people will work in it.

Michael Matheson: Okay. Have you been to Kilmarnock prison?

Tony Cameron: Yes.

Michael Matheson: If four to six staff members worked in each of the wings, would they have a problem in carrying out their duties?

Tony Cameron: I have absolutely no idea. That is a matter for the operator, not for me. I am not authorised—

Michael Matheson: No. I am not asking you that. I am asking you about the physical size of the

building at Kilmarnock. Each of the wings holds 64 prisoners and there are two members of staff—one in each gallery. You are saying that the SPS would have four to six members of staff in each wing.

Tony Cameron: I do not know how many there are at Kilmarnock.

Michael Matheson: I am telling you that that is how many there are. I would have thought that you would be aware of that, as the chief executive of the SPS, which is responsible for the contract with Kilmarnock prison. That is how many staff there are in each wing. Other than for an office for the staff, why would much more space be required?

Tony Cameron: I do not know about Kilmarnock prison. I have no comment on that.

Michael Matheson: But you have been to Kilmarnock prison.

Tony Cameron: Yes.

Michael Matheson: You have seen the physical size of the wings that prisoners are in, with cells on either side.

Tony Cameron: Yes.

Michael Matheson: There are two flats.

Tony Cameron: Yes.

Michael Matheson: One officer is in the top flat; the other is in the bottom flat. Okay?

Tony Cameron: Yes.

Michael Matheson: If the SPS were to build a similar wing, there would be four or six officers in it. Other than to provide additional office space for the staff, why would the SPS have to increase the overall size of the building?

Tony Cameron: We would not necessarily build a hall like that. We have not done so in our new house blocks.

The Convener: In evidence, we have been told that part of the drive that has led to reviews of slopping out and the state of the prison estates is the aim of reducing staffing—that is an underlying theme of the prison estates review document. I will get the clerks to find the reference to that, which has been highlighted to the committee. You seem to be saying that that is exactly what is happening by going into the private sector. We have heard evidence that the private sector staff at Kilmarnock prison are already in crowded conditions, so the system is going wrong even with the low staffing level there. We know why that level is low: we know all about electronic systems and so on. It appears to some members of the committee that part of the drive that underlies the prison estates review, which is not mentioned, is an aim to reduce staffing levels in the SPS.

Tony Cameron: We have to do that anyway. It has nothing to do with the estates review.

The Convener: Ah, but the issue is the custodial and rehabilitation role that the private sector takes and develops. Some of us believe that we are facing a turnkey situation, rather than interaction with prisoners by a more concentrated prison officer population. We know about that because we have visited lots of prisons. I will find the reference in the document, because it was referred to yesterday in evidence. I put the point to the minister, because the staffing issue is important.

I know that other members have questions. I do not know for how long the minister is with us.

Mr Wallace: I am here until 12 noon. I was told that the session would last an hour and a half.

The Convener: That is not what I was told.

Tony Cameron: That is what the letter said.

The Convener: I am sorry; I thought that you were here until 12:30.

Mr Wallace: I am afraid that I cannot stay until 12:30. I apologise, but I was told that I was giving evidence until 12. I would have been willing to come earlier, had I known.

Lord James Douglas-Hamilton: On a point of order, convener. Given that the matter is so important, could the minister come back on another occasion?

Mr Wallace: Certainly, if the committee would consider that helpful.

The Convener: Yes, in which case, we can take our time. The committee is very keen—we are prepared to sit for days and days to discuss this.

Mr Wallace: I refer members to paragraph 84 of the Scottish Executive consultation, which indicates that we calculated

“on a hypothetical basis, the likely reduction on the Public Sector model if SPS could deliver the building at private sector costs and also match the performance of the private sector consortia”.

The Convener: I am still searching for the reference—I will leave it to the clerks to find it.

Paul Martin (Glasgow Springburn) (Lab): On several occasions, the Scottish Executive has raised the need to improve rehabilitation. Does the minister believe that we are delivering that on the ground? On a visit to Barlinnie, we met a prisoner who was due to be released after a three-year sentence. He made it clear that there was no evidence that he would be supported when he was released into the community the following week.

It is all very well saying that we want to improve rehabilitation, but we must question whether that is

happening in prisons, given that we have a clear example of a prisoner being released without any support or work being done on his employment opportunities or even simple issues such as rehousing.

Mr Wallace: I acknowledge that there are shortfalls. Throughcare is an important issue, which has not been addressed adequately in the past. A working group report on throughcare is currently being considered by ministers and I hope that we can make an announcement on that in the near future. Perhaps we can provide the committee with a paper on throughcare.

I think that I am right in saying that for longer-term prisoners—those serving sentences of four years and over—there are certain statutory obligations in relation to making provision for people who are coming to the end of their sentence. Throughcare for people serving shorter sentences is provided on a more voluntary basis. We are trying to address throughcare for short-term prisoners, which has not been done as well as it could have been done. There has been a shortfall in the system. I assure Mr Martin and the committee that we are conscious of that and we are trying to address it.

Tony Cameron: On Tuesday, the committee took evidence from Alec Spencer. We created a new post of director of rehabilitation and care, which seeks to bring together a lot of disparate work and to encourage co-operation with others in improving services. As the minister said, in the future we aim to do better. However, we are constrained by the estate and by the high number of prisoners.

Paul Martin: It is important to bring out that point. The number of prisoners should not prevent us from dealing with the simple issues that prisoners face on being released, such as housing allocation and employment opportunities. There are agencies in the community that could have a role to play in that—not just SACRO and the Apex Trust Scotland, but economic development agencies and so on.

Tony Cameron: Many of those organisations work in prisons, but we need more.

Mr Wallace: I was impressed with what I saw in Saughton prison, which has a unit that brings many of those organisations under one roof. There is good practice there that I am sure can be copied in other prisons. However, you have highlighted an important area in which we can improve.

11:45

Maureen Macmillan: The review stated that there were no private build, public run prisons that could be used as comparators and that such a

model would cost more to run than a private build, private run model. However, we have been told in evidence that private build, public run prisons in France, Belgium and Chile could be used as comparators. In addition, we have had evidence from the POAS that it is willing to go down the private build, public run route and would be flexible about delivery of that. Have you had discussions with that organisation to develop the idea of private build, public run prisons?

Mr Wallace: I have not yet met the POAS as part of the consultation, but it is agreed that we will meet. This is a consultation process, so I would be interested if people thought that there was another option that stacked up and would deliver outputs in terms of value for the taxpayer. I would be more than willing to look at such options.

The French example has been mentioned before. I understand that Stewart Stevenson might be going to look at that prison. I would be more than willing to learn what he comes back with. However, we found out that that prison established—

The Convener: Who is going to look at the French example?

Mr Wallace: Stewart Stevenson, I understood.

The Convener: Oh. I did not know that he was working for the Executive.

Mr Wallace: I did not suggest that he was working for the Executive.

The Convener: I wondered where he was today.

Mr Wallace: He is our esteemed parliamentary colleague.

We discovered that the French model, which was a new prison built by the private sector, was outsourcing services. Therefore, little risk transfer was taking place. We are not persuaded that that French model would allow the transfer of risk from the Executive's balance sheet. However, I hope that the fact that we examined such a model indicates our willingness to consider a model that has not previously been considered by us or by PricewaterhouseCoopers. We would consider any model that offered something by meeting the outputs in terms of secure accommodation and other features and by giving value for money.

The Convener: We are not coming down on either side of the issue, but we are surprised by the fact that the private build, public run model was an afterthought that was tagged on at the end of the report, which said that there were few such examples. The committee has found that there are lots of examples worldwide of different mixes of the private and public sectors.

Mr Wallace: We have not yet been shown the

model that would deliver by having a sufficient risk transfer that would take the risk off the Executive's balance sheet. You said that the private build, public run model was an afterthought, but it was almost the immediate response of ministers to ask for that model to be included when we first received the report. I think that if we had not done that, you would be asking us to do it now. Henry McLeish and I were anxious that the private build, public run model should be considered, but I can honestly say that I was disappointed by what we learned of that model.

Maureen Macmillan: We, too, were disappointed, because much of the evidence that we have heard is that other organisations think that it would be easy to use the same private build, public run model as France or Belgium. They would like that model to be reconsidered, particularly as the POAS has indicated its willingness to be a partner in such a venture.

Mr Wallace: As I indicated, we do not think that the French model meets the need. I am not aware of the Belgian model—Mr Cameron indicates that he, too, is unaware of that model—but I would be more than happy to examine it.

The Convener: Your team will have to read the evidence that we have taken.

Michael Matheson: The Belgian example was referred to last week in evidence from Stephen Nathan.

Mr Wallace: I assure the committee that we will look into that.

Donald Gorrie: My question is best directed at Mr Cameron. In constructing your report, did you make any use of the report to Her Majesty's Prison Service by Mouchel Consulting Ltd?

Tony Cameron: Very little. We were aware of the report, which focuses on buildings rather than whole-life costs. It is difficult to translate documents that are written in other jurisdictions to one's own. The report did not form the centrepiece of our considerations. Our starting point was the current situation of the Scottish Prison Service. However, we are aware of the report's conclusions—that the so-called private finance initiative model tends to offer best value for money. Her Majesty's Prison Service has subsequently gone down the PFI route to a much greater extent than the Scottish Prison Service yet has.

Donald Gorrie: It strikes me as curious that the gulf between the private-private and public-public options is much narrower as presented in the Mouchel Consulting Ltd report than as presented in the PricewaterhouseCoopers report. Are public prisons in England more efficient and private prisons less efficient than their counterparts in

Scotland? Do the English have their figures wrong? What is the explanation for the discrepancy?

Tony Cameron: A couple of facts may be useful. The cost per prisoner place in England and Wales is slightly lower than in Scotland, but it is in the same order of magnitude. Some of the factors that are included in that cost are different from the factors that we include, but there is very little overall difference.

The PricewaterhouseCoopers report shows that a range of prices for custodial services has been offered to the Scottish Prison Service and to Her Majesty's Prison Service. An average of those prices is presented in the report. There is a huge difference between that average and the public sector comparator that we have worked out. As I recall, the Mouchel Consulting Ltd report did not produce a public sector comparator on a whole-life costing basis. When deciding whether to commission a new prison, it is necessary to take into account the whole-life costs—the 25-year costs—as well as the capital costs of that prison. The Mouchel Consulting Ltd report did not do that rigorously and did not have its figures independently validated, as we have done.

Donald Gorrie: The Mouchel Consulting Ltd report provides procurement costs, building and life-cycle costs and operating costs. I find it extraordinary that a similar report produced for Her Majesty's Prison Service can yield a set of figures so different from those yielded by the PricewaterhouseCoopers report.

Tony Cameron: That reflects the thoroughness with which the work for our report was done. Her Majesty's Prison Service now has that report and can consider it in the light of its own situation.

Donald Gorrie: So our report is more thorough than the English report.

Tony Cameron: That is our understanding. Neither PricewaterhouseCoopers nor we have seen a report on the prison sector as thorough as the one that has been produced here.

Donald Gorrie: That is your answer.

The Convener: That is not the evidence that many people are giving us on the PricewaterhouseCoopers report. Paragraph 2.2.2 of the report provides the detail of costs of a new public sector prison—from capital and development costs, through maintenance, right down to the cost of risk—from which a total figure is calculated. However, on page 29, which deals with the private sector, we are given only the contract costs—payments by the Prison Service for private prisons in England and for Kilmarnock—from which a figure is extrapolated. I do not understand how it is possible to compare

the two tables that are contained in the report.

Tony Cameron: The totals are comparable.

The Convener: But the question is, what makes up the totals?

Tony Cameron: You can see from paragraph 2.2.2 what is included. We are comparing with the market price. You can either build a prison yourself, in which case you work out the total cost, or you can buy it on the market. We know what the market price is for the same quality of prison.

The Convener: We were told in evidence from PricewaterhouseCoopers that that information was all that it had to work on, and that it could get no more details. The evidence that we have received from our expert is along exactly the same lines: comparisons cannot be made between the two tables. The difficulty for the committee is, how on earth are we to know if the figures are right when we do not know what is in there?

Tony Cameron: No. We do not know the components of cost in the marketplace.

The Convener: That is right. That is important.

Tony Cameron: We know what we think our costs would be, but the listed market price is a firm one, because a market price has been established.

The Convener: That is on the record. We will move to Brian Fitzpatrick on the same matter.

Brian Fitzpatrick: I am not sure that I follow that criticism or share it, certainly as far as PricewaterhouseCoopers is concerned. We received clear evidence from PricewaterhouseCoopers about the basis on which it proceeded.

In your evidence today and in your foreword to the consultation on the prison estates review, you properly referred to our collective stewardship responsibility to those who pay for the prison service, in respect of what are, in anyone's reckoning, significant items of expenditure. I have been over the documents—perhaps too many times—but I still choke on what I read at paragraphs 73, 84 and 92 of the estates review, in relation to how far apart our construction and operation provisions are. It seems implicit in the proposals that there must be a review of what has gone on in the SPS. Are you prepared to contemplate further investigations into why we find ourselves so far adrift?

Mr Wallace: In a number of areas where there has been a monopoly practice, costs are higher than when there has been competition. We are talking about a monopoly situation over decades. That is one factor.

As I was about to say earlier, efforts are being

made to address some of the issues, not least through the changes in attendance patterns that have occurred. Those changes will reduce the cost to the SPS. I am sure that the board of the SPS would agree that further savings and efficiencies could be achieved. Clearly, that must go hand in hand with employment relations that are the best that we can get. Tony Cameron may wish to expand on this, but there were encouraging developments earlier this year in the relationship between the trade union side and the SPS. I hope that that will allow opportunities for further efficiencies to be undertaken.

On building costs, there is no in-house expertise in the SPS. There is probably none in the Scottish Executive. We do not have any in-house expertise in building prisons. I accept your point that there must be scope for further improvement in the performance of the SPS. The chief executive may wish to elaborate on that.

Tony Cameron: I agree. Most of the people on the Prison Service board have been public sector servants, as I have been for 30 years or more. The figures are not comforting at all, but inertia and resistance to change are features of monopolies, and we are no different from any other monopoly in that respect. The first thing to do is to face up to the fact that differences exist—I will not pretend that they do not exist, because they do—but the solutions are not simple, given that we start from where we are, not from where we would like to be.

The fact is that we have a high staffing level, and our terms and conditions of service have been determined historically by reference to the civil service generally, rather than to the prison service. We did not know what the costs were until a few years ago, when new entrants came into the business and did the same job for much less. The board has had a number of discussions with our staff and the trade unions about that, but they are finding it difficult to come to terms with the situation. One gets the impression sometimes that they wish it would all go away, but the fact is that the trend is continuing worldwide. The board is therefore determined to seek increasing efficiency savings. There will be limits to what we can manage within the public sector, but within those limits we will aim to do the best we can. The output and key performance indicators that the minister has set include some fairly tough financial constraints that we have to work to over the coming two years.

The Convener: I am conscious that we have hit the deadline, minister. We want to see you and the chief executive of the SPS again, so I will make arrangements with your offices to have you back. I will put three preliminary questions to you, which will help the committee. Do you envisage there being an extension to the consultation period?

12:00

Mr Wallace: Not formally. If the committee produces its report after 12 June but before the beginning of the summer recess, we will not gazump the committee by announcing a decision before we have had an opportunity to consider its report.

The Convener: Can you give us guidance on when you expect to make a final decision on the future of the prison estate?

Mr Wallace: No. You mentioned earlier the impact of delays. We want to minimise delays, but equally, if important issues are raised in the consultation, I have given a clear undertaking that I will consider them. For example, if important new evidence is obtained from Belgium or wherever—

Michael Matheson: And Belize.

The Convener: I think that he is angling.

Mr Wallace: Belize? I think that Michael Matheson feels a visit coming on.

Obviously, we would want to evaluate such evidence.

The Convener: Do you intend to hold a parliamentary debate on the consultation exercise, and at what stage?

Mr Wallace: That is a matter for the Parliamentary Bureau, but there have been indications that there will be a parliamentary debate in Executive time, or perhaps a debate on the committee's report. Undoubtedly, there will have to be a parliamentary debate.

The Convener: But given what you are saying, you are looking at early next year or late this year.

Mr Wallace: Early next year might be leaving it too late.

The Convener: So we are looking at late this year, around November or December. I am trying to determine what time scale we are looking at.

Mr Wallace: Having got it wrong so often in saying when the prison estates review was coming out, I will resist the temptation to comment.

The Convener: Thank you both.

We move to the last item on the agenda. I remind those who are present that the committee decided to take that item in private, as we will be discussing candidates for the position of adviser to the committee on the title conditions bill, and it is not appropriate to discuss such matters in public.

12:02

Meeting continued in private until 12:18.

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