

# **JUSTICE 1 COMMITTEE**

Tuesday 25 February 2003  
(*Afternoon*)

Session 1

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## JUSTICE 1 COMMITTEE

### 5<sup>th</sup> Meeting 2003, 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)

Kate Maclean (Dundee West) (Lab)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

Mr Gil Paterson (Central Scotland) (SNP)

#### WITNESSES

Jean Couper (Scottish Legal Aid Board)

Lindsay Montgomery (Scottish Legal Aid Board)

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

#### CLERK TO THE COMMITTEE

Alison Taylor

#### SENIOR ASSISTANT CLERK

Claire Menzies Smith

#### ASSISTANT CLERK

Jenny Goldsmith

#### LOCATION

The Chamber



## Scottish Parliament

### Justice 1 Committee

*Tuesday 25 February 2003*

*(Afternoon)*

[THE CONVENER *opened the meeting in private at 13:46*]

13:58

*Meeting continued in public.*

**The Convener (Christine Grahame):** I open the public part of the meeting. I ask members to ensure that mobile phones and pagers are off. No apologies have been received.

### Item in Private

**The Convener:** I propose that we consider our draft report on the inquiry into alternatives to custody in private at future meetings. As members are aware, a consideration of the report in public may pre-empt the publication of its final version. Are we agreed?

**Lord James Douglas-Hamilton (Lothians) (Con):** Yes.

**The Convener:** One member indicated agreement. I do not know whether that is a quorum, but never mind. I heard you, James. [*Interruption.*] Members tell me that they agree and that I am not paying attention.

### Convener's Report

**The Convener:** I have nothing to report under this item, as I have not had an opportunity to prepare anything on mediation. I have been given question 6 at First Minister's question time, so let us hope that we get that far so that I can ask it.

### Alternatives to Custody Inquiry

**The Convener:** We will now take evidence from Jim Wallace, who is the minister on our inquiry into legal aid—[*Interruption.*] Sorry, I have been advised that we are talking about alternatives to custody—for a moment the minister's heart must have gone for a hop, skip and a jump.

I refer members to papers J1/03/5/2 and J1/03/5/3. Minister, witnesses have told the committee that, despite the fact that a wide range of community disposals is available to courts, programmes are often not available for those disposals. We have heard that from a variety of sources. How is the Executive addressing that?

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** First and foremost, we have been making the range of non-custodial sentences—alternatives to custody—available throughout Scotland. With the exception of the drug treatment and testing order, all alternatives are available throughout Scotland. It is important that work is done to ensure that programmes can run. The committee recognised in its budget report the substantial additional resources that have gone into funding community disposals. During the three years up to this financial year, funding has increased by 52 per cent to £67 million. By 2005-06, there will have been an increase of 100 per cent over a five-year period. That shows the Executive's commitment to making funding available to ensure that programmes are available.

I am aware that members have heard evidence to suggest that specific programmes at specific times, or places on those programmes, have not been available. Inevitably, that will happen from time to time, but there has not been a consistent pattern in one specific area over any length of time. I hope that sheriffs are discovering where the bottlenecks are and that they liaise with the criminal justice social work services in the area to resolve the problem. For example, in Glasgow there is good liaison between the sheriffs and the social work department. If problems are identified, I hope that sheriffs will similarly engage with the local social work departments to resolve them.

**The Convener:** According to evidence from the sheriffs, they have a good relationship with criminal justice social work services—they have a lot of time for the social workers with whom they are in contact and understand the pressures under which they work. Do the criminal justice social work departments get back to you about problems? You are the pilot who can direct matters and who should be made aware of the overall picture.

**Mr Wallace:** From time to time, specific matters are raised, but I cannot say that there is any great pattern emerging. Occasionally, specific items are raised, but the Executive has put so much money into community disposals that that should help.

Criminal justice social work is now divided into 11 groupings, plus those for the three islands areas. One of the reasons for that arrangement is to ensure the better development and greater consistency of programmes over a wider area. The groupings took effect only on 1 April last year, but we hope that they will provide a critical mass, which should also help with the provision of programmes.

**The Convener:** Do you consider that there would be merit in meetings between the criminal justice social work departments from those 11 areas and your officials, so that the Executive can be kept informed of any patchiness or lack of information? Information is scattered at the moment, so holding more regular meetings could have merit.

**Mr Wallace:** Such an approach would certainly have merit. Indeed, if any particular problem should arise, the criminal justice social work departments should not wait to raise it at a routine meeting. In any case, the officials in my department who deal with the matter meet the Association of Directors of Social Work and the Convention of Scottish Local Authorities every two to three months. As a result, if certain trends are emerging, we should be able to identify and address them. Obviously, if there are specific problems in specific areas, the criminal justice social work departments should flag them up. However, on your general question, I certainly think that it is a good idea to have exchange and dialogue.

**The Convener:** We feel that that does not happen all the time. There are many concerned people in different areas and they do not seem able to have their views co-ordinated, as it were, in one centre to ensure that there is a comprehensive picture. I appreciate that the situation fluctuates—even the sheriffs admitted as much. However, the great problem for the committee is that there is a lack of awareness in certain areas about whether a programme is working well. I know that other members might want to take up that matter.

**Maureen Macmillan (Highlands and Islands) (Lab):** My question concerns evidence that we received from Safeguarding Communities Reducing Offending, which provides programmes that run in parallel with criminal justice social work. The organisation gave us some examples of good programmes that are totally oversubscribed and cannot be rolled out because of a lack of resources. For example, SACRO's Edinburgh

adult mediation and reparation service has had to turn away 170 people a year due to a lack of resources. Some of its group work services, which are based in Falkirk, have received many more referrals than they can manage. The waiting list for its Glasgow supported accommodation service can become so large that individual social workers decide not to make a referral. Finally, Midlothian adult mediation and reparation and supported accommodation service has a waiting list. Because of a lack of resources, even excellent programmes can be halted. I was wondering how the good programmes could be expanded.

**Mr Wallace:** The programmes that you have described are contracted with the local authorities, which, as I have indicated, are being given substantial new resources. If the authorities are experiencing difficulties, they should raise them with us in the way that the convener has suggested. It might be more appropriate for the local authorities, rather than SACRO, to do that, although it is useful that the organisation has flagged up those examples. However, the local authorities have contracted for the places. If they have found that bottlenecks are occurring, they should raise the matter with us.

I reiterate that, as far as the additional resources are concerned, no one can gainsay the amount by which funding has increased. I also point out that officials in the department meet the voluntary sector, including SACRO, every six months, which provides an opportunity for exchanges. In some respects, the fact that particular programmes are working well is itself an encouragement to local authorities to take cognisance of them, although perhaps that is a back-handed compliment.

**Maureen Macmillan:** The Sheriffs Association believes that the over-enthusiastic use of pilot schemes might lead to postcode justice, which would result in some offenders not being able to benefit from programmes such as those connected with drug testing and treatment orders because those programmes were deprived of resources. What is your response to that assertion?

**Mr Wallace:** I am certainly aware that sheriffs have expressed that view. As I indicated yesterday at the conference that SACRO and Amnesty International co-sponsored, we would have had a real postcode lottery in sentencing if we had not piloted schemes or evaluated sentences before rolling them out. If we are trying to draw a parallel with postcode prescribing, I should point out that postcode prescribing does not usually happen in relation to the testing of a particular drug. Instead, it has more to do with whether a drug that has been accepted as good is available. Simply to roll out every programme and sentence without evaluation would be to take a hit-and-miss

approach and would not command the necessary confidence of sheriffs and the public.

Consider the restriction of liberty orders, which were piloted in Aberdeen, Peterhead and Hamilton. The pilots were important not only in determining whether the orders addressed the particular sentencing and justice requirements, but in testing the technical capability of the measure. If we had rolled out restriction of liberty orders across Scotland without testing their practical capability and then found that they did not work, there would have been legitimate grounds for criticism. Having piloted and evaluated them, we were able to roll them out across Scotland with confidence.

The same applies to supervised attendance orders. Indeed, the only sentence that is not currently available throughout Scotland is the drug testing and treatment order, although by the end of this year it should be available in sheriff courts for 70 per cent of Scotland's population. However, as the committee is well aware, DTTOs involve quite a lot of multi-agency support and involvement. We cannot just suddenly turn on the tap and allow sentences to be passed that cannot be implemented locally.

**The Convener:** I am sorry to interrupt, minister, but the issue at the heart of the Sheriffs Association's concerns is that pilot schemes will draw resources from other areas of the criminal justice system and deprive them of resources. Although drugs courts, for example, are very worthy, they are social-work intensive and draw criminal justice social workers from other areas. Moreover, a young person who is in an area in which there is a youth court will be treated differently from a person who is in an area in which there is not a youth court—they will be better off. The Sheriffs Association raised those two issues with us and I would be pleased if you addressed them.

**Mr Wallace:** I understand where the Sheriffs Association is coming from, but we have made additional resources available for drugs courts and additional resources will be made available for the youth court pilot. Therefore, resources will not be drawn away. Additional resources have been made available.

**The Convener:** So there will be no impact on delivery elsewhere.

**Mr Wallace:** I believe that that is right. On the other issue, one might think that drugs courts are worth while—indeed, the Parliament has agreed that they are—but that does not mean that they can suddenly be introduced in every sheriff court in Scotland. The fact that they are a new departure in the treatment of drug offenders means that careful planning is required—the committee will

recall the amount of planning that there has been, which is the proper way of proceeding. In general, members from all parties in the Parliament saw the proposal as a good idea, but it could have got a bad name if things were done in a half-hearted way—or in a not even half-hearted way—as that would have made the scheme impossible to sustain in some places.

**Maureen Macmillan:** I still think that there is an issue to be addressed. I understand what you are saying and that there must be pilots, but justice will be uneven throughout the country. To some people, it seems that pilots continue for too long and that schemes are rolled out very slowly across the country. For example, DTTOs might be available to people in one part of the country and not to people in another part of the country, which means that the people for whom they are not available are disadvantaged. The same applies to youth courts. We should try to achieve the right balance between having pilot schemes—and therefore finding out about glitches and whether the schemes work—and rolling out schemes quickly across the country.

**Mr Wallace:** To be fair, the restriction of liberty orders were piloted and evaluated and then extended across the country at once—that was on 1 May last year. Likewise, having been evaluated, supervised attendance orders were extended across the country at once. Diversion from prosecution was also evaluated. Having learned from the evaluation of the pilots, we tried to make the disposal more focused as we rolled it out across the country. There were different emphases and priorities according to the lessons that had been learned. I believe that diversion from prosecution is a more effective alternative disposal route as a result of that process.

The disposal that you are right in saying has not been rolled out at once is the DTTO. In Greenock, for example, it took some time to put in place the infrastructure to support it—it was probably implemented later than we had originally hoped. The committee would rightly be critical of the Executive if we had tried to roll out a sentence in a place where it might theoretically have been possible for the sheriff to impose it but to all intents and purposes there was not the resource—often the human resource—to support it. There is no point in our doing that.

14:15

**Maureen Macmillan:** Are you not able to recruit the personnel that you need for the programmes? Alternatively, is the problem money, or is it a combination of both factors?

**Mr Wallace:** The issue is not solely about money. Multi-agency work is required, as different

agencies are involved. There are protocols. DTTOs involve bringing social work departments and health services together and there must be drug treatment facilities. All those services must be in place. That often involves the availability of people who have the adequate and proper training. Therefore, I do not believe that we should rush into DTTOs. However, we are steadily extending the disposal. We started using it in Glasgow and Fife and it has now substantially been rolled out. As I said, by the end of the year we will cover 70 per cent of the population.

**Michael Matheson (Central Scotland) (SNP):**

It is important to pilot various systems to allow time for evaluation and to ensure that the Executive does not introduce something that, as you said, could create confusion in the system. As the committee heard last week, the Sheriffs Association also recognises that. Once the pilot has taken place and been evaluated, the next step is to decide to roll it out across all sheriffdoms in Scotland. It would be helpful if you published a list of the sheriffdoms where DTTOs will be introduced, the time frame for doing so and the additional resources that will be required in each area to provide the service. You may already do that, but I have not seen such a list.

**Mr Wallace:** As I indicated, restriction of liberty orders, supervised attendance orders and diversions from prosecution were not extended gradually; we took the big-bang approach, if that is not an inappropriate phrase. It was agreed to roll those orders out across Scotland on a given date after they had been piloted and evaluated. It was not a question of having certain sheriff courts becoming involved on certain dates. The difference comes with DTTOs, for the reasons that I gave to Maureen Macmillan.

The sheriffs ought to be well aware of what is about to happen, not least because of the protocols that have to be agreed. The orders do not just happen by themselves; a lot of preparatory work has to be done before they can be rolled out. Plenty of advertisement and notice is given at the time and local steering groups are involved. Sheriffs should certainly know when DTTOs become available to their sheriff courts.

**Michael Matheson:** However, there is no comprehensive list detailing a time frame for the introduction of the orders in individual sheriffdoms and the resources that will be required to accompany them.

**Mr Wallace:** We have indicated the next clutch of sheriff courts to which we want DTTOs to be extended. The sheriff courts must then liaise with local authorities and health authorities to ensure that the appropriate facilities and back-up are in place. In Greenock, although there had been an indication of the time needed for the orders to be

made available, implementation had to be postponed because the back-up and facilities were not adequate at the intended date of introduction. We have indicated which sheriff courts are in the next tranche, but that is dependent on work being done on the ground. We clearly want the orders to be introduced and every effort is being made to achieve that, but we recognise that there will be times when they are not introduced when envisaged.

**The Convener:** I am sorry, Michael. I know that you wish to pursue that point further, but we have a lot to deal with. We have touched on some reasons for delays in rolling out the orders, but we can deal further with that issue later. Maureen Macmillan has the next question.

**Maureen Macmillan:** When the committee met in Inverness, we took evidence from Highland Council. Service providers told us that funding for programmes to support community disposals is awarded following a bidding process. We were told that, when Highland Council had to bid for packages, it often got money to fund schemes that were not its priorities. Therefore, the strategy that it had worked out had to be readjusted in accordance with the outcome of the bidding process. The committee was also told that funding is often short term and project based and that the bidding process is time consuming, which makes it difficult for programme providers to plan strategically. Will the Executive consider changing the funding process to address those problems?

**Mr Wallace:** That observation might be fair as far as some of the funding for youth justice programmes is concerned, but the core work on non-custodial sentences has substantially been done. We invite the groupings that I mentioned earlier to put forward three-year strategic plans. A grouping might not get everything that it wants with respect to those plans, but that is a far cry from the more ad hoc applications and refusals that the question perhaps suggested. The groupings are meant to reflect and identify national priorities. A three-year strategic plan is what most local authorities have been looking for in a range of funding areas, not just in this one.

**The Convener:** One of the youth diversion projects that we heard evidence about in Inverness had eight funding streams, which all finished at different times.

**Mr Wallace:** I think that you are talking about youth justice as opposed to—

**The Convener:** Yes, but that is within our scope. As well as dealing with alternatives to custody, we want to ensure that youngsters are diverted from getting into the system in the first place.

**Mr Wallace:** Indeed.



**The Convener:** The example with the eight funding streams that all finished at different times gave us concern. The process was described to us as being something of a jigsaw. What is being done about that?

**Mr Wallace:** I will not dispute the point about Highland Council having eight funding streams, if that is what its representatives said. The officials accompanying me are not aware that Highland Council has ever made a complaint about that to them.

**The Convener:** The example was raised not by Highland Council, but by representatives of a project and it is detailed in the evidence that the committee took in Inverness. That evidence was available for your team to look at.

**Mr Wallace:** The example may be a responsibility of the education department, but if the committee is prepared to give us chapter and verse, we will certainly look into the matter. However, I repeat that it has not been flagged up with us.

**The Convener:** We will write to you on that.

**Maureen Macmillan:** Thank you for that, minister.

**Donald Gorrie (Central Scotland) (LD):** I have a more general point about the funding of projects. We frequently hear complaints that some projects that are doing visibly good work—the Freagarrach project is often quoted as an example, but there are many others—still live on a day-to-day basis for their funding. It is argued that it is in everyone's interest for such projects to get continuity of funding and for them to be replicated in other parts of the country. The complaint is that there is too much funding for new projects and that existing projects do not get continuing funding and are not copied.

**Mr Wallace:** That is why we are keen to move to the three-year strategic plans. The knowledge that funding will increase between now and 2005-06 should help with the kind of long-term planning that we all agree is better than the uncertainty that comes with year-to-year funding. With the move to the groupings and three-year strategic planning, I hope that what has not been possible up to now will be possible, as the groupings will be more certain about their funding streams in the years ahead.

The Freagarrach project is widely acknowledged as a good scheme. The difficulty of rolling it out across Scotland is that it is specific to one place and the people who do it. I have asked about spreading the project further and I understand that the process is not as simple as just replanting the project elsewhere. The project is specific to those who are involved in delivering the programme.

Undoubtedly, however, there will be lessons and features of the project that can be used elsewhere.

Donald Gorrie has also taken an interest in the Airborne Initiative, which makes a valuable contribution. It is a national programme and I think that I am right in saying that it has places vacant. It would not necessarily make sense to replicate that project elsewhere while it still has vacancies.

There are other projects, such as the intensive probation project in Glasgow, from which we can take good ideas and try to ensure that good practice is disseminated. When there is proper accreditation, that will assist considerably with the dissemination of good practice.

**Donald Gorrie:** Witnesses have spoken about the shortage of social workers, which leads to delays in the production of reports and so on. It has also been said that the work load in courts is increasing and that the resources to deal with that are not available. What proposals do you have to remedy such serious shortages?

**Mr Wallace:** The lack of social workers has been identified and acknowledged. Colleagues will recall that Cathy Jamieson made an announcement last month about measures that have been taken to increase the number of social workers. It is also fair to say that, although the problem is general, the shortages have not been so marked in criminal justice social work. I am advised that there has been a 25 per cent increase in the number of criminal justice social workers in the past five years.

**The Convener:** Is there a shortfall?

**Mr Wallace:** I am sure that—

**The Convener:** What is the shortfall?

**Mr Wallace:** I am sure that there will be a shortfall in some areas. However, a 25 per cent increase shows that the issue is being addressed. It is also fair to point out that the Auditor General's report on youth justice, which was critical in a number of respects, found that approximately 96.5 per cent of social work reports were submitted to the court on time. Clearly, the rate should be 100 per cent but, to be fair, 96.5 per cent is not an unreasonable achievement.

**The Convener:** Will you provide the figures for the shortfall in criminal justice social workers in the 11 designated areas? Sheriffs told us that the social workers not only do the reports, but appear in court for breaches of orders and do other tasks. It would be useful for the committee to know the exact shortfall throughout Scotland and in the 11 designated areas.

**Mr Wallace:** We will try to give as good a picture as we can. I am sure—

**The Convener:** As good a picture? No, we want the picture.

**Mr Wallace:** That depends. If the question is what is the ideal—

**The Convener:** I just want to know the number of vacancies, the numbers that are required in the various areas and the shortfall, rather than being told about a 25 per cent increase—an increase from what?

**Mr Wallace:** It is over five years.

**The Convener:** We need to know what is out there.

**Mr Wallace:** We will give you the number of vacancies. That should not be too difficult.

**The Convener:** The matter is serious.

**Mr Wallace:** I hope that the committee acknowledges what I said about the Audit Scotland report, which found that 96.5 per cent of social work inquiry reports were delivered to the court on time. That is easy to knock, but it is appropriate to give credit where it is due.

**The Convener:** The point is that sometimes parties are in custody because no social worker would be available if they were on bail, so there is a knock-on effect. The reports might be there, but criminal justice social workers are required to do other things, which is what we require to know about.

14:30

**Ms Wendy Alexander (Paisley North) (Lab):** One of the issues that is flagged up in the minister's evidence is the tension between trying to provide sufficient community disposals to reflect the progression of crime, and not having so many community disposals that sheriffs or anyone else who wants to know their way round the system is confused. In the light of that, is the Executive considering any new community disposals for Scotland? In particular, is night and weekend prison under consideration?

**Mr Wallace:** The answer to the latter question is no. We are looking at structured deferred sentences. Some of the work that was done on the Criminal Justice (Scotland) Bill related to supervised attendance orders. Such orders are not a new disposal, but they could become a sentence of first instance, rather than an alternative to imprisonment for fine default. Glasgow stipendiary magistrates court and another sheriff court could pilot the mandatory use of supervised attendance orders where there has been fine default. The sentence is not new; we are applying an existing sentence in different circumstances.

**Ms Alexander:** In that light, I flag up the fact that we share the desire for existing disposals to have comprehensive coverage and for all parties

to have a deeper understanding of those disposals. In our report, we will probably at least touch on night and weekend prison and how that might play a role for those for whom custodial options remain the way forward. I will leave it there at this stage.

**Mr Wallace:** I will read the report with interest.

**Paul Martin (Glasgow Springburn) (Lab):** I ask the minister to comment on the effectiveness of alternatives to custody programmes. We have received evidence that many individual programmes have been evaluated, but one concern is that it is difficult to establish an overall picture of effectiveness. Does the Executive propose to undertake a comprehensive assessment of community disposals?

**Mr Wallace:** I have an evaluation of community-based disposals, from February 2003, which Monica Barry of our research unit prepared. I am happy to make that available to the committee. Paul Martin is right to highlight the fact that the situation is often difficult because there are so many factors and variables. For example, an event might have happened in a person's life that means that they would have changed their ways anyway. Sometimes what can appear technically to be a breach of a community service order might relate to a conviction for an offence that took place before the community service order was imposed. It is important to tease out all the variables that can come into play.

One study describes the 100 per cent funding policy and the national standards. It says:

"A major review of this policy was published in 1998 and a longer-term follow-up study was published in 2000."

The study gives an indication of the evaluation of community-based disposals. I will make the study available to the committee. It is a useful document.

**The Convener:** We would like to circulate it as soon as possible.

**Paul Martin:** If disposals and resources are being made available, people want to know that the Executive is also considering effective means of evaluating its policies. I appreciate that research is being carried out, but people in the community want to know whether the programmes are effective. Significant sums are being allocated to community disposals, which raises the issue of accountability. Surely the Executive has to ensure that resources are being put to good use.

**Mr Wallace:** I entirely accept that point. Over the past few hours, as I was preparing for the meeting, I looked at some of the figures. Reconviction rates could be taken as one measure of effectiveness. The reconviction rate within two years for custody is 67 per cent, for probation is 63 per cent, and for community service orders is 50 per cent.

**The Convener:** I think that the figures are in paper J1/03/5/2, submitted by the minister.

**Mr Wallace:** I think that that is correct, but the figures appear in a number of places.

**Paul Martin:** I want to follow up on how the data on clients are configured. A number of organisations that have given evidence have advised us of how successful they are—some of them claim to be remarkably successful in leading their clients to a new type of life. How is it possible for them to say that if there is no tracking of clients because the system does not allow them to be tracked? What does the Executive propose to do to ensure that it is informed about schemes that it invests in? How does it know that the schemes are effective? Will it track at least a cross-section of clients to ensure that the programmes are effective?

**Mr Wallace:** We are improving the information technology based on which we can undertake such tracking. The question is a fair one. Up until now, much of that work has been possible only on a patchy basis, although the situation is improving. I have a briefing note with me on the tracking of offenders, which gives statistical information on reconviction. Rather than read it out to put all that on the record, it might be helpful if I gave it to the committee.

**The Convener:** The papers should be lodged as public papers.

**Mr Wallace:** The paper reports some of the figures that I have just given and indicates that

“More detailed analyses of reconviction rates based on the SOR—

Scottish offenders index—

“data have been carried out from time to time to inform various research and other ad hoc requests for information. It would be feasible to develop further this type of bespoke analysis ... to meet other emerging specific needs for information, subject to the available analytical resources”.

**The Convener:** I am not blaming you, minister, but it would have been useful if your department had put the papers into our hands before today's meeting. That would have allowed us to address the issues.

**Mr Wallace:** I think that it has just been done.

**The Convener:** Has it?

**Mr Wallace:** We have been trying to follow the evidence and pick up some of the points.

**Paul Martin:** If a public limited company was selling a product, it would want to detail its results to ensure that the product was successful. I am sure that a number of tracking mechanisms would be used to ensure that the company's clients were happy with the product.

Do you agree that tracking to evaluate the projects is an issue? There appears to be a lethargic and almost casual approach to their evaluation. We pour money into them, but leave the evaluation to be carried out by academic studies. There should be a more comprehensive, standardised and efficient mechanism to track alternatives to custody programmes that we put money into. A major company would do that to ensure that the product was a success.

**Mr Wallace:** As I indicated, some of the variables make it difficult to track the success of alternatives to custody with any accuracy. Also, we are only now getting improvements in the electronic recording of information to make such tracking more possible. I share your view that it ought to have been done better in the past. That, along with reconviction rates for those in custody, is one of the issues that I have been trying to pursue so that I can get a better handle on it. There is scope for improvement. I assure the committee that we are on to that.

**Ms Alexander:** To reinforce that point, it would be helpful for the committee to have that information, so that our report might be helpful to the minister when it appears.

In the latter stages of our inquiry into the prison estates review, it became apparent that a comprehensive information-gathering exercise was about to be embarked upon, so that, from November 2004, for every prisoner in a Scottish prison, now and for ever after, we will have a record of what their prison experience was like and what opportunities they had to participate in programmes such as education. Within a short period of time, we will have comprehensive information about those who are in the custodial system, but that is stewarded by an executive agency—the Scottish Prison Service. Is it possible for the minister to compel the Scottish Prison Service at the highest level to work closely with 11 different criminal justice groupings, which essentially work with the same client groups?

I do not need an answer to that, but we must say that we need an integrated IT management system for those who are sent down the non-custodial and the custodial routes, so that we can provide the definitive evidence that Paul Martin is looking for. The committee was astonished to have the official police bodies come before it and say that there is no evidence that non-custodial sentences work or are more effective than custodial sentences.

We need to consider the entire population that comes through the criminal justice system, irrespective of whether people receive a custodial sentence. I do not minimise the difficulties of co-ordinating an IT system among 11 criminal justice social work consortia and the Scottish Prison

Service, but we might helpfully mention the need for such a system in our report and leave the matter with the minister.

**The Convener:** We will leave the topic at that. The minister does not need to answer Wendy Alexander's question. We are asking for long-term evaluation. We have heard what the minister has to say. Once we have the other papers that the minister has cited, we will consider them. Alternatives to custody cannot be sold to the public, let alone sheriffs, if they have not been evaluated.

**Mr Wallace:** Wendy Alexander put her finger on the issue. There are 11 different criminal justice social work groupings and possibly 32 different IT systems—perhaps that is an exaggeration. We seek standardisation of the software.

**Michael Matheson:** There is clearly a need to evaluate programmes effectively. Part of the reason why we need to do that is to gain public confidence in the systems that we operate and to ensure that those on the bench are confident that the various schemes that we operate are effective. There seems to be a gulf. It is clear from your evidence that you acknowledge that public confidence and the courts' confidence in the various schemes that operate are issues. What action is the Executive taking to ensure that we address those issues and bridge the gap?

**Mr Wallace:** There are a number of things. To go back to what I said earlier, the fact that programmes are rolled out only when they have been piloted and evaluated is an important point. That was one of the driving considerations in pulling together the 11 groupings. The experience was that criminal justice social work in individual authorities was sometimes almost a cinderella service. By bringing the groupings together and trying to get a critical mass, the importance of criminal justice social work has been elevated. More emphasis has been given to the work, which has achieved greater consistency and an improvement in the programmes.

As the committee is well aware, we are establishing an accreditation panel. The ultimate aim of the panel is to reduce reoffending by promoting excellence in programmes in the community, and it will accredit and encourage effective approaches. The tasks will be to approve the criteria for accreditation; to invite and consider applications for accreditation; and to determine whether the criteria are met, whether more needs to be done or whether the programmes are deemed to be unsuccessful. The panel will give feedback to applicants, with guidance on how they can improve if they have been unsuccessful, and it will review and modify the accreditation criteria. Your point has been taken on board and we have now established the panel, which will have its first meeting in April.

14:45

**Michael Matheson:** Will the reports that the panel compiles be public documents?

**Mr Wallace:** Yes.

**Michael Matheson:** Some of the evidence that we received suggested that there is little value in short-term custodial sentences, particularly sentences of six months and under. When someone goes into prison for six months, they may be released after three months. It could be argued that the community has been protected from them for that three-month or six-month period, but it could also be argued that, if they went on a two-year community disposal programme, they would be under even greater scrutiny, which would provide greater security for the community, because they would be observed and monitored.

Is the Executive taking action to promote the use of alternatives to custody, particularly for those who may receive a short-term sentence? I would very much prefer someone to be on a two-year probation programme than to receive a six-month sentence, when they could get out in three months and be back at large in the community causing the difficulties that they caused before they went into prison. The prison system is not able to address offending behaviour in such a short period of time.

**Mr Wallace:** I understand the basis of Michael Matheson's question. For the record, when I opened the Iona block at Polmont young offenders institution, the governor, Dan Gunn, quoted from the 1949 Scottish Advisory Council on the Treatment and Rehabilitation of Offenders, saying:

"We wish to be equally emphatic in expressing our opinion about the ineffectiveness of short-term prison sentences—the short-term sentence is harmful to the offender and a waste of public money."

I am afraid that, 54 years on, Michael Matheson has expressed the same sentiment.

I would like to think that we are trying to move on and change. Yesterday, the Executive published the report of the November 2001 criminal justice forum on short-term prison sentences. I entirely agree that community disposals can be far more effective, particularly in dealing with people who would otherwise get short-term prison sentences, but who do not have to be imprisoned to protect the public, who do not have a disposition to violence, or who have not committed a crime of such a nature that it would appropriately attract a prison sentence.

If the objective is to break cycles of reoffending, the intensive supervision that can accompany some alternatives to custody is likely to have a more lasting benefit, because there is a period during which offenders can receive help and have

their offending behaviour addressed. That must be what we aim to achieve.

I emphasise that the role of the Scottish Parliament and the Scottish Executive is to make the sentences available. In a country in which we uphold the independence of the judiciary—as we rightly should—the sentence will always be a decision for a sheriff who is faced with the full facts of a particular case. We have to try to ensure that a range of appropriate sentences and programmes is available and that sheriffs and the public have confidence in them.

**The Convener:** Do your projected prison numbers take into account the route of promoting community disposals?

**Mr Wallace:** From memory, I think that that was taken into account as an element of the prison estates review. I think that the committee saw that evidence in the context of the estates review.

**Lord James Douglas-Hamilton:** I declare an interest as a non-practising Queen's counsel.

**Mr Wallace:** An interest that I share.

**Lord James Douglas-Hamilton:** Some witnesses have suggested the introduction of statutory limitations on the use of short-term sentences. Further, it has been suggested that, because there is no rehabilitative element in short sentences, there is a case for more non-custodial options or for longer sentences. What is your reaction to those suggestions?

**Mr Wallace:** We have no plans to impose statutory limitations on short-term sentences. We would be going in the wrong direction if, to achieve in-prison rehabilitative work, longer sentences were imposed than would have been the case if the sheriff were thinking only about justice. That would be approaching the matter the wrong way round. We must try to ensure that all non-custodial sentences, such as community service orders, supervised attendance orders and probation, have the components that allow proper rehabilitation to take place.

The committee will be aware that we want to establish a time-out centre in Glasgow for women offenders as an alternative to custody. That is an important development.

**Lord James Douglas-Hamilton:** Some witnesses have told the committee that a lack of judicial confidence in the provision of alternatives to custody has increased the use of custody as opposed to community disposals. Do you accept the suggestion that, if programmes that deliver community disposals were adequately resourced, they would be more fully used?

Is it a source of concern to you that many of the community disposals display a high rate of

recidivism? One of our documents indicated that the rate was 56 per cent for probation and 40 per cent for community service and that 61 per cent of those discharged from custody were reconvicted. What might be the best way of dealing with that problem?

**Mr Wallace:** I would not accept that community sentences lack credibility. For example, in 2001-02, there was a 19 per cent increase in probation orders, and more sheriffs have been using community sentences.

The committee has reflected before on whether more community sentences are being imposed instead of fines or other alternatives to custody. Obviously, the number of people being committed to custody has also been increasing, but the number of community service orders and probation orders has started to increase again, after stalling for a while.

What was the second part of your question?

**Lord James Douglas-Hamilton:** I asked about recidivism.

**Mr Wallace:** To some extent, I have already addressed that issue. We have figures that show that some forms of non-custodial sentence are less likely than custodial sentences to result in repeat offending. As I said to Paul Martin, we need better information on that. I return to the point that Michael Matheson made. I hope that we all share the objective of breaking the cycle of offending and reoffending. Because of their intensity and duration, some of the programmes that can be and are being delivered are more likely than prison to have a lasting effect. A non-custodial sentence may last longer than a prison sentence. There is precious little that one can do with an offender during a short period in prison.

**Lord James Douglas-Hamilton:** The convener has already indicated that fines are outside the scope of this inquiry. However, I understood the minister to say that there is a move away from fines towards more community disposals.

**Mr Wallace:** It appears that there has been a reduction in the number of fines that are imposed. I wondered whether the committee had been able to take evidence on that.

**Lord James Douglas-Hamilton:** At our previous meeting, when I put a question on the issue to the witnesses from the Sheriffs Association, the convener ruled that fines were outwith the scope of our inquiry.

**The Convener:** I do not think so. I was concerned about whom you were asking, rather than what you were asking about.

**Lord James Douglas-Hamilton:** I see.

**The Convener:** You may put any question you like to a minister, but not to a sheriff.

**Mr Wallace:** The statistical bulletin that was published in December 2002 on penalties imposed in Scottish courts showed that, whereas in 1991 fines were imposed in 75.7 per cent of cases, in 2001 the figure was down to 63 per cent. Over the same period, the figure for custodial sentences increased from 7.6 per cent to 13.7 per cent, the figure for community service orders increased from 2.9 per cent to 4.1 per cent and the figure for probation orders increased from 2.7 per cent to 6.8 per cent.

**The Convener:** The point that James Douglas-Hamilton is getting at and that I was about to make is that although the number of community disposals is increasing, that has not impacted on the number of custodial sentences. Custody is also on the increase, because it relates to an entirely different area.

**Mr Wallace:** I agree that that appears to be the case. Non-custodial disposals of the type that we are discussing may be being used instead of fines.

**Lord James Douglas-Hamilton:** Is the minister minded to make a recommendation or to offer guidance in that area?

**Mr Wallace:** It would be inappropriate for ministers to offer any recommendation or guidance to sheriffs. Sheriffs would give short shrift to such a recommendation.

**The Convener:** James Douglas-Hamilton is determined.

**Mr Wallace:** It is our role as parliamentarians to make sentences available. It is the role of the judiciary to impose them. That is an important principle.

**The Convener:** You mentioned the time-out centre for women. Is that up and running?

**Mr Wallace:** It should be available in the summer.

**The Convener:** When will the centre open?

**Mr Wallace:** The latest estimate is August.

**The Convener:** When it opens, how many women will it serve?

**Mr Wallace:** Eight in detox, eight in supported accommodation and 400 in day programmes.

**Ms Alexander:** I have a brief initial question and a more substantive supplementary. When representatives of the Sheriffs Association gave evidence to the committee, they told us that, a number of years ago, the Executive considered producing a directory for each sheriff court area that would provide a full specification of the disposals that are available. The sheriffs were very

favourably disposed towards such a directory. Are there still plans to produce one? If so, what is the time scale for that?

**Mr Wallace:** June is the answer to the second part of the question. I think that Lothian and Borders—

**Ms Alexander:** The answer to the first part must be yes.

**Mr Wallace:** That is right. A model for Lothian and Borders sheriff court area is being piloted that will be available in June.

15:00

**Ms Alexander:** I have a slightly more substantive question that relates to the point that Lord James Douglas-Hamilton and the convener made. In principle, we want community disposals to be used more extensively. The empirical evidence shows that a very high level of crime is committed by 18 to 24-year-old young men who will be repeat offenders. Just as a custodial sentence will not fix them overnight, nor will a community disposal. We must deal with a period of offending.

It is important that a directory does not just say, "Here is the programme for a first-time offender," but provides clarity about the sanctions that are available when there is a breach of such a disposal. The directory should also indicate the progression, given that we have a menu of six progressive options. The directory needs to touch on those two issues. I am sure that the pilot stage will allow for that. We know the likely character of the client group that we are dealing with. Sheriffs should be aware of the progression and the sanctions in circumstances of breach. That will be helpful in avoiding jumping quickly from a community disposal to the custodial option.

**Mr Wallace:** I share that view.

**Donald Gorrie:** Does the Executive have a strategy on the repeated use of community sentences? Some people believe that, if a person has failed in the community sentence, he or she should go to jail. There is a desire to have the facility for repeated community sentences. What is your position on that? Will you develop policy along those lines?

**Mr Wallace:** In response to Wendy Alexander, I indicated that there is progression, subject to the overriding caveat that sheriffs must decide what is appropriate in each case. A breach of a non-custodial sentence should not automatically trigger imprisonment. The nature of the breach should be taken into account. That is especially true of someone whose offending might be drug related. It is naive to assume that they can kick a deeply ingrained habit overnight. A considerable degree of perseverance is necessary.

Donald Gorrie might recall that that is why we resisted an amendment to the Criminal Justice (Scotland) Bill last week. In certain circumstances, the amendment in question would have automatically triggered the ultimate disposal for the original offence, rather than allowing for the use of some of the other options that the bill proposed. It would be a mistake to go straight to custody. There ought to be scope for discretion by the bench, to take account of particular circumstances.

**The Convener:** Thank you very much, minister. We have almost stuck to our timetable.

**Mr Wallace:** I was asked whether I could give another 10 minutes; I would be willing to do so.

**The Convener:** You have 10—or rather, eight—minutes to yourself, which I am sure you will cherish.

**Maureen Macmillan:** Are we having a break now?

**The Convener:** No, the break is at 4 o'clock.

## Legal Aid Inquiry

**The Convener:** We move on to item 6 on the agenda, our inquiry into legal aid, which is a follow-up to our eighth report in 2001, "Report on Legal Aid Inquiry". While we wait for our witnesses to take their seats, I refer members to private paper J1/03/5/5. Members might also wish to consult J1/03/5/9 and J1/03/5/11. We have received submissions from the Scottish Consumer Council and the Glasgow Bar Association and we have correspondence on fixed fees and the issues that were raised by Scottish Women's Aid and the Scottish Legal Aid Board.

I welcome to the committee Gil Paterson, who takes an interest in issues of domestic violence and violence against women. He will be interested in the legal aid issues that Women's Aid has raised. After inviting members of the committee to ask questions, I will bring in Gil Paterson. I remind the committee that at 4 o'clock I will leave to attend another meeting, and the chair will be taken by Maureen Macmillan, who will deal with the delights of subordinate legislation. We have an hour for this item.

I welcome our witnesses as they settle down: Hugh Henry, the Deputy Minister for Justice; Jean Couper, chairperson of the Scottish Legal Aid Board—SLAB; Lindsay Montgomery, chief executive of the board; and Tom Murray, the board's director of legal services and applications. There is a miscellany of people at the back whose names I do not know, who comprise the minister's official support.

Minister, the Minister for Justice noted during last year's debate on legal aid that he had

"sympathy with the difficulties that individuals can encounter when they try to raise a group action".—[*Official Report*, 13 March 2002; c 10172.]

He went on to state that Executive officials and SLAB would be considering how such difficulties might be overcome. Can you advise us of the current state of thinking on this topic, and when proposals might be forthcoming?

Minister, before you start, I should have declared an interest. I no longer practise as a solicitor, but I am a registered member of the Law Society of Scotland and I once practised on legal aid issues. That was done and dusted four years ago.

**The Deputy Minister for Justice (Hugh Henry):** Thank you, convener. We are still considering what can be done within the current framework, but the problem is that any fundamental change would require primary legislation. I am afraid that we do not have an opportunity to do that in the near future. However, we are sympathetic to some of the issues that the committee has identified, and we will look to see what can be done.

**The Convener:** I will not pursue that, because we do not know what the Administration after the election will be.

**Lord James Douglas-Hamilton:** I too should mention an interest—I am a non-practising QC.

We note the changes that have been made to some of the capital eligibility limits for legal aid. We are advised that current legislation does not allow for an automatic mechanism to deal with the annual uprating of eligibility levels. What plans does the Executive have to ensure that the real value of such limits is not eroded by future inflation?

**Hugh Henry:** Again, any automatic uprating would require primary legislation. Indeed, in the fullness of time, that would be helpful. I hope that the future Administration would look at that; we are certainly sympathetic to the notion. In the absence of that primary legislation, we will come back annually to the committee and to the Parliament, but I share the committee's view that that is not the ideal way to proceed.

**Lord James Douglas-Hamilton:** Does it not follow that, should the new committee in the next session wish to pursue the matter through a committee bill, it could do so? Is it not the case that the Executive would have no objection to that in principle?

**Hugh Henry:** Yes, indeed. New legislation could be in the form of an Executive bill, a committee bill, or a member's bill.

**Lord James Douglas-Hamilton:** During last year's debate on legal aid, the Minister for Justice noted that he was

"attracted, in principle, to the idea of introducing a new, tapering system of contributions that would allow eligibility to be extended further up the income scale when the cost of legal action is too great for those on middle incomes to undertake."—[*Official Report*, 13 March 2002; c 10172.]

Can you update us on the Executive's thinking on this subject? When may proposals be forthcoming?

**Hugh Henry:** I cannot indicate specifically when that may happen. We are attracted by the principle of introducing a new, tapering system of contributions and would like to do that as soon as possible. Clearly, there will be no opportunity to introduce a new system between now and dissolution, but I hope that future committees and a future Administration will return to that. More technical work needs to be done on the issue and such work would be valuable.

**Lord James Douglas-Hamilton:** Does the minister accept that we accept that this subject is not without complexity?

**Hugh Henry:** Yeah.

**The Convener:** That was a very weary affirmative.

**Hugh Henry:** Would you like the representatives of the Scottish Legal Aid Board to add to my answers?

**The Convener:** Jean Couper is free to pitch in.

**Jean Couper (Scottish Legal Aid Board):** We have been doing some preliminary work on the subject of tapering. I emphasise that that work is preliminary. As Lord James Douglas-Hamilton acknowledged, this is a complex subject and a great deal remains to be done. However, it is worth recording that a start has been made.

**Michael Matheson:** One of the recommendations that we made in the report on our inquiry into legal aid related to perceived inconsistencies in the treatment of benefits. Our concern was to simplify the system and to harmonise the treatment of benefits across all types of legal aid. I understand that the Executive undertook some work on this matter. Can you update us on that?

**Hugh Henry:** Michael Matheson is right to indicate that we have examined closely the interaction between benefits and legal aid. Clearly, there have been inconsistencies and complexities in the system. One of the things that we must bear in mind is that we cannot do that work in isolation. We must do it against the background of changes to the benefits system at United Kingdom level. As members know, in April the working families tax credit and the disabled persons tax credit will be replaced and in October a new pension credit will be introduced.

I am pleased to announce to the committee today that we have decided that all state benefits should be disregarded when assessing eligibility for advice and assistance. That will simplify the assessment process and reduce the need to change the legal aid system every time the UK Government adjusts the benefits regime. It will also widen eligibility. We estimate that about 5,000 more people will qualify for advice and assistance as a result of these changes. Because time is short, we will have to lay new regulations before Parliament in the next few days.

Disregarding benefits in the financial assessment for advice and assistance is only part of the picture. Our longer-term aim is to reach a situation in which benefits are disregarded for civil legal aid too. We cannot move on that immediately, but we believe that that would help to simplify the system and to widen eligibility.

Clearly, such a change would have implications for cost and demand on legal aid funds. Because a significant number of amendments to legislation would be needed to implement it, we could not do



everything immediately. We will work towards that over the medium term, as resources allow.

**Jean Couper:** We welcome the change.

**The Convener:** The committee also welcomes it, as we have worked hard for it.

**Michael Matheson:** I am sure that the committee welcomes the change. I presume that if the regulations are changed in the next few weeks, they will come in to force very soon. I imagine that that will happen in the next couple of months. Is that correct?

**Hugh Henry:** Yes. However, the changes relating to disregarding the pension credit will be introduced in October.

**Michael Matheson:** I understand that SLAB researched the reduction in civil legal aid applications. It concluded that eligibility was not the strongest factor in reducing the number of applications received in recent years. However, the report also indicated that SLAB would undertake further work on the interaction of the different eligibility rules for advice and assistance and civil legal aid. Has that work been carried out? If so, what were the conclusions?

15:15

**Lindsay Montgomery (Scottish Legal Aid Board):** That work ties in to what the minister said about examining advice and assistance and civil eligibility. We are starting to do some modelling on that, which will continue for the next few months, because it is fairly complex. We have identified areas for which sufficient applications do not come through. We are looking at types of applications as well as various elements of the population to see whether there is proper representation in the applications that we get. It will take us two or three months to get a handle on that.

**Michael Matheson:** So the work has actually started.

**Lindsay Montgomery:** Yes.

**Michael Matheson:** Do you expect to report before the summer?

**Lindsay Montgomery:** Possibly.

**Michael Matheson:** You said that the modelling would take a few months, so I would have thought that the summer was a reasonable time scale.

**Lindsay Montgomery:** It is a fairly complex area. We may have interim views that we will share with the Executive with a view to making them public, but I cannot say precisely when the work will be finished.

**Paul Martin:** Recently published research from the Scottish Legal Aid Board into the supply and

use of civil aid advice and assistance and civil legal aid concluded that the number of legal firms providing a service in this area had remained stable over a number of years. That research also stated that there might be a geographical issue; such stability might conceal vulnerability in areas in which provision is low. How will the Executive tackle that?

**Hugh Henry:** The overall changes that we are making and the injection of additional resources will significantly contribute to closing any gap and stimulating provision in areas that have been undersupplied or underprovided for in the past. In totality, what we are doing will make a significant contribution.

The Scottish Legal Aid Board and the Law Society of Scotland are discussing how to improve specialist provision. I know that in the past the board has commented on those issues, but I will leave it to the board to indicate how the discussions with the Law Society are going.

**Jean Couper:** I know that the committee is interested in specialisation and we have been trying to engage with the Law Society on that subject. The Law Society has agreed to contact all its local faculties and ask them to keep in touch with their local citizens advice bureaux to provide a better-informed route for the referral of individuals from CABx to practitioners.

We hope that that will ease the existing difficulty with referral. Citizens advice bureaux have commented in the past that they often do not know to which firms and which individual solicitors they can refer potential applicants for particular types of work. It is hoped that that approach will go some considerable way to address that.

On the wider area of specialisation, as the minister said, bringing in quality assurance as part of the civil legal aid reforms will take us down that route. We can then work further with the Law Society to build on that process and look for greater specialisation, greater accreditation and greater knowledge of exactly who is doing what—all within the quality assurance regime that comes as part and parcel of the reform package.

**The Convener:** You said that consultation is with the Law Society and SLAB, and you referred to citizens advice bureaux. Should not other people who are caught within the net be consulted on provision—whether it is geographic or specialist—such as Citizens Advice Scotland, and perhaps the Social Welfare Law Practitioners Association, which has just established itself? I can think of more people than just the Law Society who would be in the know.

**Jean Couper:** That is a fair point. As we take the subject forward with the Law Society, we aim to encompass that wider range of potential

consultees and the wider range of views. We cited the CABx route because that is one practical initiative that has been agreed with the Law Society, and which I believe the Law Society is taking forward at the moment.

**Lindsay Montgomery:** The other reason we focused on CAS was because it stated in its evidence to the committee that it was finding this a major issue for local CABx. That is why we wanted to start with that group. In our local meetings round the country, it was local CABx that said that there was a problem for them, which is why we wanted to speak to them first. However, there are other groups, such as Money Advice Scotland and others, which need to be brought into the arrangement with local faculties of solicitors.

**Maureen Macmillan:** I am concerned that the issue be tied in with CPD. We cannot have a situation, in particular in rural areas, where nobody is expert in esoteric fields and they do not have the chance to gain that expertise.

**The Convener:** For the record, you had better explain what CPD is.

**Maureen Macmillan:** It is continuing professional development. Is that part of the plan?

**Lindsay Montgomery:** Generally, yes, but the issue is a lot broader than that. Where solicitors say that they have the skills to do certain things, how can we have a regime that ensures that they do have those skills and that knowledge? As my chairman mentioned, the tie-in to the quality assurance regime that is being introduced as part of the civil legal aid reform is a major step forward.

**Paul Martin:** A number of questions have been answered, but can we crystallise on the experience of the client? We have said that we should improve matters, and that we should see where we can go. Say that I lived in a particular part of Scotland and wanted to find a solicitor who specialised in immigration. What have you done to improve that journey? I keep saying that if I can go to tesco.com or any other supermarket website and have my messages delivered, and if I can find out absolutely everything on the internet, why can we not find out that information? Is there a website that can advise me where the immigration lawyers are in Springburn?

**Lindsay Montgomery:** The Law Society website will give you an indication of where to go. The arrangement does not work terribly well, because you cannot be certain of the expertise or specialism of particular firms. That is the issue.

**Paul Martin:** Is that not an area that we should develop? A person should be able to go on the net and get information on immigration lawyers in their locality. Are we developing that?

**Lindsay Montgomery:** The Law Society provides that to some degree now, but we would like it to be expanded. We would also like that to tie in to our website and other sites, so that people can find that information from various sources, including the not-for-profit sector, which is where quite a lot of people go as a first point of inquiry.

**Paul Martin:** I have one more question for you, minister. Can you provide information on how the plans for the community legal service are being progressed? Can you give a time scale for future developments?

**Hugh Henry:** A lot of development work has been done on that and we are still considering some of the issues. I share the anxiety that the committee has expressed about the need to make progress and I hope that we will come back soon on that matter to the committee and the Parliament.

**Donald Gorrie:** At the end of Jim Wallace's helpful letter of 18 February, he said:

"I am sure that he"—

that is you, Mr Henry—

"will be able to answer any initial questions you may have about the proposed package."

So here we are.

The letter contains three bullet points about the package, which are all important. The first states that the

"new structure is front-loaded",

but there is little explanation of that. How will that work exactly? The letter also mentions

"a new application and reporting regime"

and

"a binding quality assurance system",

which are good ideas, but we would like a little more elaboration of them.

**Hugh Henry:** On front loading, the payment system is designed to encourage the use of the legal aid system and early results from it and to discourage cases that drag on interminably, as sometimes happens. If we can get as much work done and as much payment made as possible early in the process, that will be to everyone's advantage.

We are working on the guidelines for, and the details of, new applications, reporting and quality assurance. We hope to have proposals soon. We are preparing a paper to explain how the system will work, which we will issue to the committee. I hope that that paper will give detailed information and will allay any uncertainties that the committee might have.

**Donald Gorrie:** What about the “binding quality assurance system”? Will that be covered in the paper you mention?

**Hugh Henry:** Yes. We will come back to the committee with a paper on quality assurance, new applications and reporting.

**Jean Couper:** When we talk about quality assurance in the context of the new system, we do not simply refer to quality control over the administrative processes, such as registration and certification of solicitors, although that is part of what we mean. A key part of the proposals for quality assurance is the peer review of solicitors’ work by a panel of experienced practitioners, which will be set up by the Law Society and administered and paid for by the board. The panel’s job will be to come to a view on the quality of work that solicitors deliver for their clients.

The point about consumer interest is a key one to make and understand. We are talking partly about the efficiency and greater economy that can be achieved in administration, but a key factor is the peer review of the quality of work that solicitors deliver to their end clients.

**Donald Gorrie:** That is helpful.

**The Convener:** Will the peer appraisal group be seen as truly independent if members of it are practising solicitors? They might be corresponding with or involved in cases with the solicitors whom they are considering.

**Jean Couper:** That is one of the details that must be worked out in the next phase.

**The Convener:** It is a pretty big detail.

**Jean Couper:** Yes, but the important issue is the principle. When we set up such peer review systems, it is important that those who conduct the reviews are seen to be experienced and properly qualified in making assessments and reaching objective and useful conclusions about what they have found and what needs to be done.

We have agreed the principles, but more work must be done on each of the three areas in terms of the process. There must be more discussion and consultation between the Law Society and the board, and we must take other parties’ views into account as we try to put flesh on the bones.

**The Convener:** I remind witnesses that we require as much information as possible before we conclude our report at the final committee meeting. I hope that there will be more information for the committee before we are well into March.

**Donald Gorrie:** The committee has had letters indicating a dispute between the Law Society of Scotland and some other organisations, such as Scottish Women’s Aid, about how the block fee system was developed. It would be interesting to

hear the witnesses’ views on that. To focus on a particular issue, there seems to be concern about whether non-court work would be paid for.

15:30

**Hugh Henry:** We are not concerned about the non-court work. That will be addressed. I am informed that the Law Society has responded to the questions raised by Scottish Women’s Aid and I hope that that has explained the Law Society’s attitude in detail.

The purpose of what has been proposed is to try and make the system work more effectively, efficiently and quickly in the interests of the client, not in the interests of the legal system and the lawyer. I do not believe that there is anything in what is proposed that will diminish the rights of the individual, or take anything away from the available assistance.

There has been large-scale consultation on the proposals. Many of the concerns that have been articulated have been addressed. I hope that some of the worries that Scottish Women’s Aid had were based on a misunderstanding that has been cleared up by now. If it has not, I will do what I can to give that group further assurance.

**Michael Matheson:** I have some concerns about how we have arrived at the proposed changes to the civil legal aid system. I understand that the process has involved a dialogue between SLAB and the Law Society of Scotland. They have made recommendations to the Scottish Executive about the changes that they would like. I understand that the Scottish Executive gave those organisations some guidance on the direction in which it would like things to go.

When looking at the correspondence we received from Scottish Women’s Aid, I could not help but feel that the punter has been locked out of the process—the person that the changes will affect. The process has been anything but transparent. The minister said that there had been widespread consultation, but I am not aware of an extensive consultation process. One of the concerns that has been expressed to the committee is that there is a lack of transparency surrounding the process. Scottish Women’s Aid has often had to flag up an issue because it has heard about it from a third party. Whether the information is correct is neither here nor there. Scottish Women’s Aid is not privy to all the information it needs in order to consider in detail what is planned until it has made a suggestion and is contacted by the Scottish Executive or the Law Society.

How can we avoid getting into such a process again? It is a process where the parties have vested interests. SLAB wants to make sure it has

an efficient system that reduces bureaucracy. The Law Society clearly intends to promote its members' needs. How can we improve the system to ensure that those organisations, such as Scottish Women's Aid, that will be affected by proposed changes are involved in deciding what those changes should be and that there has been a thorough consultation process before the committee considers the changes?

**Hugh Henry:** The member is misrepresenting what has happened. The Executive has been negotiating with the Law Society of Scotland. The Scottish Legal Aid Board has been on hand to provide technical advice and support. This is an issue for the Executive, which makes funds available, and the Law Society, which acts on behalf of those who provide the service. The Law Society has consulted its members extensively. The process can in no way be regarded as secretive.

Michael Matheson asked about those who may qualify for legal aid. It is difficult to identify every potential beneficiary of legal aid and to determine how their views may properly be ascertained. On behalf of those whom we represent collectively, we have devised a system that will deliver a better service and better value for the money that we provide, will reduce inefficiencies in the system and will be more widely available to more people, with increased eligibility. We will soon have a system that is clearly better than the system that we had in the recent past.

There will always be people who feel that they have missed out. I do not want to hazard a guess about how we would carry out a consultation that reached everyone who is a recipient of legal aid. However, everything that we have done has been done on the basis that the client is at the heart of our concerns. We have addressed most of the concerns that people have expressed about eligibility, access and value.

I repeat that the issue has been dealt with by the Executive and by the Law Society of Scotland acting on behalf of solicitors. The Scottish Legal Aid Board has provided technical support and advice.

**Jean Couper:** I endorse what the minister has said. The Scottish Legal Aid Board is interested in the reforms for a number of reasons, not least because they offer greater efficiency and economy in administration. We also approach the reforms from the consumer's point of view. Our aim here, as in other areas of our work, is to introduce, and to see introduced, changes to the system that are beneficial to the end recipients of legal aid, who include the client base of Scottish Women's Aid.

SLAB has on-going consultation and communication with a wide range of organisations throughout Scotland. Although we do not consult

on every specific initiative in which we are involved, we aim—through our wider consultation process—to keep abreast of the key issues for client groups, which are highlighted by the representative bodies. We are not isolated from the problems that people experience. We try to maintain knowledge of those problems and to take them into account when we discuss proposals.

I understand that the Law Society offered to meet Scottish Women's Aid after the committee received its first letter. That meeting does not seem to have come to pass—

**The Convener:** I would not want you to speak about what the Law Society has or has not done.

**Jean Couper:** I would like to add one more thing—I made my previous point to lead on to my next point. I understand that a meeting between the Law Society and Scottish Women's Aid has been organised for Friday this week. Officials from the Scottish Legal Aid Board will be at that meeting, at which I genuinely believe many, if not all, of the concerns that Scottish Women's Aid has expressed can be put to rest; those concerns have little foundation. I also hope that the meeting will be the start of the wider discussion process that leads to flesh being put on the bones of some of the proposals.

**Michael Matheson:** My contention is that we should try to find a process that avoids the present confusion for organisations such as Scottish Women's Aid. The minister would acknowledge that no one is seriously suggesting that everyone who has been, or is, in receipt of civil legal aid should be involved in the process in some way. However, as SLAB has said, part of the aim of the changes is to ensure that we provide a better service to those who receive it—the clients.

Representative organisations could be party to the process of deciding what those changes might be, but as far as I can see, that has not happened. In large part, the consultation has involved members of the Law Society. Although I can understand why they are involved in the process, I want a wider group of people to be involved in the process. I will give an example off the top of my head of how that might be done.

When the draft proposals have been formulated, they could be placed in the public domain for three months, which would allow organisations such as Scottish Women's Aid and the Scottish Consumer Council to be consulted. They could then say that they are concerned for reasons A, B, C and D. If those points were taken on board before the proposals were brought before the committee, that would avoid the need for exchanges of letters. People would feel that they had been involved in the process and had been able to influence how the system would operate. Is there a reason why that could not be done?

**Hugh Henry:** Even if that were done, my experience in other areas at other times tells me that it would not necessarily result in a happy and clean conclusion—

**Michael Matheson:** Surely it would be a start.

**Hugh Henry:** Please let me finish. There would still often be unhappy and dissatisfied people—such consultation does not always resolve problems neatly.

We have delivered significant progress, but we will reflect on the process. If there are better ways of communicating and of reaching decisions in the future, we will learn lessons that need to be learned from that reflection. If improvements can be made, they will be made. We will bear in mind Michael Matheson's suggestions.

**The Convener:** I call Maureen Macmillan, after whom I will call Gil Paterson, who has a special interest in women's aid

**Maureen Macmillan:** I agree with Michael Matheson's view that the process could have been better. Scottish Women's Aid has specific concerns; for example, it received advice from the Association of Independent Law Accountants about the effect that the new proposals might have and is worried that they might result in an increased contribution for applicants. Although that might not be true, Scottish Women's Aid has concerns that it feels have not been properly addressed.

I do not know whether the minister has seen Scottish Women's Aid's correspondence with the Law Society of Scotland. The letter from Scottish Women's Aid was among the committee's papers for the meeting, which are available on the website, but we received the Law Society's reply only when we arrived for today's meeting. Is the Executive saying what the Law Society is saying? It seems to be rather strange that a spat is going on between Scottish Women's Aid and the Law Society and that the Executive is not involved.

**Hugh Henry:** I have seen the letter that Scottish Women's Aid sent to the convener, I think in January. I have not seen the Law Society's reply to Scottish Women's Aid, so I am not able to comment on it. All I can say is that the concerns that Scottish Women's Aid has expressed are groundless. I hope that all its fears will be allayed when it meets the Law Society and SLAB. I do not believe that what was suggested in the letter that I saw was accurate, but I have not seen the reply, so it would be wrong for me to speculate on it.

**Mr Gil Paterson (Central Scotland) (SNP):** I echo the sentiments that have been expressed by Maureen Macmillan and Michael Matheson. We must, in such processes, take the users into account, rather than those who have vested

interests. The emphasis is on getting cases to court, so what will the effect be on family law practitioners, many of whom already settle cases outwith court because that is cheaper than settling in court?

15:45

**The Convener:** I think that Gil Paterson is asking about the impact of the block fee.

**Hugh Henry:** The block fee reflects the work that takes place out of court as well as that which takes place in court. It is not accurate to suggest that non-court work is underpaid. We believe that the new system will reward efficiency where the current system sometimes seems to reward inefficiency. As far as the clients and the taxpayers are concerned, the outcomes are what are important. It is not what is done during the process; it is what is delivered. The new system will provide a better way of achieving effective outcomes. It might be better if SLAB answers the questions about the technical aspects of the process.

**Lindsay Montgomery:** Our view is the same as the Executive's—the scheme is not about paying only for court work and not for negotiation. In our discussions with the Law Society, we spent a lot of time trying to ensure that negotiation was rewarded. SLAB—including board members who are practising solicitors who deal with family work—believes that the balance is about as right as we can get it just now, especially given that it is a major change in the way in which solicitors will be paid. We certainly do not think that there is an issue about paying only for court work.

There will be a need to ensure that advice and assistance for civil work and civil legal aid sit comfortably together. One of the priorities that have been identified for the Executive, SLAB and the Law Society is a review of how civil advice and assistance will operate, in order to ensure that matters that are better dealt with under advice and assistance will continue to be so, rather than migrate to civil legal aid. There is an undertaking to do a lot of work on that in early course.

**Mr Paterson:** Despite that, I have a comment from a lawyer who does work for Scottish Women's Aid and who says that the block fee proposal is detrimental and

"encourages litigation only, not negotiation".

That seems to be contrary to what you are telling us.

**Lindsay Montgomery:** We disagree with that and would be more than happy to go the meeting that we gather is to be held on Friday with Scottish Women's Aid and go through some of the detail.

**The Convener:** I need clarification of something. Civil legal aid is triggered when a court action is raised. Advice and assistance is given pre-court. The fixed fees relate to civil legal aid.

**Lindsay Montgomery:** The new block fee scheme is for civil legal aid only—it does not touch advice and assistance.

**The Convener:** How can you be encouraging negotiation when the advice and assistance regime, in which settlements can be made before actions are raised, has not been changed? In order to benefit—if “benefit” is the right word—one must raise an action that might require that horrible things be put down on paper, which can upset settlements.

**Lindsay Montgomery:** Civil legal aid is also used to encourage negotiation when there is no intention to go near a court. When someone obtains a certificate, it is frequently a strong spur to sit down with the other side and negotiate so that the matter does not go further, because doing so can waste everybody’s money.

A moment ago, I tried to make the point that we need urgently to consider the operation of civil advice and assistance to ensure that the two systems sit well together. The new system does not start until 1 October. The Executive has asked us and the Law Society to examine advice and assistance in early course, to bring the two systems together.

**Hugh Henry:** For accuracy on the record, I confirm that now that we have dealt with civil legal aid reform, it is urgent that we take action on fee rates for advice and assistance, as the committee’s report recommended. That will be done.

**Ms Alexander:** That pre-empts my question, which was to establish the time scale that you envisage.

**Hugh Henry:** We will act as soon as we can. We accept that the matter is urgent.

**Mr Paterson:** I am concerned about the procedures and how they will affect vulnerable people. Many people who do not qualify are vulnerable and my reading is that the Executive will increase, rather than decrease, that number. Will the minister give a quick explanation of the impact on vulnerable people who need civil legal aid?

**Hugh Henry:** It is clear that we have a difference of opinion. One organisation is making claims that we believe are unfounded. We have a different view, the Law Society has a different view and the Scottish Legal Aid Board has a different view. We will have to agree to differ. What is important is the fact that the organisation concerned will have an opportunity for discussion

with the Law Society and the Legal Aid Board. If anything that is contrary to what I have said arises from that discussion, I will expect that to be fed back to the Executive. However, I hope that the promised meeting will allay fears and answer all the questions.

**Mr Paterson:** I understand that the cake will be the same but the slices will be bigger, so people will fall off the end. Have I got that wrong?

**Hugh Henry:** Yes. As far as I am concerned, you have got that wrong and I have seen nothing that suggests otherwise.

**Jean Couper:** The reform package contains nothing that will reduce eligibility or access. There is no suggestion, and no one should think that there is, that the board will make any levies on applications. There is no crossover of an increase in spend in civil legal aid with an increase in the contribution from applicants. I see nothing in the proposals that will militate against the applicant. Everything is positive and is intended to help applicants to gain access to practitioners who are willing to provide civil legal aid and stay in the civil legal aid system, and to solicitors who are quality assured and who are being remunerated fairly for doing a good job. As part and parcel of that, we will have a more efficient and effective system. Those are all plus points.

**The Convener:** Because such concern has been expressed—obviously, we await the outcome of the meeting—will the minister give us a time scale for producing the regulations? Will he assure us that we will have the opportunity to consider timeously all the proposals that are still fluid and that we will not simply be presented with the regulations?

**Hugh Henry:** I cannot give a specific time scale. We regard the matter as urgent, so we will act as soon as we can.

**The Convener:** We want time to consider the full proposals before the regulations are produced.

**Hugh Henry:** We will follow the normal parliamentary procedure and we will try to give the committee sufficient information to do its job. I cannot say more than that.

**The Convener:** Perhaps you would write to us to let us know what will happen, minister. I have put you on the spot, but it is important that the committee have a chance to consider the impact of the regulations, including the issues of fixed fees and quality assurance. We need to have a good look at the proposals before the regulations are produced—it would be useful to have the information at least a week in advance.

**Hugh Henry:** We will do what we can to give the committee sufficient notice to allow it to do its job. We are mindful that we must follow protocols and

rules. We appreciate the committee's work—some of the committee's recommendations have been helpful to us in making progress. We will do all that we can to obtain the committee's opinion on the proposals, within the constraints under which we operate.

**The Convener:** If the committee receives that information and puts it in the public domain, that might allay some of the anxieties of organisations such as Scottish Women's Aid. I do not wish to be difficult, but that information would assist in the process.

**Hugh Henry:** I understand that.

**Maureen Macmillan:** I have one or two tidying-up questions. How is the Executive responding to the committee's recommendation on fee rates for criminal legal aid?

**Hugh Henry:** We do not make any bones about the fact that our priority has been civil legal aid. We will in due course reflect on criminal legal aid and we will undertake whatever research is required on that. We are also mindful of the financial implications, given that we will inject a significant investment of new money into the civil legal aid system. We understand the concerns about criminal legal aid and we will deal with them, but that will be done after proper research and as resources allow.

**Maureen Macmillan:** We await developments with interest. Perhaps those developments will be in the not-too-distant future although, from what the minister says, they might be in the distant future.

Our report made recommendations on sanctioning expert witnesses, which were, in part, addressed by the Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2002. Do you plan any other changes to the rules and procedures on sanctioning expert witnesses, for example, to streamline the process? If so, how will the impact of those changes be monitored?

**Hugh Henry:** The streamlining has largely been done. I ask the representatives of the board to comment on the technicalities.

**Lindsay Montgomery:** After consultation, we issued revised guidance on the question of sanction for counsel, which has been generally well received. We are now carrying out a larger review of sanction for experts, which is an area of substantially growing expenditure for us. We want to work out whether there are better and simpler ways of procuring experts, both on the criminal and civil sides. In that work, which will continue until the middle of the summer, we expect to consult not only the legal profession, but more widely, to find out whether there are mechanisms that are better than the present arrangement.

**The Convener:** I am glad to hear that; concern has been expressed that in some reparations actions the insurers have access to the best experts. That is expensive and, in my experience—although others may dispute this—the board is sometimes not prepared to sanction such experts.

Will you outline the changes that have been made—since the publication of our report—to the clawback arrangements that are used to repay SLAB? Are other changes under consideration?

**Hugh Henry:** The legislation has been changed. I could maybe pass that on to the board to—

**The Convener:** Yes, please. I see that the exempted amount has gone up from £2,500 to £4,200. Is that correct?

**Lindsay Montgomery:** Yes, and it is about to go up again in line with inflation. That is the biggest and most significant change that has been made in that area for many years. It has been welcomed by most of the groups to whom we have spoken, because one of their primary concerns was addressed.

**The Convener:** We will now have an annual increase in line with inflation, which is excellent. For how long has the exempted amount been £2,500?

**Lindsay Montgomery:** It was £2,500 for about 15 years.

**The Convener:** That £2,500 is protected from clawback, but the rest is taken if there is not sufficient to pay the fees. The committee should be applauded for having drawn attention to those matters and for having pushed the process of justice along for the consumers of legal aid.

I am delighted to say that we have finished on time. We will return to women's aid once Gil Paterson and others have had their meeting. I now hand the chair over to Maureen Macmillan. Sorry—I have forgotten the tea break. I suspend proceedings for 10 minutes. Maureen will take over for the final part of the meeting.

16:00

*Meeting suspended.*

16:15

*On resuming—*

## **Subordinate Legislation**

### **Civil Legal Aid (Financial Conditions) (Scotland) Regulations (Draft)**

### **Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003 (Draft)**

### **Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 (Draft)**

#### **The Deputy Convener (Maureen Macmillan):**

The committee is back in session, after a welcome break for a cup of coffee. I welcome back Hugh Henry, the Deputy Minister for Justice, who will take part in the proceedings for the subordinate legislation.

I refer committee members to the clerk's note J1/03/5/12, on the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2003 and the draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003. I also refer members to the clerk's note J1/03/5/13, on the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003.

**Hugh Henry:** The three sets of regulations do two things. They provide for the annual uprating of the financial eligibility limits for advice and assistance and civil legal aid and they consolidate and amend the assistance by way of representation—ABWOR—regulations. It may be useful if I give a brief explanation of each of the instruments in turn.

The draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003 uprate the financial eligibility limits for advice and assistance. Those limits are increased annually in line with contributory benefits. The Secretary of State for Work and Pensions announced on 18 November that those benefits would rise by the increase in the retail prices index, which this year was 1.7 per cent. We therefore propose to increase the income limits and contributory bands for advice and assistance accordingly.

Members will recall that one of the recommendations of the committee's report on legal aid was that the capital limits should also be uprated annually. We propose to increase the capital limit for advice and assistance on broadly the same basis.

The draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2003 deal with the uprating

of the limits for civil legal aid. That is linked to increases in the level of income-related benefits. As announced by the Secretary of State for Work and Pensions in November, those benefits have been uprated by the increase in the Rossi index, which is based on RPI less housing costs. The Rossi index this year rose by 1.3 per cent. We therefore propose to increase the income limits for civil legal aid accordingly.

Following the committee's recommendations, those regulations will also increase the lower and upper disposable capital limits for civil legal aid. The changes that we propose today are technical ones. They are not intended substantially to widen eligibility for legal aid, but to ensure that it is kept up to date and that no one falls out of the legal aid net because of the effects of inflation.

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 have two purposes. They consolidate and amend the ABWOR regulations to take account of successive small changes over recent years. They also make ABWOR available for certain proceedings before the VAT tribunals in Scotland, as promised by ministers last year, and to third parties in relation to confiscation orders under the Proceeds of Crime Act 2002. That is a technical change that is required to make the act work properly.

**Donald Gorrie:** I have a general question. I understand the idea of annual uprating. It is sensible that there should not suddenly be a big jump. How often do the minister and the civil servants stand back from the whole thing and ask whether the levels are right, whether the capital level should be doubled, or whether more allowance should be made for poor people whose cost of living may have increased by more than the annual official figure? Is a more thorough review of the whole thing carried out every three or four years, in addition to the annual uprating?

**Hugh Henry:** Last year, we stood back and looked at the capital levels, as the committee recommended. We think that the levels are more or less right, and what we are doing now is just ensuring that they keep pace with changes in benefit levels. Some of the more fundamental analysis was undertaken last year.

#### *Motions moved,*

That the Justice 1 Committee, in consideration of the draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2003, recommends that the Regulations be approved.

That the Justice 1 Committee, in consideration of the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2003, recommends that the Regulations be approved.

That the Justice 1 Committee, in consideration of the draft Advice and Assistance (Assistance by Way of



Representation) (Scotland) Regulations 2003, recommends that the Regulations be approved.—[*Hugh Henry.*]

*Motions agreed to.*

**The Deputy Convener:** Thank you very much, minister. A report on the committee's decisions regarding all the regulations will be issued for members' consideration via an e-mail from the clerks.

### **Civil Legal Aid (Scotland) Amendment Regulations 2003 (SSI 2003/49)**

**The Deputy Convener:** The committee will now consider the Civil Legal Aid (Scotland) Amendment Regulations 2003 (SSI 2003/49) under the negative procedure. I refer members to the clerk's note J1/03/5/14 on the regulations. Are members content simply to note the regulations?

**Members** *indicated agreement.*

**The Deputy Convener:** Thank you for your attendance. The next committee meeting, at which the committee will consider a draft report on its inquiry into alternatives to custody, will be at 2 pm on Tuesday 4 March in committee room 4.

*Meeting closed at 16:21.*



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