

JUSTICE 2 COMMITTEE

Tuesday 8 June 2004
(*Afternoon*)

Session 2

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JUSTICE 2 COMMITTEE

21st Meeting 2004, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mike Pringle (Edinburgh South) (LD)

*Nicola Sturgeon (Glasgow) (SNP)

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Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Michael Matheson (Central Scotland) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED :

Hugh Henry (Deputy Minister for Justice)

THE FOLLOWING GAVE EVIDENCE:

Tony Cameron (Scottish Prison Service)

Geoff Cooper (Reliance Custodial Services)

Jim Gallagher (Scottish Executive Justice Department)

Cathy Jamieson (Minister for Justice)

Bill McKinlay (Scottish Prison Service)

Campbell O'Connell (Reliance Custodial Services)

Willie Pretswell (Scottish Prison Service)

Tom Riall (Reliance Secure Task Management Ltd)

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 2

Scottish Parliament

Justice 2 Committee

Tuesday 8 June 2004

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

Item in Private

The Convener (Miss Annabel Goldie): Welcome to the 21st meeting this year of the Justice 2 Committee. The agenda and papers have been circulated to everyone.

Item 1 is to ask the committee's agreement to consider item 5 in private. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 (Draft)

Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 (Draft)

14:06

The Convener: Item 2 is subordinate legislation. We have two motions on affirmative instruments to consider—motion S2M-1399, in the name of Cathy Jamieson, on the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004, and motion S2M-1400, in the name of Cathy Jamieson, on the draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004. We will ask questions and then decide whether we wish to agree to recommend that the regulations be approved.

I welcome to the meeting the Deputy Minister for Justice, Mr Hugh Henry, who has kindly appeared to move the two motions.

The Deputy Minister for Justice (Hugh Henry): Thank you, convener. I feel a bit like a warm-up act for the main proceedings of the afternoon.

The regulations serve two purposes. First, they provide part of the legislative framework that is needed for the domestic abuse court pilot, which is to start in Glasgow sheriff court on 2 August. Secondly, they introduce an interim increase in the fees paid to solicitors who provide civil advice and assistance.

The draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 allow assistance by way of representation—ABWOR—to be made available in the domestic abuse court, and follow the recommendations of a multi-agency working group chaired by the sheriff principal. Under the current rules, assistance by way of representation is available from a solicitor of choice only in a case where the accused person intends to plead guilty, if it is likely that a custodial sentence will be imposed, or if it is likely that the sentence will result in the loss of livelihood. Regulatory changes are needed so that those criteria do not apply to cases in the domestic abuse court. Regulations also have to be amended to allow ABWOR to be made available in the domestic abuse court for hearings relating to sentence where summary criminal legal aid is refused, because ABWOR is not available at present in the summary criminal courts.

Civil advice and assistance have been the subject of much recent discussion between the Law Society of Scotland, the Scottish Legal Aid Board and the Executive. We need to introduce a more fluent structure to improve the services that are provided, increase the fees that are payable and reduce unnecessary expenditure. The board and the Law Society have produced proposals for reform, which the Executive is considering as part of the strategic review.

In the meantime, in order to reflect the changes that were introduced as a result of civil legal aid reform, we are introducing a 5 per cent interim increase in solicitors' fees for civil advice and assistance with effect from 28 June 2004. Once we have the report from the strategic review, we will look at a more comprehensive package of reform based on the principle of ensuring that the reward for such work is fair and in line with other parts of the legal aid system.

The draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 increase the initial levels of expenditure that are available to solicitors before they have to get the board's approval to carry out more work.

Other regulations will form part of the framework for the domestic abuse court and the interim fee increase and they are subject to the negative resolution procedure. I commend the regulations under discussion to the committee.

I move,

That the Justice 2 Committee recommends that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 be approved.

The Convener: Thank you minister. Given the nature of the regulations, it occurs to me that, as an enrolled solicitor in Scotland, I should declare an interest. As members have no comments on the regulations, I will put the question. The question is, that motion S2M-1399 be agreed to.

Motion agreed to.

That the Justice 2 Committee recommends that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 be approved.

Motion moved,

That the Justice 2 Committee recommends that the draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 be approved.—[*Hugh Henry.*]

Motion agreed to.

The Convener: I thank the minister for his appearance before the committee. You are never a warm-up act, minister; you are always welcome in your own right.

Prisoner Escort and Court Custody Services Contract

14:11

The Convener: On behalf of the committee, I welcome three witnesses from Reliance Secure Task Management Ltd and Reliance Custodial Services in Scotland. They are Mr Tom Riall—we hope that that is not too literal—the managing director; Mr Geoff Cooper, the director of operations; and Mr Campbell O'Connell, who is the operations director in Scotland. We extend our thanks to the three witnesses for their attendance this afternoon. I understand that you would like to make a brief preliminary statement and I am happy for you to do so. Obviously, the purpose of the afternoon's session is to explore issues by means of committee members asking questions. If the statement could be as brief as is conveniently possible, that would be appreciated.

Tom Riall (Reliance Secure Task Management Ltd): I will keep my opening statement brief. First, I would like to thank the committee for inviting me and my colleagues to give evidence today. Between the three of us, we have 70 years of service in the public sector. Campbell O'Connell, who is sitting to my left, was a senior police officer in Strathclyde police for more than 30 years. Geoff Cooper, who is sitting on my right, retired as a senior police officer with Gloucestershire constabulary after 35 years service. I joined Reliance after a career in the armed forces.

I assure the committee that none of us has lost the values or ethics of public service for the public good. We look forward to developing a seven-year partnership with our public sector colleagues in Scotland. Indeed, the very nature of our contract with the Scottish Prison Service is to improve the prisoner escorting service and to bring transparency and accountability to the system.

We are already a long way down that road: we regularly deliver in excess of 95 per cent of prisoners to the courts by 9.30 each morning and we update the SPS by 10 am on the exact numbers of prisoners. We regret, however, the early difficulties as we rolled out what is a large and complex contract. Inevitably, there has been a learning curve—even for the most experienced of us. We are committed to delivering a quality service and we believe that we are now achieving that.

All of us at Reliance have been disappointed by the unrelenting criticism that was heaped on us during the early days of the roll-out. That was damaging to the good reputation that Reliance has worked so hard to develop over many years. We

are part of a complex system that was not without its difficulties in the past.

Since the contract started, there is much that we have done and continue to do to ensure that the contract is delivered to the required standard. By way of example, we are working with all our partner agencies to resolve the issues that surround the releases in error. We have added image-capturing facilities at the principal courts and we have increased substantially the staffing levels, particularly at Glasgow sheriff court.

I take this opportunity to pay tribute to our staff on the ground. They are dedicated men and women who have undergone six weeks' comprehensive training and they have had to withstand not only considerable public scrutiny, but much unjustified and unfair interest. They are fully committed to getting it right and determined to prove their critics wrong.

14:15

I will highlight our track record in England and Wales, where less than two weeks ago, we were awarded a new and enlarged seven-year contract, which now includes the whole of the south-west of England, south Wales, the west midlands, Birmingham and the Thames valley. During the past two years in England and Wales alone, we have moved more than a quarter of a million prisoners and we have experienced only two escapes. We have not incurred any financial performance penalties in the past 14 months.

Here in Scotland, where we are using similar operating practices to those that we have used so successfully in England, we are operating under an even tougher contract, which specifies the highest service standards. Failure to deliver on any front incurs severe penalties for the company.

Reliance operates a number of public sector contracts and this is the only time that we have ever been required to make such a contract public. Moreover, during the prolonged contract negotiations, we were given the right to withhold information that we considered to be commercially or operationally sensitive. By that we mean information that could be advantageous to one of our competitors and information that could in any way compromise security or disadvantage the company. That was, and still is, of great importance to us.

We are in active discussion with the SPS and we are working positively to give the SPS the necessary confidence to justify its decision to roll out the contract. We look forward to rolling out the remainder of the contract as soon as possible. Everyone at Reliance is determined to make the contract work and to provide a service that everyone in Scotland can be proud of. We wish to

work closely with the Scottish Prison Service, the Scottish Executive and the Scottish Parliament to achieve that.

The Convener: Thank you. I will start our questions with some broad exploration of the relationships among the parties involved. I will leave Mr Riall to determine which of his colleagues is the most appropriate to respond.

You said that the thrust of the contract concerns the Scottish Prison Service, but equally, important elements involve the Scottish Court Service and the Scottish police forces. To what extent did Reliance have meetings or communings with the Scottish Executive, the Scottish police forces and the Scottish Court Service prior to signing the contract? I am interested in the relationship between your company and those three groups before the contract was signed.

Tom Riall: Campbell O'Connell led our implementation in Scotland, so it is best that he answers that question.

Campbell O'Connell (Reliance Custodial Services): For about 15 months prior to the contract being rolled out on 5 April, I was deeply involved on a daily basis with the police, the SPS and our other colleagues, particularly as the D-day of 5 April approached. A lot of work was involved and we met on a daily basis to look forward, to make adjustments and to review our proposals. It was important that I was involved for a long period with all our partner agencies.

The Convener: So, over those 15 months, part of your work would have been pre the signing of the contract.

Campbell O'Connell: Yes. I was also involved in the negotiations that led up to that.

The Convener: You mentioned the police and the Prison Service, but what about the Scottish Court Service and the Scottish Executive?

Campbell O'Connell: We held regular meetings with the Scottish Court Service and the Scottish Executive as well. However, the two particular agencies with which we held meetings were the police and the Prison Service.

The Convener: With all those groups, did the dialogue take the form of meetings as well as other forms of communication?

Campbell O'Connell: Meetings and visits to various locations such as courts and prisons.

The Convener: Were your meetings with the Scottish Executive consultative, or were you there to report? What was the nature of those meetings?

Campbell O'Connell: They were not just for us to report to the Executive; they were for us to go through our dealings with the SPS. When I

referred to the Scottish Executive a moment ago, I should have said that I did not meet members of the Scottish Executive directly. Things were always done through the authority of the SPS.

The Convener: So, your connection with the Scottish Executive was at second hand, via the SPS.

Campbell O'Connell: It was.

Nicola Sturgeon (Glasgow) (SNP): I thank the witnesses for coming here today. Before I ask my main question, I wonder whether you would—just for the record, and because it might help with questions to follow—tell us how many prisoners have been released in error in phase 1. How many of those releases would you put down to errors on the part of your company?

Tom Riall: I am sure that every member of the committee is aware of the speculation and the considerable number of allegations about the number of releases in error. Up to 28 May—which was the end of month 2 of the contract—a total of 17 alleged incidents took place. All of those have been investigated or are currently being investigated. Of those 17 alleged incidents—and I make the point that they are only alleged incidents at this stage—six could be attributable to an element of Reliance failure. The most prominent, of course, was the incident that we could classify as an escape—that of James McCormick. That was the only incident for which there was any concerted attempt to deceive or to collude in an escape.

Nicola Sturgeon: Thank you—that is helpful information to have on the record.

In her statement to Parliament on 21 April, the Minister for Justice said that Reliance had seriously underestimated the challenge that it would face in bringing in phase 1 of the contract. I understand that you accept that assessment. In what respects did you underestimate the challenge? In what areas were you under-prepared? Will you also tell us why that was the case, given that one of the stated reasons for the contract being awarded to Reliance was your track record in providing similar services south of the border, which you have already mentioned?

Tom Riall: We did not anticipate issues in three specific areas of the service. The first of those was the peak, or the surge in volume, on a Monday or on a Tuesday following a bank holiday. The only experience that we have been able to draw on has been that of our work in England and Wales, where, typically, on a Monday, we experience an upsurge in volume of about 30 per cent above the level for a normal weekday. What has surprised us in central Strathclyde—which is the only area that we can describe currently—is that the upsurge in volume is, in some cases, more than 100 per cent

above the level for a normal weekday. Resourcing an operation that, on any one day, has a volume that is 100 per cent higher than any other day, represents a logistical challenge. We did not anticipate that sufficiently, but we have already gone a long way towards overcoming the problem.

A second area relates to the complexities of the Scottish justice system, particularly surrounding the area of warrants, which has contributed to a number of the alleged releases in error. We are working closely with our partner agencies to try to resolve that.

The third area is the unique nature of Glasgow sheriff court. It is on a scale that is unlike anything that any private sector contractor in this country will have operated in.

Nicola Sturgeon: Of course, James McCormick was released not from Glasgow sheriff court but from Hamilton sheriff court.

If I were being charitable, I could understand why the first and second of those areas might have come as a surprise to a private company. However, I am less clear about why those areas should have come as a surprise to the Scottish Prison Service and the police, which were carrying out the functions until you took over.

Last month, Campbell O'Connell was quoted as saying:

“prisoner volumes that we have dealt with have been higher than the numbers that were originally indicated to us by the Scottish Prison Service during the tender process”.

Is it your position that you were not given full or accurate information by the SPS that would have allowed you to factor in those peculiarities and become better prepared for the job?

Tom Riall: Our position is quite clear. As I have already said, the only experience that we have been able to draw on is our experience in England and Wales, where we experience an upsurge in volume of about 30 per cent at the start of the week. We therefore took the data that we were presented with and applied that experience. As it transpires, the surge in volume on a Monday or a Tuesday after a bank holiday Monday is considerably greater than anything that we have experienced in the past.

Nicola Sturgeon: Did the SPS and the police not tell you what the volumes in Scotland were and when the increases and peaks were likely to be?

Tom Riall: The police supplied us with monthly volumes, which meant that we did not have a picture of specific daily volumes. That was for us to interpret as part of the bidding process, along with the other bidders.

Nicola Sturgeon: Given that Mr O'Connell said that the prisoner volumes that you had dealt with were higher than what the SPS originally indicated that they would be, is it your position that the SPS gave you figures that later turned out to be inaccurate?

Tom Riall: The point that I am making is that the volumes experienced on a Monday or a Tuesday following a bank holiday Monday were higher than anticipated.

Nicola Sturgeon: Was that a surprise to you? Would you not have expected that the SPS would have known what the volumes were on a Monday and a Tuesday following a bank holiday?

Tom Riall: You would have to put that question to the SPS, but it was not providing the service prior to that.

Nicola Sturgeon: You have made much of the fact that performance has improved and that you are now delivering 97 per cent of prisoners to court by 9.30 in the morning. However, the memorandum that the SPS prepared for us for today notes that the SPS continues to give transitional assistance to Reliance. Is the improved performance possible only because of that continued assistance? If so, when will you be able to deliver that level of performance on your own?

Tom Riall: Campbell O'Connell can talk about the level of support that we are now receiving from the police but first I will give the committee today's figures. We moved 99.5 per cent of all prisoners to court on time today. Across central Strathclyde, two prisoners were late, being delivered at 9.40. All of that was done without any support from the police.

Campbell O'Connell: The assistance that we receive from the police has reduced dramatically over the past two or three weeks. The assistance was primarily being given at Glasgow sheriff court. Now, the police are there to support us if required. However, we are managing to cope without their hands-on assistance. In the other courts, we receive no assistance from the police. They are present for public order duties. The custodial business in the courts and the delivery of prisoners to courts are wholly the responsibility of Reliance. We are dealing with that effectively at the moment.

Nicola Sturgeon: So the stabilisers are effectively off. You are getting no hands-on assistance from the police or the Prison Service.

Campbell O'Connell: At Glasgow sheriff court, there is a police officer who is taking a step back and overseeing our work in the reception area. In all the other courts, we are running—as you describe it—without stabilisers.

Nicola Sturgeon: Are you 100 per cent confident—as you were on 27 May—that the roll-out to phase 2 will happen within weeks?

Campbell O'Connell: It is important that we meet the criteria that we have been set. We have to provide an efficient service and the progress that has been made is clearly recognised. We have to get approval from the contracting authority. I feel that we are making sufficient progress to allow us to move forward and we are preparing for that eventuality.

14:30

The Convener: I have two small points for clarification. You mentioned the complexities of the Scottish justice system and warrants in particular. Outstanding warrants for a prisoner who is appearing in court are a material factor. The former regime had access to outstanding warrants through the police computers and, therefore, knew whether a prisoner who was appearing in court was the subject of other attention. Is that information accessible to Reliance? Are you able to access that information when you bring a prisoner to court?

Campbell O'Connell: We do not have access to the police national computer. Every day, we are supplied with a record form that is completed by the dispatching agency, which could be the Scottish Prison Service, the police or hospitals. The PNC is checked for outstanding warrants and that information is recorded on the record form.

I will give you an example of the difficulties. As recently as yesterday, an individual went through the first phase of court proceedings, was dealt with properly and was released. Within an hour and a half, the procurator fiscal had appeared to say that there was an outstanding warrant for that individual. In that case, that information was not recorded on the PNC. The information that is on the PNC should be transferred to the record form and that is what we should be working with. The difficulties that we have encountered—to which Tom Riall has referred—have related to warrants. A warrant may not be on the PNC and it is only later on, when the individual has moved on, been transferred or been released, that the warrant appears. That is a major difficulty that we have had to face over the past few months.

The Convener: Let us clarify your entitlement to access information, Mr O'Connell, as it is important. Under the previous regime, the police had access to outstanding warrants on any prisoner who appeared in court on a charge. They would regularly check the computer so that, if there were outstanding warrants, they could be dealt with contemporaneously in the court. I am slightly concerned that, from what you are saying, Reliance does not seem to have that facility.

Campbell O'Connell: We do not have access to the PNC. However, a question has been raised about the full accuracy of the information that is on the PNC.

The Convener: Nevertheless, the fact that that information is not available to Reliance—for reasons that I appreciate have nothing to do with Reliance—is a fairly serious flaw in the system.

Campbell O'Connell: It is a flaw that can be overcome by everyone in the partner agencies working together. We have new skills and new information and we are working with other authorities to ensure that everything works well.

The Convener: But it is an important aspect of dealing with prisoners who have been apprehended and are in custody.

Campbell O'Connell: Particularly in relation to warrants, yes. I agree with you. That is an important issue.

The Convener: Yet Reliance does not have any right to get that information.

Campbell O'Connell: Not directly.

The Convener: Thank you for that.

Tom Riall: I refer again to our experience in England and Wales. Geoff Cooper, who has been running the service for the past seven years, will verify this. In England and Wales, we do not have access to the PNC, nor do we need it. What we need is to have that information supplied to us in a proper format. That format is the prisoner escort record form—the personal escort record form, as it is called in Scotland. The important thing is for the information to be supplied in a proper format, so that we can act on that information. We do not need access to the PNC; we need the supply of the relevant information.

The Convener: As I understand Mr O'Connell's response, Mr Riall, that system is not currently in place.

Campbell O'Connell: It is in place if the information is transferred to the PER form, the record form to which we have just referred. Usually, the information from the PNC is transferred to the record form. However, there have been occasions on which the information in the PNC has not been there. We have found out later that warrants have appeared that have not been recorded on the initial record form.

The Convener: Are you satisfied about the adequacy of the system to enable Reliance, which is in charge of a prisoner in custody, to identify whether there are any outstanding warrants relating to that prisoner?

Tom Riall: We have acknowledged that the system is complex. It is currently being reviewed

and we would like to contribute to that review. We are confident that more watertight arrangements will come from that.

Geoff Cooper (Reliance Custodial Services):

As Tom Riall indicated, we have a system in England and Wales whereby there have been three releases in error in the past eight years. We have not had any releases in error in relation to warrants. In England and Wales, when police forces arrest somebody or execute a warrant on a prisoner, they check the PNC, which identifies whether the person who has been arrested has any outstanding warrants at any other court in England and Wales. Having identified that, the police can then charge the prisoner with all the warrants outstanding. The fact that the prisoner had been arrested with multiple warrants outstanding would then be notified to us at our control centre early in the morning, using a notification form. The PER form would be completed to endorse that fact.

The prisoner would be uplifted by the Reliance escort team and taken to the first court identified. Two things would happen at the court. If the prisoner was remanded in custody, they would be returned to the local prison and all the outstanding warrants would remain on file, with no other involvement on our part. If the prisoner was bailed by the first court, it is incumbent on the contractor to move the prisoner from that court to the next court on the list. If that prisoner was to be transferred out of our area to another part of England and Wales—Birmingham, for example—we would move the prisoner to the court there. If the court had concluded for the day, the prisoner would be lodged at a police station overnight. That is the end of Reliance's involvement with that prisoner in relation to that warrant. The situation in England and Wales is therefore different. We do not have any involvement with any outstanding warrants, which you would refer to here as dormant warrants.

Colin Fox (Lothians) (SSP): There have been many references to Reliance's record in England and Wales. You say that you have not received any performance penalties in the past 14 months. I know that, over the first two years of the contract, you incurred £25,000 in performance penalties. Could you give us an idea of Reliance's total performance penalty in the course of its contract in England and Wales so far?

Tom Riall: Off the top of my head, I cannot give you the exact figure for that, but I can tell you that, over the course of the contract, performance has improved to the extent that those performance penalties have diminished to zero in the past 14 months. In the year before we took over in our area, the south-west of England, there were 32 recorded escapes. In the first year of our

operation, there were 16 escapes. In the past two years, there were only two recorded escapes out of a quarter of a million prisoner movements. That demonstrates a continual improvement over the life of the contract.

Colin Fox: Let me follow that up and help you with some figures. In the first two years, between 1999 and 2001, the firms providing private prisoner escort services incurred a combined penalty of £620,000. There is clearly a gap between 2001 and the past 14 months. The penalty involved in that time is likely to be many hundreds of thousands of pounds.

The issue is important, because the SPS submission that Nicola Sturgeon referred to suggests that Reliance's failures in bringing people to court in phase 1 have been due to the inadequate training and management of insufficient staff. In light of your previous response, I want to know about Reliance's role when something goes wrong. After all, when a prisoner escapes from your colleagues in the police, that public service has a responsibility to go and get them. What responsibility does Reliance have for its errors?

Tom Riall: On the first point, I am not privy to information about penalties that have been applied to private contractors.

Colin Fox: Well, the information is in the public domain. I got my figures from the internet.

Tom Riall: Instead, I have given the committee information about Reliance. Over the past 14 months, we have received no financial penalties in our English and Welsh contracts. As for your second question, about our role, I do not accept that our management have been inadequate. Campbell O'Connell and his team have worked tirelessly over the past eight weeks to bring the service to an acceptable standard. I commend him for his work and the delivery times that we are now achieving.

Colin Fox: So with hindsight you do not accept that the transitional assistance and monthly performance summaries that you have been asked to supply have been necessary.

Tom Riall: That is not what I said. We are talking to the SPS about supplying monthly reporting information. We are happy to do that—

Colin Fox: I am sorry to interrupt you, but neither the monthly performance summary nor transitional assistance was stipulated in the initial contract. Is it fair to say that they were introduced because of Reliance's record in its first few months?

Tom Riall: Again, I do not accept that. As matters have progressed, there has been a desire for more information. We have worked closely with

the SPS to ensure that information about our performance has been made available.

The Convener: I am aware that other members want to ask questions. I ask Mike Pringle to be brief.

Mike Pringle (Edinburgh South) (LD): When I was a justice of the peace, I found that prisoners frequently came before the district court and the sheriff court on the same day. Perhaps some problems have arisen because you have not been aware that someone who appears in the district court is then due to appear in the sheriff court. Is that correct? If so, how are you managing that situation?

Campbell O'Connell: There are difficulties in that area. With what we have learned over the past couple of months, we are addressing the matter. However, we could have as many as 20 prisoners a day transferring from Glasgow sheriff court to Glasgow district court or vice versa, which creates difficulties.

In Hamilton, which was mentioned earlier, there are a number of transfers between the sheriff court and the district court. One of our difficulties in that area is that smaller district courts sometimes finish early. As a result, we have found that, when a prisoner has finished in one court and is due to be taken to the next court, the second court is closed. Sometimes we have to manage that prisoner to ensure that the warrant is properly dealt with, which adds to our other difficulties.

Mike Pringle: Could the problem be solved by ensuring that prisoners did not have to appear in the sheriff court and the district court on the same day? After all, this problem does not exist in England; it is unique to Scotland.

Campbell O'Connell: That would certainly be helpful. We could also ensure that all an individual's warrants or outstanding issues are held at one particular court, which would avoid the need to transfer to another court. Although such an approach might create some administrative difficulties, it would be advantageous to the system.

Mike Pringle: Have you made representations to the right people about that problem?

Campbell O'Connell: We are aware of the issue and have certainly brought it to people's attention and highlighted it in our meetings. We are still only two months into the contract and are addressing various issues. Although we have clearly made progress, that particular issue remains to be addressed.

14:45

Maureen Macmillan (Highlands and Islands) (Lab): You said earlier that you did not anticipate

the situation in Scotland. I am surprised that you had no Scottish advisers when you considered bidding for the contract. Did the Scottish Prison Service not advise that there were differences between the Scottish and English systems? I find it difficult to believe that you simply walked into the situation.

Campbell O'Connell: I am sorry if that is the message that has come across. I worked for Strathclyde police for more than 30 years and a number of our senior managers are from Scotland. In the early days, we received assistance from experienced officers and managers from down south, but there is no doubt that we had Scottish input from the word go.

Karen Whitefield (Airdrie and Shotts) (Lab): On your preparedness for the implementation of the contract, you said that you were in constant dialogue with the SPS. Prior to implementation, did you have to satisfy specific criteria to demonstrate to the SPS that you could fulfil the terms of the contract? If so, what were those criteria? Were criteria set by agencies other than the SPS, such as the Procurator Fiscal Service and the Scottish Court Service, which might have slightly different but equally valid requirements?

Tom Riall: We had a detailed implementation programme, which covered the five months between the signing of the contract and its start on 5 April. That programme was properly project managed with clear milestones, all of which were met. The SPS regularly reviewed the implementation programme and our achievement of the milestones, so that process was very much in place and was adhered to throughout.

Karen Whitefield: If the implementation programme was adhered to and properly managed, why were there so many problems with implementation? Was the volume of work in the courts simply underestimated? Surely with all that Scottish experience you should have known that sheriff and district courts tend to be busy on Mondays and on Tuesdays following a bank holiday.

Tom Riall: First, the committee must recognise that any first-generation contract that transfers a complex operation will inevitably involve a learning curve, which I alluded to in my opening remarks. Some difficulties in the early days were due to the learning curve for our new staff and our new control centre. Despite the best will in the world and the due diligence that we went through, there were also certain issues, which I have mentioned, that were not anticipated. The difficulties in the early days were caused by the combination of those two factors. However, a great deal of work has been done to put those right. We now have a much more transparent and accountable system that can provide accurate and

up-to-date performance information on a daily basis. That has never been in place before.

Karen Whitefield: Did you ever feel the need to ask the SPS to consider delaying implementation or were you always confident that you could implement the contract on time and successfully?

Tom Riall: We jointly acknowledged that the five-month period was tight, but it is not unusual for us to operate to tight time constrictions. I believe that the majority of the issues that subsequently transpired were not time related but were connected with the other issues to which I have already alluded.

Karen Whitefield: If the timescale was tight, did you ask for a delay in implementation?

Tom Riall: The time delay was agreed with the SPS and we signed up to it.

Karen Whitefield: My next question revolves around the differences and similarities between the experience in England and Wales and the situation in Scotland. You have told us repeatedly today that in the past 14 months you have not suffered any financial penalties, because you have successfully operated contracts, but you said in your opening comments that the contract in Scotland is different from the contract that is operated by the Home Office in England and Wales. What are those differences? Are the conditions in Scotland more stringent? If the same contract had been implemented in England and Wales, would you have suffered financial penalties in the past 14 months?

Tom Riall: I am sure that you will be acutely aware of the importance to the company of keeping what we regard as commercially sensitive information private to the company. However, the point that I have made is that our contract in Scotland is more stringent than our contract in England and Wales. As to whether under the operation of a similar contract in England and Wales we would have incurred financial penalties, the answer is yes, we would have incurred a limited number of financial penalties.

Karen Whitefield: So it is not correct to suggest to the committee that your record in England and Wales is perfect, that we can have real confidence that the future operation of the contract in Scotland will meet all the criteria that have been set by the SPS and that you will not incur financial penalties. You will incur financial penalties only when you do not successfully operate the contract to the criteria set down by the SPS. Is that correct?

Tom Riall: I would love to be able to say that our performance in England and Wales was perfect but, alas, I am afraid that I cannot. The point that I was trying to make is that we are providing a good service down south and we have

been re-awarded a larger contract as a result. The other point that I was trying to make is that the committee can be confident that the contract that we are operating to in Scotland is of a stringent nature and will ensure that we deliver to the highest standards.

Nicola Sturgeon: Karen Whitefield touched on penalties. It has been reported that the penalty for an escape is £25,000. Can you confirm that?

Tom Riall: I am not prepared to comment on allegations made in the press.

Nicola Sturgeon: I am asking you to give it to us from the horse's mouth.

Tom Riall: I am not prepared to give out information that we regard as commercially sensitive.

Nicola Sturgeon: You are at the start of a seven-year contract. You are being paid pretty handsomely out of the public purse for doing a job. You are contracted to pay some money back to the public if your performance falls below acceptable standards. What is commercially sensitive about publishing the amount of the financial penalties that you have to pay?

Tom Riall: There are a number of issues. One is that we regard that sort of information as having the potential to give an advantage to a competitor.

Nicola Sturgeon: We are several years away from the contract being retendered.

Tom Riall: But similar contracts are being tendered elsewhere and that information could give an advantage to a competitor. The other point is that the information could be used by those who are intent on damaging the company to cause us harm.

Nicola Sturgeon: So your share price is more important than the public interest.

Tom Riall: No, it is not. If we are damaged, we are not going to be in a position to be able to provide the service to you in Scotland.

Jackie Baillie (Dumbarton) (Lab): You hesitated in response to Karen Whitefield's question, so let me repeat it. Did Reliance at any time prior to the implementation of phase 1 of the contract ask for it to be delayed?

Tom Riall: There were on-going discussions with the SPS as to what was an acceptable period for the implementation. In the end, we agreed that the period of five months between contract signature and implementation, which was on 5 April, was acceptable. That was clearly a matter of considerable thought and discussion.

Jackie Baillie: Let me put the question differently. Would it be fair to say that the SPS was

keen to have the contract implemented fairly quickly, but that you naturally might have wanted more time? Does that characterise the discussions that took place or did the SPS suggest that there should be a delay until you got things right?

Tom Riall: I accept neither of those propositions. I return to what I said originally: the matter was the subject of sensible discussion between both parties and we arrived at an implementation period that we felt was achievable.

Jackie Baillie: You mentioned that the SPS conducted reviews of the implementation timetable. Were those reviews conducted by the SPS or by the joint project board that was established and is chaired by the SPS?

Tom Riall: Our contracting authority is the SPS.

Jackie Baillie: So the dialogue about implementation was directly with the SPS.

Tom Riall: It was, although project team members from other agencies were involved.

Jackie Baillie: Were they involved directly in your discussions about implementation or at one stage removed from them?

Tom Riall: Those discussions were predominantly with the SPS.

Jackie Baillie: The procurement process specifies the outputs, against which you tendered. You were required to specify inputs such as the numbers of staff and vehicles. At any stage, did the SPS ask you to change anything from your original proposals? If so, what did it ask you to change?

Tom Riall: As part of the discussions and the negotiations, validation took place of the resource levels that we intended to deploy on the contract.

Jackie Baillie: So the SPS did not ask you for any changes to increase or decrease numbers. That is a material point. It would be useful to know what you were asked to do.

Tom Riall: It is clear that the contract is output based, so it is our responsibility to deploy the staff and resource levels that are necessary to provide the right level of service on the contract.

The Convener: Two members want to cover training and employment practice and issues for the future. I ask Colin Fox to be as brief as he reasonably can be.

Colin Fox: I will be as brief as I can. I understand the witnesses' reluctance to discuss matters that they might consider to be commercially confidential, but they will appreciate that the public wish to understand the great mystery over why Reliance obtained the contract and the employment and staffing issues that are involved.

It is fair to say that the contract is heavily staff oriented. Will you comment on the fear that people may have about Reliance as an employer? Training is provided, but you will be aware that an employment tribunal ruled against Reliance in Newcastle, where Reliance had prevented its staff from taking rest and toilet breaks in a 12-hour shift—the tribunal said that that was a breach of the working time directive. Perhaps you understand that the public will be concerned about Reliance's contract because the *raison d'être* of privatisation is that it is cheaper than the alternative. The anxiety is that staff training and Reliance's management regime are part of the cause of the problem that has arisen.

Tom Riall: Could you be specific with your question? I am sorry—I did not catch it.

Colin Fox: I am saying specifically that, as an employer in England and Wales, Reliance has paid its staff lower rates of pay than the staff who did the job before received and has adopted management practice that curtails rights that staff who did the job previously had. Those are the reasons for the difficulties that we have had.

The Convener: What is your question? We need to keep the session pointed.

Colin Fox: I have described my question. Do those factors relate to the difficulties that Reliance has had in Scotland in the first few months of the contract?

Tom Riall: I do not think that the difficulties that we have had in the early days of the contract can be inferred from the rates of pay that we give staff.

Colin Fox: You do not think that the way in which you have managed staff, what you pay staff and the way in which staff work for the company relate to the errors that have been made.

Tom Riall: I do not. If you could illustrate that, I would be interested.

Colin Fox: I have given illustrations. If that is your point of view, that is your point of view.

Mike Pringle: I have one brief question to clear up a point. It has been suggested that, initially, some Reliance drivers did not have heavy goods vehicle licences, although they were driving HGVs. Is there any truth in that?

Campbell O'Connell: There is absolutely no truth in that.

Mike Pringle: Fine—that has been cleared up. My next question is about where we go now. What are your hopes and aspirations for the next six months? I assume that you hope that the contract will be rolled out throughout Scotland eventually. How can we be confident that your company will perform the contract more efficiently than in the past? I accept that there are problems when any

new business is started up, but I would be interested to know where you think you will be going in the future.

15:00

Tom Riall: On the issue of where we go from here, I would point to the service standards and delivery times that we are now achieving. Our aspirations are to continue to build on and improve the service levels that we have already achieved and to demonstrate to the SPS that we are ready for subsequent phases and, subject to the approval of the SPS, to roll the contract out across Scotland.

The Convener: I want to follow on from Colin Fox's question but will take a slightly different tack. In her statement to Parliament, the minister said that 150 additional staff had been deployed and that another 50 were in training. Did those people have a relevant background of experience and skill or were they raw recruits who could be trained in the work that Reliance had in mind?

Campbell O'Connell: As we roll out the contract, there will be employment opportunities for 600 staff across Scotland. Currently, we have about 200 certificated staff. My estimate is that around 15 to 20 per cent have a background in the criminal justice system, which is to say that they are former police officers and prison officers. The others come from a variety of backgrounds. They all realise that it is a stiff task but believe that it is an opportunity for them to work and have a proper career with Reliance.

The Convener: How successful are the raw recruits—I note that you said that a significant percentage do not come from a justice-related background—in securing certification and proving themselves to be capable of doing the job?

Geoff Cooper: The detail that Campbell O'Connell has just outlined is in line with the picture that we have had in England and Wales for the past seven years or so. People who come from other walks of life have fitted into the contract extremely well. The attrition rate for the type of work that those people undertake is extremely low.

Mr Fox touched on training. We have confidence in our training programme. There is an intensive six-week course that covers all aspects of the work involved, in relation to security, people's behaviour patterns, control and restraint methods, first aid and so on. The training equips a person to undertake the tasks that are determined in the contract and which concern the safe and secure escort of prisoners from prisons and police stations to court, their supervision in court and their return, if necessary, to prison or hospital establishments. That is the basis of the escorting function and the training standards that have been

implemented in Scotland have followed similar patterns to those that have been in place for the past 10 years in England and Wales. That experience has given us the opportunity to refine and adjust our training. We have confidence that all the people whom we are training in Scotland are competent to fulfil the task.

Two months into the contract, we are seeing that there was a steep learning curve in the early days but that people are adjusting to the role and the responsibility. Some of the comments that we are receiving are indicative of that success.

Nicola Sturgeon: For the record, the SPS memo says:

"SPS and the company have also agreed that a performance summary will be agreed for each calendar month of the contract. The Performance Summary will be available for either party to publish as appropriate".

Will you give an undertaking to publish that every month?

Tom Riall: We have already agreed that with the SPS.

Nicola Sturgeon: The SPS says that the summary will itemise the payment that is made to you for the period in question. Will it also show any deductions that are made for performance breaches?

Tom Riall: It will show the total amount that is paid to us each month.

Nicola Sturgeon: Will it make clear how much would have been paid but for your performance breaches, or will there simply be a net figure?

Tom Riall: There will be a net figure.

Nicola Sturgeon: So the public will still have no way of knowing how much it is being paid back for your performance breaches.

Tom Riall: The public will see our performance in terms of delivery times to court, escape record and so on. Those data will be published in the summary.

Nicola Sturgeon: However, the monetary amount that you must pay back to the SPS for breaches will be secret.

Tom Riall: There is certain information that we consider could be damaging to the company and which we are not prepared to release. That is a matter of importance to us.

Nicola Sturgeon: So much for the public interest.

The Convener: As members have no further questions, I thank Mr Riall, Mr O'Connell and Mr Cooper for attending this afternoon's committee meeting. We appreciate your presence here, which has provided members with a valuable

opportunity to explore issues further, which we could not otherwise have done.

Tom Riall: Thank you very much, convener.

The Convener: A fan has been procured in response to the somewhat melting conditions, but we cannot find a socket to plug it into. However, that technological problem will be surmounted and the temperature will become a little more bearable.

On behalf of the committee, I welcome to the meeting the chief executive of the Scottish Prison Service, Tony Cameron; his colleague Willie Pretswell, director of finance for the SPS; and Mr Bill McKinlay, the governor of Barlinnie prison in Glasgow, who is also representing the SPS. We are grateful to you for attending this afternoon's meeting. The format of the meeting will be familiar to you. Members have questions to put to you, but if Mr Cameron wishes to make a preliminary statement we are happy for him to do so. Thank you for your submission, which was extremely helpful.

Tony Cameron (Scottish Prison Service): We are grateful to be given the opportunity to discuss these issues. To avoid having to make a short, or lengthy, opening statement, we thought that it would be helpful to the committee for us to set out on a piece of paper, which we circulated to all members last week, the SPS's perspective on the project on which we started out and the position that we have reached. Having read the *Official Report* of the meeting at which the committee decided to take evidence on this matter, we sought to provide further information and background that we thought would be relevant to the committee's concerns. The memorandum that we have circulated obviates the need for us to make a formal opening statement.

The Convener: Thank you for that, Mr Cameron. As with the previous witnesses, I shall start by exploring the relationships among the parties that are involved in and affected by the contract. In paragraphs 15, 16, 17 and 18 of your written submission, you explain that

"Scottish Ministers were not involved in the negotiation and award of the contract"

and that the position is the same for your other SPS contracts. However, there were two exceptions to that in relation to this contract. First, Scottish ministers were involved when it was agreed that the involvement of Reliance should cover court custody services. Secondly, when a financial implication was identified in connection with the contract, the SPS wanted reassurance that the money was available to meet that.

I assume that the court custody aspect of the work that was to be undertaken by Reliance was

not a matter of particular knowledge or experience within the Scottish Prison Service. Is that correct?

Tony Cameron: To some extent it was. Prior to the contract coming into force in the west—and this is still the case elsewhere—prisoners were taken to court either from police custody or from prison. There were variations to that, but the broadly accurate position is that prisoners who were already in prison for a sentence—that is, who had been convicted—tended to be taken to court by the SPS and were held there and produced. People who had been kept in police custody overnight, having been arrested, were taken to court by the police. Remand prisoners who had not been convicted of any crime at that stage, or perhaps at all, were also transported by the police. There were exceptions to that position, depending on local circumstances. Therefore, both the police forces and ourselves had some experience of transporting and holding prisoners. Of course, the contract is not just about taking prisoners to court from prisons or police stations; it is also about taking prisoners from prison to prison, from prison to hospital or back to a police station. We tended to focus on the court, but there are a lot of other journeys to be undertaken.

The Convener: Quite so. The memorandum identifies the fact that one area in which it was thought appropriate for the SPS to involve ministers was the proposed inclusion of court custody services. I assume that, if the duties had been simply escort duty or transport between prisons or between prison and hospital, they would have been solely within the province of the Scottish Prison Service. There was clearly an element of the work that was not the normal province of the Scottish Prison Service. The Scottish Prison Service was not in the habit of walking into courts, attending to prisoners and ensuring that they went into the correct courts.

Tony Cameron: It was in some circumstances, but not in others. Let me go back to the beginning. We have eight police forces, each of which transported prisoners and helped them. The Prison Service also did that for various reasons. We were the only national body to do so. However, we took the view that that was not our core business and that if we could contract it out, we would do so.

Given the volume of cases, it was pretty evident that we were not the only organisation that was doing that work. It seemed sensible to engage the police forces in the debate, as we knew, for example, that the chief inspector of constabulary, Sir Roy Cameron, had drawn attention to the unsatisfactory nature of police escort duties. We found the position unsatisfactory in relation to prisons and decided that we should all join forces and contract the work out to cover the whole of

Scotland. The natural repository for that contract was with us but—you are quite right—prior to that, we were not the main or even the largest mover of prisoners, especially in relation to journeys back and forward to court.

In order to engage the police forces, which are separately funded from ourselves, it was necessary to discuss with the present Minister for Justice's predecessor whether he would be comfortable about the proposal. He was, and he thought that it would be much better to have one large contract, rather than several smaller ones. He felt that there would be economies of scale, and that it made sense to conduct a single contractual negotiation. That meant that we received from the then minister a positive reaction to joining the police forces in approaching the task.

15:15

The Convener: That is helpful, Mr Cameron, and it leads me to the next question. I assume that extensive discussions had to take place between the Scottish Prison Service, the police and the Scottish Court Service before the contract was signed. Elements of the work involved in the contract had not been the primary activity of the Scottish Prison Service. Before the contract was signed, what form did such discussions take? Were they meetings? Were they briefing sessions?

Tony Cameron: They were meetings. At the earliest stage, we held some meetings with our partner agencies, in particular with the police—who were doing the job alongside us, as it were—the Scottish Court Service, the Crown Office and Procurator Fiscal Service and the district courts. We discussed how best we should go about the task. We had a project system, which evolved procedurally into something called projects in controlled environments—PRINCE—methodology, which is used for complex projects. At each stage, there was a debate to be had among the various partner agencies about what was wanted, about the outputs that we would wish to see from a contract and about what each part of the system needed to do in order to bring that about. It was an iterative process that took up quite a long period of time prior to the letting of the contract.

The Convener: In its evidence, Reliance indicated that its staff were busy attending meetings and that, when it came to liaison with the client end of the contract—that is, the Scottish ministers—everything was done exclusively through the Scottish Prison Service. Is that correct?

Tony Cameron: Yes. As far as I know, at no point were parts of what you would understand as the Scottish Executive—from which we are at

arm's length—involved in that liaison. We were handling the contractual negotiations. We also chaired meetings and discussions with our partner agencies in order to move things forward. It was necessary for somebody to do that, and we agreed to take on that role.

The Convener: The contract is in the name of the Scottish ministers, albeit represented by the Scottish Prison Service.

Tony Cameron: Yes.

The Convener: Does that mean that there was some form of reporting to the Executive by the Scottish Prison Service to let the Executive know how things were getting along or what issues were arising?

Tony Cameron: No. As I think our memorandum states, we involved our partner agencies, including the police forces and the Court Service, in the process. We did not have discussions such as you describe, apart from on the one issue that we mention in the memorandum, which is—

The Convener: The financial issue?

Tony Cameron: As the operation was to be much bigger than the SPS part of it had been, we had to know, not unreasonably, that, if we successfully concluded a contractual negotiation with a company, we would have the wherewithal to pay that company. That required discussion with ministers about the overall financial position. I think that our memorandum shows what happened. That was at a stage at which we thought that it was worth while going ahead and at which the amounts of money that were likely to be required became clear.

The Convener: So the only time the Scottish Executive came to prominence in relation to the contract was when things began to go very publicly wrong.

Tony Cameron: Post the contractual negotiations and post implementation, yes.

Nicola Sturgeon: We know that Reliance underestimated the scale of the challenge that it would face when it took over. Today, its representatives have given us some insight into the factors that it underestimated, including the surge in volume on Mondays and on Tuesdays following bank holiday Mondays, the complexities of the Scottish system and the unique nature of Glasgow sheriff court. Some people might find it hard to believe that a company with all that Scottish experience on its payroll would not know that the courts are busier on a Monday. That aside, surely it was your job, as the lead contracting agency on behalf of the police service and the Scottish Court Service, to make sure that Reliance was given an accurate picture of the

scale of the task that it was facing so that it could be adequately prepared.

Tony Cameron: We gave Reliance the information that was available to us and to the other agencies. As you heard earlier, Reliance did not say that it had not anticipated properly the peaks on a Monday or a Tuesday after a bank holiday, but those peaks were larger than it had anticipated; that is pretty much common knowledge.

The Convener: What is common knowledge?

Tony Cameron: That the peaks on a Monday or a Tuesday after a bank holiday are higher than volume on the other days of the week.

Nicola Sturgeon: Can I say—

The Convener: Just wait a moment; the committee has to be clear. I do not think that that was common knowledge to some of the members of the committee. It might have been common knowledge to me because I happen to have represented clients in a criminal court. However, it is a little unfair to impute to Reliance, which was being asked to take on a contract, that something is common knowledge, so I ask you to focus on Nicola Sturgeon's question, which needs a precise answer.

Nicola Sturgeon: I will focus on the answer that I am looking for. Let us be charitable; I can accept that Reliance did not know the size of the surge in volume on a Monday or a Tuesday after a bank holiday, but I cannot accept that you, the police, or the Scottish Court Service did not have that information. Did you not find out how many people go through the courts on a Monday so that you could tell Reliance and allow it to prepare for that?

Tony Cameron: In general terms, that information was not available to us in that form.

Nicola Sturgeon: Is it not your job to get that information in that form?

Tony Cameron: Let me draw attention to one of the difficulties that we had prior to this contract. The information base in that area was generally not good, and one of the benefits of contracting was that it would give clarity. We made available the information that we had readily to hand, and Tom Riall indicated that we gave monthly and annual figures of the historical patterns of distribution. His colleague also said that Reliance had detailed discussions with the police and others about the particular pinch points. As someone said earlier, the contract for which we invited tenders asked for a certain range of outputs and the company accepted that it had to do what Tom Riall called "due diligence" in order to assess whether it could do the work. The company did that, as Tom Riall indicated, and, with hindsight, there was an underspecification of

the degree of the peak on a Monday or on a Tuesday after a holiday. My reference to common knowledge was a reference to it being common knowledge that there was such a peak, but the precise nature of that peak has emerged only since the contract became live.

Nicola Sturgeon: Reliance has made it clear today, and Mr O'Connell made it clear previously, that the volumes were higher than you had indicated they would be. You appear to be saying that that is because you did not have accurate information. I am concerned about that because your memo says that your role in the negotiations was to concentrate on outputs and what had to be done, and that it was up to Reliance to say how that would be done. However, if you did not know how many prisoners were going through the courts on a Monday, how could you possibly tell Reliance what had to be done so that it could make sure that it was prepared to do the job properly? Is it not your failure properly to brief Reliance that has led to this fiasco?

Tony Cameron: I do not think so. We did not give Reliance daily information.

Incidentally, there are two questions here; one is a seasonality question about what the numbers are on each day, and the other is a question about how many prisoners there are in total. One of the things that we now know is that the prison and remand populations are higher than they were since we gave Reliance figures that were necessarily historical. There has been an increase in volume.

Nicola Sturgeon: Do you not know how many people are in prison or on remand on any given day?

Tony Cameron: We know how many are in prison and on remand; we do not know how many will be.

Nicola Sturgeon: Was it not rash, to say the least, to privatise the contract before you had accurate information at your disposal to make sure that the private company was up to the job? Would it not have been better to delay until you had the information that would enable Reliance to be properly prepared?

Tony Cameron: In our view, we gave Reliance sufficient information.

Nicola Sturgeon: But Reliance says that the information was wrong.

Tony Cameron: Reliance said that it underestimated the size of the peaks.

Nicola Sturgeon: Yes, but Reliance's ability properly to estimate the peaks relied on the accuracy of the information that you were giving it, so it was your failure to give it that information that

meant that it could not be prepared for the job. Is that not correct?

Tony Cameron: I am not sure where the inaccuracy that you are referring to comes from.

Nicola Sturgeon: Let me quote Campbell O'Connell:

"It is clear that the prisoner volumes we have dealt with have been higher than the numbers originally indicated to us by the Scottish Prison Service during the tender process".

That is the inaccuracy.

Tony Cameron: That is a question of volume and there is no doubt that the volumes have increased since the initial invitation to tender was issued.

Nicola Sturgeon: So you contracted to allow a private company to escort prisoners around the west of Scotland before you could say with any accuracy that you knew how many prisoners you were expecting it to transport. Is that a fair assessment?

Tony Cameron: No; we gave figures for Scotland, not just for the west of Scotland. The figures that we gave to Reliance were the historical figures for those prisoners who had been moved, not figures for those who would be moved, because the contract is also for volume.

Nicola Sturgeon: So they were historical figures. Did you not have any concerns that you were asking the company to prepare to do a sensitive job on the basis of historical information?

Tony Cameron: No, and Reliance did not either. The question as to whether the information was precisely accurate is, I agree, a separate one, but the information that we gave to Reliance was the best that was available at the time.

Nicola Sturgeon: But it was not good enough, because this situation has arisen.

Tony Cameron: We have indicated performance from our own information, which we gained from Reliance, about the course of the past two months. What that does not give us is an accurate annual position. We will get that only when we have gone through the year.

Nicola Sturgeon: Do you regret going ahead before you had—

The Convener: I am sorry, Nicola, but I really have to ask you to draw your questions to a close.

Tony Cameron: No, I do not regret it at all. One of the things that we have indicated through the contract is that the prior arrangements were by no means perfect and that the baseline information that we were dealing with was far from perfect. That is one of the things that the contract has dealt with. I would like to ask Bill McKinlay to say more about that.

The Convener: I would like to seek clarification on one important point, Mr Cameron. If I understood Reliance's submission correctly, it said that, of the three unanticipated—that was the word that it used—areas that it encountered, the first one that Mr Riall mentioned was the peak on Mondays and on Tuesdays following bank holiday Mondays. I have to say that the fact that there were any unanticipated areas rings its own alarm bells, but that is another matter. I think that Mr Riall cited a 100 per cent increase in the normal volume of prisoners being processed after bank holidays. I understand that you do not dispute that peak, because you explained that it was common knowledge. I infer from that that you assumed that what you knew automatically translated into the knowledge that Reliance had.

Tony Cameron: It is common knowledge that there is such an increase, and I think that Tom Riall spoke about Reliance's experience of a 30 per cent increase on a Monday elsewhere. What is common knowledge is the fact that there is a higher number on one day than on another day; the precise difference is not something that is common knowledge. Knowing that depends in part on knowing how many arrests have been made over a weekend.

The Convener: So Reliance could not reasonably have been expected to know something that may have been common knowledge within the Scottish Prison Service. Given that the information that you were presenting showed, I presume, a flat-line monthly figure without peaks, it must be the case, if I understand your evidence correctly, that Reliance was not specifically made aware that, on a Monday or a Tuesday following a holiday in Scotland, there will be a sharp increase in the normal volume of business.

15:30

Bill McKinlay (Scottish Prison Service): I would like to say something about holidays from a practitioner's point of view. That there will be increases in the region that we are talking about is not predictable or certain because we will not know the number of arrests or the number of prisoners who are held in the police divisions who must go to court. I can say that I know the number of prisoners who are going to court from a prison, but I will not know how many will return from court or how many will be released—I will not receive such information until around 5 o'clock on a Monday evening. I cannot predict that every Monday I will require a certain number of cells to cope with 100 per cent more people, so we must try to average things out.

The Convener: So are you saying that such increases are not common knowledge?

Bill McKinlay: I am saying that it is known that there is a general increase, but that increase is determined by the courts and how many arrests there have been in a particular weekend. Sometimes, we have predicted large numbers that have not materialised.

Tony Cameron: Perhaps Willie Pretswell, who was involved in negotiations, can say something about this important matter.

Willie Pretswell (Scottish Prison Service): I think that all parties are saying that there is considerable uncertainty about the volume of prisoner movements in respect of prisoners who must be transported at any point in time. The contract provides for that uncertainty by having different volumes of prisoner movements over the period. If the volumes increase over what we call the baseline and happen to be sustained over a full year, the Scottish Prison Service will pay more money for that. The SPS has therefore contracted out the risk of the uncertainty in prisoner volumes to Reliance, which is best placed to manage that risk and to cope with the peaks. Over the year, things might balance themselves out. There is no cap on the prisoner volumes that Reliance is contracted to deliver—it must manage those volumes and make appropriate resourcing decisions in order to manage them in any particular area.

Obviously, it will be much easier for Reliance to manage things when the full contract is rolled out and all its vehicle bases and staff are in place. That will give it much more flexibility to respond to local peaks, whether those are in Glasgow, Edinburgh or wherever else throughout the country. Obviously, it would have potentially less flexibility in the first phase to cope with unexpected peaks, but as the contract fully rolls out, that should be less of an issue. The contract provides flexibility to support the peaks.

The Convener: Three members—Mike Pringle, Jackie Baillie and Colin Fox—want to ask questions. Are those questions related to the issue that we are discussing?

Jackie Baillie: You have asked my question, convener.

The Convener: In that case, Mike Pringle will be followed by Colin Fox.

Mike Pringle: I am sorry to pursue this matter, but I am confused, and if I am confused, perhaps other people are confused, too. We were given evidence by Reliance that it was given monthly figures that were not broken down. You have said that the figures that you gave Reliance were not just for the west of Scotland, but for throughout Scotland. Is that correct?

Tony Cameron: We have a total annual estimate of volumes, which was the best

guesstimate of the historical position. I understand that that estimate was broken down into monthly volumes.

Mike Pringle: Were you aware, as I was aware as a result of my court experience, that there was normally a substantial increase in the number of prisoners going to the court in Glasgow on a Monday or on a Tuesday following a bank holiday? Were you aware of substantial increases in numbers on those days?

Tony Cameron: We were aware in general that there could be, on a Monday or a Tuesday in Glasgow—

Mike Pringle: But not always.

Tony Cameron: As Bill McKinlay said, sometimes there are very steep numbers on a Monday in comparison with the rest of the week, but not always. However, as our chart shows, over the past two months, on average, a Monday or a Tuesday following a bank holiday tend to be busier days than other days of the week, although that will not always be the case, and it is not always the case everywhere.

Mike Pringle: So during the negotiations, you never thought of passing on such information to somebody in Reliance, which was taking on a new contract and which had no experience of the Scottish system.

Tony Cameron: I cannot speak personally because I did not—

Mike Pringle: I do not care. The Scottish Prison Service carried out the negotiations. Did nobody involved in carrying out the negotiations ever think of passing on such information?

Tony Cameron: I cannot say whether we did or did not—I do not have that information.

Mike Pringle: We heard from Reliance that you did not pass on the information. We heard that you gave Reliance monthly figures.

Tony Cameron: We gave Reliance monthly figures. You asked me a different question, which was whether the company could reasonably have known that there were Monday or Tuesday peaks.

Mike Pringle: Why would Reliance have reasonably known that? It had no experience in Scotland.

Tony Cameron: One of the three people from Reliance who just appeared before the committee has 30 years' experience and was in charge of the courts system in Glasgow prior to the invitation to tender and the awarding of the contract. In a room full of people, Campbell O'Connell from Reliance would know more than most about how the Glasgow courts system worked. He has huge knowledge of the system in the west of Scotland.

The Convener: I ask Mike Pringle to draw his questions to a close to allow others to put theirs.

Mike Pringle: Are you saying that the problems were not the SPS's fault? Are you shifting the blame to Reliance?

Tony Cameron: No—I am not blaming anybody.

Mike Pringle: Somebody is at fault. Is the Scottish Prison Service prepared to admit that, with hindsight, it would have been better for you to have given Reliance more accurate information than you gave it? In retrospect, would that have been a sensible thing to do?

Tony Cameron: It might have been, had we had access to that option, but I cannot say that we would have acted in that way.

Colin Fox: I want to follow up the answer that you gave to Nicola Sturgeon. How has Reliance's poor performance affected your decision to go private?

Tony Cameron: Are you asking whether we would contract out the service if we had our time over again?

Colin Fox: No, I am asking you to reflect on the time that you have had.

Tony Cameron: We still think that awarding the contract to a private company was an excellent thing to do.

Colin Fox: In answer to an earlier question, you mentioned the information base to which Reliance did not have access. Surely that information base has been used for decades by the police and the Scottish Prison Service and is well established. Is it fair to say that the information was already held by those agencies when the problems with Reliance were uncovered?

Tony Cameron: No, unfortunately it is not fair to say that, as the Association of Chief Police Officers in Scotland has said publicly. The service was far from perfect previously. Bill McKinlay can speak far more eloquently about that than I can.

Bill McKinlay: We did not in the past record well enough the numbers of court appearances relative to the number of cells that we had in the Prison Service. The number of court appearances related to how many courts would sit. It was never felt—wrongly or otherwise—that we needed to record those figures. I am sure that there is a general figure, as was said earlier, but there will not necessarily be the detailed figures that are being sought today.

Colin Fox: I am delighted that somebody has taken some responsibility for the mistakes that have been made.

Bill McKinlay: Did I say that?

Colin Fox: That brings me to the nub of the whole issue. In the past, when the public sector made a mistake, it picked up the pieces. Now we have a private company that makes mistakes and the public sector picks up the pieces. Is not it the case that, when prisoners are released in error, it is the public sector—the police and others—that must respond to the private sector's mistake? Is not that why such high penalties are applied?

Tony Cameron: Releases in error are not a new phenomenon. When such an error takes place, if the judgment is that the person who has been released in error must be recovered quickly, that is done by police forces. That is still done as it was before. However, one of the difficulties in the debate—to which we draw attention in our memorandum—is that it is difficult to compare the performance of the Reliance contract with what went before because, as Bill McKinlay said, what went before was not well documented. There were not, as there are now, robust systems that provide transparency and which have introduced the project and contract disciplines that we now have in place.

The Convener: We are still dealing with supplementary questions, so please keep questions brief.

Colin Fox: I just want to be clear—Tony Cameron said that nothing had changed. With respect, is not the complete opposite true? The situation is not the same. Nowadays, when the private sector makes a mistake, the public sector picks up the pieces. You said that the police used to do that—which is true—but they are now doing it as a consequence of mistakes by a private escort company. With respect, the situation is not entirely the same; it is entirely different from what happened in the past.

Bill McKinlay: I would like to say something about the past. When I started in Barlinnie about three years ago, user groups were set up at the Glasgow sheriff court and at the Glasgow High Court. The two groups considered various issues in respect of difficulties or problems that arose in the criminal justice system, one of which was late delivery of people to court and another of which was late delivery of people to prison. Those problems existed in the past. Part of the process involved resolving issues in different ways; those are the steps that we are now taking. The problem is not new. No one would condone what has happened, but it is wrong to think that it did not happen before and that, in the past, no one was trying to resolve the problems that arose.

Jackie Baillie: I will mention two brief points. If I am to believe what you are saying, the police and the Prison Service just show up on a Monday or a

Tuesday following a bank holiday and guess at the volume of prisoners.

Tony Cameron: Quite often, the information about who needs to be transported is available only fairly shortly before people need to be transported; the system has always worked in that way. Nowadays, although better procedures are in place to document the process, the fact is that, given that people need to appear in court on a next day basis, the amount of time that is available for the process will always be relatively short.

Jackie Baillie: You said that you were not the person in the SPS who was directly responsible for giving information on the subject. Is not it the case, however, that you are ultimately responsible?

Tony Cameron: Absolutely—that is why I am before the committee today.

Karen Whitefield: I want to return to information. You said that you were not in possession of all the information about the prisoners who required moving around the system. What did the SPS do to ensure that it had from all the other services the information that needed to be passed on to Reliance?

Willie Pretswell: We had a multi-agency project board, which operated under the PRINCE methodology, through which the various teams and agencies were represented. The SPS compiled the volume data from its own resources, having contacted each prison in order that we could compile the most accurate information.

A similar exercise was carried out by the police. It was co-ordinated by senior members of staff at Strathclyde police on behalf of the eight police forces. That information was given to the SPS, who compiled it and passed it to Reliance and the other bidders.

Karen Whitefield: Each of the services would have had expectations on what the contract should deliver. Who was responsible for drawing up the criteria that would be required for each of the services if the aims and objectives of the contract were to be delivered?

Willie Pretswell: Basically the same process was used. The SPS had overall responsibility for taking the matter forward from the beginning of the process to the awarding of the contract. Each agency was given the opportunity to specify its requirements. Again, the information was consolidated into an overall service specification, which went out to tender, and to which Reliance responded. The specification is embodied in the contract. Every agency had an opportunity to specify their own requirements. The process was validated through the multi-disciplinary project board.

Karen Whitefield: Once the contract was awarded, who was responsible for monitoring the state of preparedness for implementation of the contract? As part of that process, were the members of the joint management board, who represented all the services, able to assess whether Reliance, as the successful contractor, was able to meet the criteria that they had asked be included in the contract?

Willie Pretswell: The requirements that were placed on Reliance were obviously covered in the contract. Once the contract was awarded, the SPS took responsibility for setting up a project board to oversee implementation. That board included representatives from the various agencies and interested partner organisations. Service level agreements were set up between the SPS and the various partners, which outlined the responsibilities of each organisation in supporting the introduction of the contract. In due course, Reliance provided the various assurances that were required before the contract could be implemented in April.

15:45

Karen Whitefield: Did the police service, the Procurator Fiscal Service and the Scottish Court Service all agree, in preparing for implementation, that they were satisfied that Reliance was in a position to guarantee delivery of all its service requirements? Did those services have the information that would have allowed them to make a fair assessment?

Willie Pretswell: The decision was made through the escort implementation board, where there was representation. The implementation board was satisfied that the process had been carried out to meet the requirements of the contract, and it was satisfied that Reliance was able to deliver. That is why the contract went ahead in April, as scheduled.

Karen Whitefield: Were the individual board members who represented the other agencies provided with the necessary information to allow them to make that judgment?

Willie Pretswell: They were provided with the information that was deemed necessary by the project board, in accordance with the PRINCE methodology that was used to manage the whole process. No representation asked for further information before agreeing that Reliance be allowed to proceed. A positive recommendation was given.

Karen Whitefield: Earlier, I asked Reliance whether the five months that was agreed between Reliance and SPS had at any point been discussed. I asked whether Reliance had asked for a time delay. Mr Riall was very reluctant to say

that he had not asked for a delay. He said that the matter had been discussed. Did Reliance ask for a delay during the negotiations? Was that request rejected?

Tony Cameron: I have no knowledge of such a request or such a rejection. Willie Pretswell may be able to add to that answer.

Willie Pretswell: The implementation plan was agreed with Reliance through the negotiation phase and was included in the contract that both parties signed. That was the plan that was subsequently implemented on schedule.

Karen Whitefield: I am not asking what was agreed at the end of the process; I am asking whether or not the company asked for a delay and whether or not discussions followed that request, after which the implementation board refused to accede to the request. Did Reliance ask for a delay? Was a request refused by the implementation board?

Willie Pretswell: I am not aware of any request from Reliance to delay the contractual implementation programme.

Karen Whitefield: Did you sit on the board, Mr Pretswell?

Willie Pretswell: I did not.

Karen Whitefield: So you are not in a position to answer the question. Who is in a position to answer the question?

Tony Cameron: Nobody here today was on that board.

Karen Whitefield: Do you think that it is acceptable that you have come before a committee of the Scottish Parliament to be asked very detailed questions about this contract but have no one with you who sat on the implementation board?

Tony Cameron: It is not possible to know in advance which detailed questions might be asked, so—

Karen Whitefield: I think we all knew that implementation of the contract was probably going to be high on the agenda. I think the committee gave you considerable notice that we wanted you to come and answer questions. You may have overall responsibility but if you did not chair the meetings that took decisions on implementation, I think it would have been wise of you to ask officials to come along to assist you. Do you agree?

Tony Cameron: Well, I said what I said: it is not possible to know the degree of detail of questions. As it happens, we cannot answer your particular question from our own direct knowledge. However, Willie Pretswell gave an answer. It is my

understanding, too, that we know of no such request having been made or refused.

Karen Whitefield: In that case, will you put in writing to the committee whether a request was made and whether it was agreed to or refused, rather than mention what happened at the end of the deliberations?

Tony Cameron: I would be delighted to do that.

Karen Whitefield: Finally, who took the decision on the contract? Who signed it off? Was it the board, was it part of the board or was it you as chief executive of the Scottish Prison Service?

Willie Pretswell: The joint project board made a positive recommendation that the contract be awarded to Reliance. The SPS, as the contracting authority, then duly completed that contract, which was signed on behalf of Scottish ministers by me as I have delegated authority from the chief executive of the SPS to do so.

Karen Whitefield: Are you telling me that a board that was responsible for the contracting out of a sizeable part of the work of the Scottish Prison Service and other public services did not have on it, nor was it chaired by, the chief executive of the SPS? If so, what responsibility did the chief executive of the SPS have for overseeing and checking that the recommendations that were made by the board were the right ones?

Willie Pretswell: Under the PRINCE methodology, the chief executive is designated as project sponsor. I referred to the project board, the role of which was to carry out the work on behalf of the project sponsor. The project board made the recommendation to the project sponsor, that is, the chief executive. On that basis, the recommendation was accepted and the contract was awarded to Reliance.

Karen Whitefield: If the chief executive of the SPS had no input, would not it have made more sense for somebody from the board to have been in front of the committee today to answer some of the questions? Given the serious interest in the subject now and prior to the implementation of the contract, would not it have been wise for there to be some input from the chief executive of the SPS?

Tony Cameron: No. I am satisfied with the methodology that we used—I have no problems with it. I was at various meetings, received various reports and had discussions with Willie Pretswell and others during the course of the negotiations.

Karen Whitefield: So, Mr Cameron—are you telling us that you are completely satisfied that at all points you were provided with all the necessary information, that you were aware of what was going on, and that ultimate responsibility lies with you as chief executive of the SPS?

Tony Cameron: The answer is yes to all three parts of the question.

The Convener: Is the implementation board the same as the project board?

Willie Pretswell: It used the same methodology. A separate project board was created to manage and oversee the procurement process up to the point of contract. At that point there was a transition to a separate implementation board, which was chaired by an operational director who was a board member of the SPS and who took over responsibility. Certain members of the project team moved over to the implementation team and are now actively involved in managing and overseeing the performance of the contract. We guaranteed continuity, which is important to a contract such as this. The representation on the boards was not identical, but the methodologies were.

The Convener: It would be extremely helpful if, as requested by Karen Whitefield, the committee could be given information about whether either board ever received a request from Reliance to delay the implementation date of the contract.

Tony Cameron: We will do so.

Mike Pringle: Can we have the composition of the two different boards? It would be interesting to know that.

The Convener: It would be helpful to know who was on the boards.

Tony Cameron: Yes.

The Convener: Colleagues, I am conscious of time. The Minister for Justice has still to come before us, but I appreciate that there has been extensive interest in putting questions to the Scottish Prison Service. Four members—Colin Fox, Mike Pringle, Maureen Macmillan and Jackie Baillie—still have questions. Their areas of interest might have been dealt with already, but if that is not the case, they should keep their questions exceedingly brief.

Colin Fox: This question is brief and simple. How many SPS staff have been redeployed and where have they been redeployed to since the contract with Reliance was signed?

Tony Cameron: I cannot give an exact figure because the contract has not yet been rolled out.

Colin Fox: How many have been redeployed in the west of Scotland?

Tony Cameron: I cannot say for sure. For the whole contract, our broad expectation was that about 200 SPS staff would be redeployed. However, it is early days and the contract has been only partially rolled out.

Colin Fox: To where will the staff be redeployed?

Tony Cameron: They will be redeployed within prisons.

Bill McKinlay: I can give the figure for Barlinnie, to which 22 staff will be redeployed. However, the benefits go far beyond redistribution of staff, and include a lack of disruption to the regime, continuity and regularity in delivery of prisoners from court to prison, fewer late arrivals and greater care of prisoners, including women prisoners who are sent to Cornton Vale. As a practitioner, I believe that all those benefits have come as early results of the contract.

Maureen Macmillan: This question might be on a different tangent, but could the SPS have thought a bit more laterally about the contract? In this day and age, we should not need to have lots of prisoners dashing around in vans simply so that they can give their name in court and plead not guilty before being returned to prison. Could we not have used technology such as video links, rather than enter into a contract that simply replicates what was being done before? I know that video links between prisons and courts have been successfully piloted. Did that not occur to you?

Tony Cameron: Yes. We have such a system at Barlinnie, so perhaps Bill McKinlay will say something about that.

A number of prisons have video links. For example, I have visited Belfast prison a couple of times, which has a video link between the prison and the court. However, it is not an either/or situation. Video links, which we have taken steps towards developing, are certainly useful, but they can be used only for a proportion of all journeys. As Willie Pretswell said, the contract has a volume component. We wish to make greater use of video links than we do at present and we hope that the number of such links will be increased.

Bill McKinlay will share his experience.

Bill McKinlay: We set up a link jointly with the Scottish Court Service between Barlinnie prison and the sheriff court in Glasgow. Initially, we did that to test the extent to which we would use such a service, but we wanted equally to provide sheriffs and solicitors with the opportunity to use the link. In May, the system was used 37 times; those were 37 times when a prisoner did not have to appear in court—an average of 12 per week. Solicitors are beginning to use the video link both prior to and after their clients' appearances. They even use the link for interviews, rather than come to the prison. I will need to check this, but I think that the link was used on one occasion for communication between a father and a child over the child's problem.

Maureen Macmillan: How many journeys between prison and court would such a system save?

Bill McKinlay: That is difficult to determine. The video link means that a prisoner who has to attend court for a one-minute hearing does not need to leave the prison at 7 o'clock in the morning and be held in a court cell until 5 o'clock at night. He does not have to vacate his prison cell and take his property with him. Those to whom I have spoken who have used the system think that that is an advantage. Perhaps the issue is that people need to get used to the technology.

Maureen Macmillan: The technology has been around for quite a long time, so I think that your progress has been a bit dilatory. It would be a lot easier on all concerned if such journeys did not have to be made.

Tony Cameron: My understanding is that legislation was required before the video links could be introduced, but we have used the technology since then. Video links are now being used for quite a high proportion of full committal hearings in Glasgow sheriff court.

16:00

Bill McKinlay: We are considering whether to extend the service to other courts. Now that the six-month evaluation period has ended, we are waiting for the evaluation report to be completed and are already discussing how to expand and extend the service to outlying courts.

Maureen Macmillan: The committee would be interested to read your statistics on that.

Jackie Baillie: I want to return to the critical question of decisions and relationships. Is the fact that Mr Pretswell signed the contract not an administrative matter? In civil service parlance, Mr Cameron is the accountable officer. Does not that make you ultimately responsible for the policy decision?

Tony Cameron: Yes.

Jackie Baillie: Fine. It is helpful to have cleared that up.

I am not sure that—in response to Karen Whitefield's question—you clarified whether the whole SPS board, including non-executive board members, was involved.

Tony Cameron: If you are asking me whether the board formally decided to let this contract, my memory is that it did not. Individual board members and the board collectively were certainly informed about the progress of the case, but I do not think that a formal recommendation was made to the board as a board. I wonder whether Willie Pretswell, who is a fellow board member, can recall anything.

Willie Pretswell: The project board included three representatives of the SPS board, which is half of its representation, and none of the non-executive directors. Under the PRINCE methodology, a project board that is constituted for a particular function makes a recommendation to the project sponsor—in this case, the chief executive. Although the board received regular progress updates, the recommendation was made to the chief executive and not to the full board.

Jackie Baillie: In what circumstances would you involve the board? Would it be simply a token feature, or are board members involved in strategic decisions such as the one that we are discussing?

Tony Cameron: We have had a number of discussions about the SPS's future. It was very much a board decision to launch our vision of correctional excellence in which we seek to do for prisoners things other than just lock them up.

Moreover, we track our performance each month; for example, we find out whether we are on track to deliver key performance indicators that we have been set and whether some of our policies need to be adjusted. The diet is quite large and varied; there are financial, operational, human resources and rehabilitation, care and health issues to take into account. However, the board would not usually be involved in approving an individual contract.

Jackie Baillie: On the question of relationships, I know that I cannot ask you to tell us your advice to ministers. However, I can ask you to tell me who provided the advice and the stage at which it was provided. Was it provided directly to the minister or was it given to a civil servant? Was it written or verbal? Was no advice given at any stage, other than on the two points that you highlight in paragraphs 15 to 20 of your submission?

Tony Cameron: Without looking again at the paragraphs to which you referred, I can say that ministers were involved at the outset because the proposal needed their co-operation and it needed financial restructuring. At the end of the process, we informed the minister that we had let the contract and we asked her whether she would like to make an announcement to that effect, as the contract was to have very great benefits for public safety, the police and the Prison Service.

Jackie Baillie: So you informed the minister. She did not decide to agree the contract or its terms apart from—right at the beginning—the policy position that the work could be considered for contracting out.

Tony Cameron: I want to be absolutely precise about this. The Prison Service would have decided by itself whether to contract out only its own

prisoner escorting system. However, because the proposal involved eight police forces and the co-operation of a number of justice partners, it was necessary for us to inform the minister at the outset. That was the context in which arrangements started. As I said, however, at the end we took the decision. We did not ask the minister. We make it plain that at no point was the minister asked to approve the contract in any way.

Jackie Baillie: So the decision was yours.

Tony Cameron: The decision was ours.

The Convener: Who is in charge now? A decision must be made about rolling out the contract. Who will take that decision? Will it be the Scottish Prison Service, as the contracting party, or the minister?

Tony Cameron: As I think the minister has said—I do not have her exact words in front of me—the Scottish Prison Service will take that decision and be accountable to the minister for it.

Nicola Sturgeon: You said that the SPS and Reliance agreed that roll-out of the contract would be rephased. In her statement, the minister said that she had made it clear that no further roll-out would take place. Will you or the minister take the decision?

Tony Cameron: I have described the position as I understand it. I do not have the precise wording, but I think that the minister said something slightly different from what you described—she said that we would be accountable to her for the decision.

The Convener: The issue is important. My impression from the ministerial statement was that the minister was assuming responsibility for deciding whether further phases of the contract with Reliance would be rolled out. The committee wants to know who you think is in charge.

Tony Cameron: I have described the position as I understand it. I understand that the contract will roll out to other parts of Scotland when the SPS believes that Reliance is ready to extend the services that are set out in the contract. The SPS and Reliance are discussing a revised implementation programme.

Nicola Sturgeon: Do you have to obtain the minister's agreement to that? I will read to you what the minister said in her press release:

"I am making it clear today that there will be no further geographical roll-out of the contract until I have had a personal assurance from the Chief Executive ... that he is satisfied"

with the contract. When you give her that personal assurance, will the decision become hers?

Tony Cameron: I cannot tell you that. I do not want to add to or subtract from the words in that statement, which I thank you for finding.

Nicola Sturgeon: We must know whose decision it will be to roll out the contract.

Tony Cameron: The SPS holds the contract—we are the contracting authority. In my view, it is our decision. The wording in the statement is entirely consistent with that position.

Nicola Sturgeon: If you tell the minister that you think that the contract should be rolled out and she says no, will her word or your word carry the day?

Tony Cameron: As Jackie Baillie said, discussions between civil servants and ministers are privileged.

Nicola Sturgeon: I am not asking you to tell me the content of any discussions; I am asking whose word will carry the day—will it be yours or hers?

Tony Cameron: The minister has said that it is a matter for us to provide the necessary assurances. That is the position.

Mike Pringle: I had thought that my questions were irrelevant, but perhaps they are now extremely relevant. What is the future of the contract? Will it be rolled out? If so, when will that happen?

Tony Cameron: I think that the contract will be rolled out. I would not like to give a prognostication about when or where the contract will be rolled out because we have not completed our discussions with Reliance, as the Reliance witnesses said.

Nicola Sturgeon: Your view is that the decision is yours.

Tony Cameron: Contractually, the decision is the SPS's.

The Convener: We are running very late and the minister has waited patiently for some time, so it would be discourteous to continue questioning the Scottish Prison Service witnesses. On behalf of the committee, I thank Mr Bill McKinlay, Mr Tony Cameron and Mr Willie Pretswell for attending. I know that the session has been longer than expected, but committee members' interest was extensive. It has been obvious from the questions that many points required clarification and explanation. That justification for the length of time the witnesses have spent here has been borne out to the last minute.

16:09

Meeting suspended.

16:17

On resuming—

The Convener: I welcome the Minister for Justice, Cathy Jamieson. I apologise for the delay, minister. It is a measure of the interest in the

earlier evidence sessions that committee members wanted to question witnesses extensively.

I know that you want to make an opening statement. I think that it is appropriate that, as convener, I should allude to the fact—and only I shall do so—that, given that this is a public meeting and that you are here in your capacity as a minister, there will be significant interest in the matter of the Executive's failure to lodge a timeous appeal in respect of the judgment on slopping out. As the occasion has arisen for you and the committee to be engaged, I simply want to ask whether there are any brief comments that you want to make about that situation or whether you intend to come before the Parliament to make a statement as soon as is practicable.

The Minister for Justice (Cathy Jamieson): With your permission, convener, I shall say a brief word on the matter to update members on the present circumstances. Members will be aware that inquiries are under way into the circumstances surrounding the failure to submit an appeal on time. However, I want to say at the outset that, as members would understand and expect, those inquiries will be undertaken in the light of proper procedures, particularly in relation to employees and the rights that they have in the process of inquiries. That set of inquiries is under way and, for the record, I should also say that it is a technicality, if you like, that the report that will arise as a result of those inquiries will go to the Lord Advocate, because of where the legal services section is located within the Executive.

The repercussions of the issue are clearly for the whole Executive. It is not a good position to be in or a position that any of us wanted to be in, and it is certainly not a position that any of us expected to be in. Ministers took the decision to appeal and gave clear policy directions to the legal services section in more than adequate time for the appeal to be lodged, but that was not done. There is, however, a provision in court rules that allows for an out-of-time application. Our legal team is now working on that, and ministers will update Parliament. We take that duty very seriously and will want to update Parliament in an appropriate way as soon as we are able to provide further information. I am sorry that I cannot give any more detail than that at the moment, but we will return to members in due course in the appropriate way.

The Convener: On behalf of the committee, I express appreciation for that update. I have no desire to hijack the agenda for this meeting away from the important business that is scheduled. I found your comments helpful.

If you would care to make a preliminary comment in respect of your appearance before the committee this afternoon, that would be most acceptable.

Cathy Jamieson: Thank you again for the opportunity to make some opening remarks. I am aware that people have had a long afternoon already, in fairly hot—at times heated—circumstances. You have heard a great deal of information from both Reliance and the Scottish Prison Service about the preparations, process, implementation and remedial action in relation to the prisoner escort contract. As members are aware, the Auditor General for Scotland will be scrutinising the contract to confirm that it has been properly entered into. I have asked the Auditor General to bring forward that report as quickly as possible. Given the undeniable problems that have arisen and the clear public interest in the matter, I felt that that was an action that I, as minister, should take.

Like hundreds of other contracts that are signed by the SPS and its contractors, the actual negotiating and signing of the contract, as members have heard this afternoon, was not undertaken, and should not have been undertaken, by ministers. Ministers have played a clear and transparent role in setting a firm policy direction and, for my part, in acting quickly and decisively when the problems in implementing the contract affected the operation of the wider criminal justice service.

I will restate why so much hard work is going into addressing the problems so that new arrangements for court escorting can be taken forward across the country. There are 150,000 movements of prisoners between courts, prisons and police custody each year. The role of court escorting is important, but it is time consuming, and the activity currently ties up—and previously tied up—hundreds of police and prison officers. I think that there is widespread agreement in the Parliament that that is not core business for either service. The public deserve more of their police to be deployed to front-line duties and to have more of their prison officers working with offenders to tackle their offending behaviour and to deal with addiction and the many other social problems that manifest themselves in prison, in which many committee members take an interest.

With those objectives in mind, it is vital—not just optional—that we free up those dedicated people so that they can use their skills in the appropriate way, rather than being involved in some of the prisoner escort work. That is what we set out to achieve under the contract, and that is what we want to be delivered.

I believe that it might be useful for the committee to receive a brief update on the measures that have been taken since my parliamentary statement of 21 April to address the impact of the contract and the associated problems. I am aware that members have heard this afternoon about the

performance of Reliance. As I said on 21 April, the introduction of the service to the first phase of courts and its delivery during the first two to three weeks were poor. Despite the advance preparation—the committee has heard about the nature of that preparation and the length of time that it took—Reliance underestimated the challenge, and has admitted that. Under the terms of the contract, and taking into account its professional reputation, there is no doubt that Reliance has suffered the consequences.

It would be quite wrong, however, to paint a picture of a service that continues to operate at the very poor level that was evident in the early days of the contract. More staff are now in place. Training has been stepped up. Systems have been tightened. Performance has been sharpened up. The unacceptable delays to court proceedings of the early weeks, particularly at Glasgow sheriff court, have largely been tackled, although there is still room for improvement, as I think Reliance recognises.

In the week before I made my statement in April, when the situation was at its worst, nearly half of all prisoners were being delivered to Glasgow sheriff court late. The equivalent exercise for May shows an average of nine out of 10 prisoners arriving on time at the phase 1 courts, including Glasgow sheriff court. As I have said, however, there is still scope for improvement, especially on the busy days at the start of the working week, when the custody courts, as the committee has heard in great detail, tend to be very busy.

Occasional liberations in error have still taken place, but none has been at the same scale, or has caused the same amount of worry, as at the time of the release of James McCormick. It is clear that releases in error can and do arise, as a result not just of mistakes that have been made by Reliance, but of mistakes and problems elsewhere in the system.

However, every problem has been identified, investigated and tackled, not just in one part of the justice system but in a partnership. I reassure colleagues that few, if any, reform programmes in the United Kingdom have been scrutinised so heavily and closely. The Parliament is an important part of that process and that is having a positive rather than a negative impact on the drive to improve performance in the criminal justice service as a whole.

I touch on two other important areas that relate to my statement to the Parliament. I announced plans to expand significantly the number of closed-circuit television links between Barlinnie prison and the courts. Maureen Macmillan raised that issue earlier and I can confirm that the necessary equipment has been installed and is operational in Hamilton, Paisley and Airdrie sheriff courts.

Hearings that use those links will commence shortly. I have asked officials to consider how that mechanism can be extended to involve more courts and prisons and to enable other types of hearings to be conducted in that way. That represents a positive move to step up public protection by ensuring that offenders travel to court only when it is absolutely necessary for them to appear in person.

I also announced that ACPOS would lead a multi-agency review into problems with the current system of dealing with outstanding warrants. That issue is at the heart of many of the liberations in error that occurred both before and after the new escorting arrangements were put in place and it is at the heart of some of the problems that have been identified today. Ricky Gray, the assistant chief constable of Strathclyde police, is chairing the group, which involves representatives of every relevant part of the criminal justice system. The group has met twice already and it is too early in its work for it to be able to give the committee formal recommendations. However, the group will report in the summer and I expect it to make a number of practical recommendations that will result in a situation in which fewer of the problems that members have discussed will arise.

Concerns have been expressed about the pace at which the contract will roll out and there has been speculation in recent weeks that a decision is imminent. As I said in my statement to the Parliament, the expansion of the contract from its first phase to a wider geographical spread will be delayed, so roll-out has not taken place.

As members have heard, Reliance has escorted many thousands of prisoners, the vast majority of whom have been delivered on time or within acceptable times. That is down to a lot of hard work by staff on the ground, not just staff in Reliance uniforms but other staff in the system. We are closer to achieving the kind of service that the courts need than we were six weeks ago. However, I made it clear in my statement that until the Scottish Prison Service is satisfied that Reliance is ready and able to extend the service that the contract sets out, there will be no further roll-out. The SPS is answerable to me for that and is discussing with Reliance a revised implementation programme. No decisions have been taken yet and I assure the committee that the Parliament will be informed when decisions have been made. We are progressing, but we are not fully there yet. We want this very necessary reform to succeed and it is important that we get the delivery right.

I am happy to take questions.

The Convener: Thank you, minister. I will carry on from where we left off with Mr Cameron—we asked him who is in charge. You alluded to your

statement to the Parliament, when you said that the roll-out

“will not take place unless and until the SPS is satisfied that Reliance is ready to deliver a satisfactory service day in and day out.”—[*Official Report*, 21 April 2004; c 7531.]

Who has the final call on that? Is it you or is it the Scottish Prison Service?

Cathy Jamieson: As Tony Cameron, the chief executive of the SPS, told the committee, contractual responsibility for signing that off lies with him. However, I want to put on the record a number of issues that I would expect to have been addressed before he takes that decision. It might help the committee if I briefly set out some of those issues.

I expect Reliance to show that it is ready to provide a satisfactory service day in and day out. The SPS assessment will, of course, depend on the discussions that are taking place with Reliance about the revised implementation programme. I expect the tests that the SPS will apply to include checks that Reliance has adequate staff and vehicles, based on the experience of the phase 1 operation; that staff are fully trained and certificated and familiar with the task that they are to undertake; that a communication plan has been implemented; that adequate contingency plans are in place; and that any necessary changes to the contract around the implementation plan have been made. I also expect the interagency group to be consulted on the checks that the SPS will make, so that there is a broad understanding among all the partner agencies of the process that is put in place.

People may point out that tests were in place for the initial start-up and that they did not work, but there is now a considerable amount of experience to show exactly where the problems were and to indicate the additional measures that require to be taken before any further roll-out. The SPS and Reliance have been very involved in examining those problems and measures, and it is for the SPS to satisfy itself that all the tests have been passed and that all the criteria have been fulfilled before it decides that the contract should be rolled out. I would not expect the SPS to reach that decision without taking a close and serious look at the matter and without discussion with the partner agencies.

16:30

The Convener: That is a reassuring list of what you might require. The contract is described as being between the Scottish ministers and Reliance Secure Task Management Ltd, but does your answer mean that you will remain detached from the process? There is now no dispute that there has been no ministerial attachment to the

negotiation of the contract—the Scottish Prison Service has performed that entirely separately—but given what has unfolded and the fact that, technically, the contract is between the Scottish ministers and the security company, do you intend to involve yourself with the Scottish Prison Service to ensure that what you seek and desire to achieve is achieved?

Cathy Jamieson: There has been some discussion this afternoon on the exact nature of that relationship, but the framework document is clear that the Scottish Prison Service has delegated authority to undertake work as an executive agency. However, I had concerns about the impact that the problems with the contract were having on the wider criminal justice service and that is why, for a period of time, I felt that it was important to take an active interest in it. I continue to expect delivery on the ground and I expect improvements, including from the discussions and consultations that are going on with all the partner agencies.

The Scottish Prison Service is, technically, contractually responsible, but I would not expect a situation to arise in which the SPS had not examined every aspect of the contract and, with Reliance, agreed a deliverable package that covered in some detail all the measures that I have outlined. As I made clear in my parliamentary statement, Tony Cameron, as the chief executive of the Scottish Prison Service, is accountable to me and will be held accountable for the decision when he makes it.

The Convener: Were you surprised that the contract was signed not by Mr Cameron but by the Scottish Prison Service's director of finance?

Cathy Jamieson: I understand that other Scottish Prison Service contracts have been dealt with similarly. The framework document allows for various delegated powers, so from that point of view, it does not come as a surprise. However, we must realise that a huge amount of public money is involved, as a number of members have mentioned. That is why the contract is important and why I asked the Auditor General, who, as part of his normal work, would scrutinise the contract and the contracting process, to bring forward that work so that the Parliament and the public could be reassured that everything had been done in accordance with the procedures. The committee has heard from the SPS this afternoon what some of those procedures are and how it has carried them out.

The Convener: I do not know whether you heard the evidence from the Scottish Prison Service, but none of the SPS witnesses was able to answer Karen Whitefield's question about whether Reliance had ever intimated to the Scottish Prison Service a concern about being

able to implement the contract properly in the timescale that was on offer. Apparently, such matters would have been the responsibility of either the project team or the implementation team, and none of our three SPS witnesses seemed to have direct personal knowledge of exactly what those groups had done with reference to whether there had been a request to delay the contract's start date.

Does that worry you? You have described the delegated authority that has been given to a quango, but we now seem to be getting a visible delegation of authority within the quango. Are you beginning to feel slightly disconnected from the entire process?

Cathy Jamieson: I do not wish to correct you, but it is not a case of delegated authority being given to a quango. The SPS is an executive agency and, obviously, there is a difference. However, I am concerned to ensure that, when decisions are taken, they are the right decisions and that they are based on the fullest information possible.

I heard the earlier evidence. I am not aware that any request was made to delay implementation of phase 1, but I was aware that the timescale from the signing of the contract to the implementation date was relatively short. However, as has been outlined this afternoon, a considerable amount of work was done in preparation. In discussions that I had and reports that I received at various stages of the process, it was accepted—Tony Cameron would agree—that the timescale was tight but doable.

Nicola Sturgeon: Many people will think, when they listen to you talk about the criteria and the tests that Reliance will have to meet before roll-out is agreed to, that things might have turned out differently had the same rigour and attention to detail been applied by you before implementation. Let us reflect on the fact that the contract is not for the cleaning of the SPS offices; it is a £126 million contract to provide an essential public service. Do you understand the degree of public concern there will be when people hear that the Minister for Justice had nothing to do with the negotiation of the contract, and that the chief executive of the SPS seems to have had little to do with the negotiation of the contract? With hindsight, do you think that that is a matter of regret?

Cathy Jamieson: If you look at the framework document, as I am sure that you have done, you will see that the SPS has the delegated authority to undertake such work. Perhaps there is a wider issue across the Executive in relation to how contracts are managed.

I am concerned to ensure that the contract delivers in the future. You identified, rightly, that a

lot of money is involved and that a huge service has to be provided. The public expect that service to be provided correctly. They expect people to be moved on time and to the right place. They do not expect to see liberations in error or prisoners being at large unlawfully. We have seen improvements in the past few weeks because of the additional actions that have been taken.

As I said, people may argue, looking back, that some issues could have been dealt with differently, but effective action has been taken to bring the performance up towards the level that we expect. It is not quite there yet, but it is moving in the right direction.

Nicola Sturgeon: But my point is that people will ask themselves, if a contract of this nature and value does not merit a hands-on approach by the minister or, at the very least, by the chief executive of the Scottish Prison Service, what on earth would be the contract that would merit that attention?

Cathy Jamieson: I am sure that you have heard this afternoon that the SPS has in excess of 300 contracts, a number of which are for service provision as well as for supplies and various other items. You have to ask yourself whether it is the role of the minister to negotiate and be involved in all those contracts; I argue that it is not. The SPS was set up as an executive agency exactly to carry out such work. It is the minister's responsibility to set the policy direction and to ensure that it is carried out; that is what ministers, including my predecessor, have done at various stages.

Nicola Sturgeon: With respect, I am asking you why no distinction is made between a contract to clean the offices of Tony Cameron and a contract worth £126 million to escort dangerous prisoners around the country.

Cathy Jamieson: With respect, I am referring you to the setting up of the Scottish Prison Service as an executive agency and to the framework document, which delegates powers to that organisation to undertake the work that has been referred to.

Nicola Sturgeon: I do not know how much of this afternoon's evidence you heard, so I apologise if you did not hear it all.

We know that, in your view, Reliance underestimated the challenge. Reliance does not dispute that, but it expressed the view that that was because it had not been accurately advised of the scale of the challenge. For example, it had not been told by the SPS that courts are significantly busier on Mondays than on other days of the week. The SPS said, "No, we didn't tell Reliance that because we didn't have that information." Does it concern you that the company was

contracted to provide the service before it had been given accurate information about the scale of that service?

Cathy Jamieson: I heard the evidence that was given on that point. I understood people to say that Reliance understood that there would be peaks on Mondays and on Tuesdays following bank holidays, but that it had not fully appreciated the scale of the peaks. I understood the SPS to say that the information that was provided was aggregated on a monthly basis, and had not been broken down on a daily basis. I understand that that was because the information was not collected by the courts and the police according to a common framework, so producing the information would have been difficult.

It could be argued that, in the weeks immediately prior to the establishment of the contract, people should have spent time collecting that information—I would expect that to be done before roll-out. The graph that the SPS supplied shows not only that the volume doubles on some Mondays or busy Tuesdays—there have been a lot of holiday Mondays in April and May—but that in some instances the volume increases by two and a half times, which is a significant increase.

Nicola Sturgeon: Surely somebody who works in the courts day in, day out—either from the police or the Scottish Court Service, if not the SPS—would have known that, even if the specific figures were not available. Is it not a failure that that information was not passed on to the SPS so that it could give it to Reliance?

Cathy Jamieson: People may have known about that increase anecdotally, or experienced it, as have many who have worked in the court service.

You have put your finger on one of the problems, which is that the Scottish Court Service, the police and the Scottish Prison Service are different agencies that collect information differently, rather than through a common framework.

Nicola Sturgeon: It may have been better to have the information before privatisation.

My final question relates to staff numbers, which you touched on. One of the issues that you will consider is whether the number of staff on the ground is adequate. Contrary to the SPS memorandum, the contract goes into detail about staff training: it even says what kind of uniforms the staff should wear and how clean they must be. However, it states simply that staff numbers should be appropriate. Given that you have identified that one of the early problems was a lack of staff, should more attention have been paid to staff numbers in the negotiation of the contract? Should there have been specification of staff numbers?

Cathy Jamieson: I refer to my answer to a previous question. If a specific number of staff had been mentioned in the contract and the volume of work had increased, we could have found ourselves in difficulty. Nicola Sturgeon is shaking her head—

Nicola Sturgeon: I cannot believe how little information you had.

Cathy Jamieson: If a number of staff had been specified in the contract and that number turned out to be not enough to provide the service, that would have led to difficulties.

Nicola Sturgeon: So you are saying that you could not specify staff numbers because you did not have enough information about how many prisoners go through the courts daily.

Cathy Jamieson: No. I am saying that the contract specifies the outputs clearly and that Reliance is responsible for providing adequate staff numbers. Reliance has ensured that the additional staff that it has recruited have in the main been employed in and around Glasgow sheriff court to deal with some of the problems there. Reliance now has a much clearer indication of the required staffing numbers, bearing in mind that Glasgow sheriff court is not typical by any manner of means.

Nicola Sturgeon: Most of the releases have happened at Hamilton sheriff court.

Cathy Jamieson: Alleged incidents have happened elsewhere. In the early stages, the James McCormick saga took place in Hamilton. However, it is worth noting that not all the alleged releases in error have been Reliance's responsibility. The situation has highlighted problems that people who know the system and who have been in and around the courts—such as you and other members—recognise happened previously. The issue is how we ensure that the correct information is available. We heard from Reliance about difficulties in getting information on warrants. We need to tighten up the system, which is exactly what I expect the working group to do.

Nicola Sturgeon: Should that not have happened before the contract was signed?

Cathy Jamieson: You could argue that people might have heard a lot anecdotally, but information on releases in error was previously not centrally collected.

Nicola Sturgeon: Given that you knew that, should you not have ensured that you had an accurate picture of how many prisoners are escorted daily and what the job entails before you took the momentous step of handing the job to a private company?

Cathy Jamieson: With all due respect, that is a different question from that about releases in error.

Nicola Sturgeon: That is the question that I am asking.

Cathy Jamieson: I have already given an answer about the information that was available and provided to Reliance. The agencies collect information differently and not all the agencies were able to provide a daily breakdown.

Nicola Sturgeon: Could you not have asked them to standardise the system and get clear information so that before we asked a private company to set outputs and do the job, we knew the scale of the job that we were asking them to do and what the outputs would be? Instead, we got Reliance in to do the job and let its mistakes demonstrate the mess that the system was in before we tried to sort it out.

Cathy Jamieson: Reliance did not start without information; the police and the Scottish Prison Service provided information.

Nicola Sturgeon: According to Reliance, the information was wrong.

Cathy Jamieson: In the light of experience, perhaps some of the information was not as accurate as the information that can now be gathered as a result of Reliance's experience of working in Glasgow sheriff court, which is where the majority of the problems have been and remain.

Jackie Baillie: I assume that the minister saw most of the evidence that we took. If not, she will reflect on the *Official Report* of this meeting. Today we heard that, in effect, the policy decision on the contract was made by the accountable officer, in this case the chief executive. At no point was advice sought from ministers. Indeed, the Scottish Prison Service board was not collectively involved in making the final decision. Would you expect the board to be involved in making what some of us would regard as a key strategic decision?

Cathy Jamieson: I assume that the board was involved in discussions at various points in time. However, as Jackie Baillie rightly indicated, the chief executive, as the accountable officer, is responsible for the overall decision-making process.

16:45

Jackie Baillie: I will be more specific. Would you have expected the chief executive to consult the board before arriving at a final decision?

Cathy Jamieson: I would have been surprised if the final decision had been taken without consultation of some sort with the various board members and the wider partner agencies. This afternoon we heard that that consultation happened.

Jackie Baillie: We will reflect on the *Official Report*.

Jim Gallagher (Scottish Executive Justice Department): It is worth referring to the framework document, which sets out the precise terms of the derogation to the Scottish Prison Service and the particular position of the chief executive.

Jackie Baillie: Does the minister consider that it is time to review the framework document? Indeed, does she not think that it is time to review the form and governance arrangements that are in place for the SPS? I was disturbed to hear about the lack of accountability that was described to us today. Will you take steps to fix the system once and for all, so that the lack of accountability and the problems with governance that we have witnessed in this contract are not repeated?

Cathy Jamieson: The framework document is reviewed on a five-yearly cycle. I understand that it was last reviewed in 2000, so it is due for review five years from that date, at the latest. It is worth my mentioning the fact that all Executive ministers have been asked to examine both governance and working relationships with the agencies that are associated with their departments. As members are probably aware, those vary considerably from agency to agency and department to department.

Jackie Baillie: I am absolutely aware of that. That is why I am so astonished by the governance arrangements that were put in place here. Do you intend to review those arrangements before the five years are up? That would be particularly welcome.

Cathy Jamieson: I do not wish to pre-empt other policy developments, but members will be aware that we are examining offender management. It is fair to say that in that context we will certainly examine the framework document.

Jackie Baillie: I have a tiny final question. It may be slightly unfair but I will ask it anyway. After the debacle that has happened with this contract, do you have confidence in the advice that the SPS gives you?

Cathy Jamieson: It is fair to say that I am taking a very close interest in matters. I could be accused in recent times of taking too close an interest, because it is not for the minister to be an operational manager or the chief executive of the Scottish Prison Service. We have taken steps to ensure that the various parts of the criminal justice system have confidence that we are on the right track to improve. Elizabeth Carmichael, who is here from the community justice division of the Justice Department, is providing liaison in that process.

Colin Fox: Bad as they are, the delays in delivering prisoners to court are probably not the public's main concern about the contract. The main concern is what you called the liberation in error of prisoners who have been released from the courts. Who will take responsibility, should Reliance's performance not improve?

Cathy Jamieson: Again, I make it clear that no release in error is acceptable, whether that happens because of an error by Reliance or because of an error by any other part of the system. This process has highlighted the fact that in many instances it is not entirely clear who, or which part of the system, has been at fault when information has failed to be conveyed at the appropriate time. I want the working group on warrants to address that serious issue.

It is also worth recognising that many of the liberations in error, including those for which Reliance has accepted responsibility, have arisen in situations where people have been at the district court in the morning, for example, held until later in the day and then taken to the sheriff court, or vice versa. Mike Pringle and others picked up on that point earlier. We have to look at the wider system and ask whether that is a sensible way of dealing with offenders and managing the system; I expect to do that.

Colin Fox: If there were a repeat of the James McCormick experience, who would take responsibility—you or the Scottish Prison Service?

Cathy Jamieson: I make it clear that we do not expect there to be a repeat of the James McCormick experience. Every alleged incident of a suspected release in error is scrutinised, its background is examined and, where appropriate, lessons are learned. If Reliance has been at fault—it has accepted responsibility in a number of situations—it has accepted financial consequences.

Colin Fox: I am sure that you did not expect the James McCormick situation to happen so it will be the unexpected that you will have to deal with. I take it for granted that Reliance is toast, but who will take the ultimate responsibility should the situation be repeated? That is the public's main concern.

Cathy Jamieson: We must ensure that there is no repetition of serious offenders walking the streets. We must also ensure that people who are brought to court at any point in the justice process are brought at the appropriate time and that we have no releases in error. That ought to be the focus of our attention; we ought not to be concerned only with what might happen, but with what has actually happened and take steps to close any gaps in the system. That is what we are trying to do at present.

Colin Fox: You have explained the division of responsibility—Tony Cameron of the SPS is in charge of contracts and you are responsible for making policy. Are you saying that, if there is a repeat of the James McCormick experience, you will take ultimate responsibility?

Cathy Jamieson: I am not saying that. If there is any liberation in error, we must look at the circumstances of how it happened. That is exactly what we are doing with alleged liberations in error. We look to see where the fault lies and how we can deal with the problem in the particular circumstances.

Colin Fox: I asked the Scottish Prison Service the following question and I am interested in your response. Has it struck you in any way, shape or form that one of the consequences of privatising court escort services is that, in instances of failure by private companies such as Reliance, the public sector is expected to pick up the bill and that that is a new phenomenon? Previous liberations in error were dealt with by the Scottish Prison Service or the police.

Cathy Jamieson: If one considers previous liberations in error, or liberations in error that could happen where Reliance is not involved, it is of course the public sector that deals with the situation.

Colin Fox: So that is a new phenomenon—

Cathy Jamieson: It is not a new phenomenon that the police chase after people who have been liberated in error—it has happened before and it might well happen where Reliance is not involved. Such liberations in error tend to happen in circumstances where people have to be at a number of different courts and confusion has arisen where there are outstanding warrants or matters connected to fines, for example.

Colin Fox: So it has not struck you that Reliance does not pick up the pieces when it makes mistakes?

Cathy Jamieson: If Reliance is responsible for an error, the contract has financial penalties, as people are aware, although they will not be aware of the detail. That system of penalties is right and proper.

Mike Pringle: You picked up my point about district and sheriff courts and going to different courts on the same day. Who will look at the system and decide whether it should change?

Cathy Jamieson: Again, I hesitate to get involved in another policy discussion at committee; I am sure that we will do that in due course. However, you will be aware that we have had a review of summary justice. Some of the recommendations that were made in that review concerned a unified court system and we discussed that in the debate in Parliament.

In the meantime, the ACPOS-led working group will look at the issue that you raise and make recommendations, some of which I hope will lead to practical changes in the short term, although others might feed into the longer-term process.

Maureen Macmillan: The Freedom of Information (Scotland) Act 2002 will come into effect next year. Will the act make any difference to what Reliance will have to reveal, or has it already revealed all that is necessary?

Cathy Jamieson: When I made my statement in the Parliament, I was keen to ensure that we were as open as we possibly could be in respect of the code of access. I am aware that Reliance feels strongly that particular pieces of information are commercially sensitive and, as I also outlined, I think that there is operational information that should not be in the public domain. We should not put anything in the public domain that prejudices public safety or causes public safety problems.

Exceptions can be granted for such things under the Freedom of Information (Scotland) Act 2002. We have tried to ensure that the contract, which SPS has now published on its website, is as open as it can be, allowing for those exceptions. There are on-going discussions about what can be published in respect of a performance framework—I think that members heard something of that discussion earlier. That will be important because it will show performance from a baseline position. We will be able to demonstrate improvement—I hope—over a period of time, or pick up patterns if there are any particular problems. Publishing such information would be helpful.

Maureen Macmillan: I think that that would be of more interest than the financial figures.

Cathy Jamieson: It might be of interest to a number of people who want to track progress. People will want to see that progress is being made from a not very good start, that performance is being improved and that improvements are measurable. Previously, one difficulty has been that many such things have simply not been quantified or measured. In the past, for example, we would not necessarily have been able to identify easily whether 95 per cent of people had been delivered to the courts in time by 9.30 on any one morning.

Karen Whitefield: I have a final question about the roll-out. Earlier, you rightly said that before any further roll-out takes place, there would need to be a close and serious look at Reliance's performance. It is not your job to run the SPS, but should any advice that you receive from the SPS come about as a result of prior consultation with the SPS board and the chief executive? Would that help to reassure you that the SPS's senior

management is fully aware of all the facts before you make any final decision?

Cathy Jamieson: The important issue is that the partner agencies are consulted. Obviously, there is a role for SPS board members, the majority of whom have operational responsibility for various matters in the SPS, and I would expect them to be appropriately consulted. However, I restate that the criteria and tests that I mentioned earlier are exactly the kind of matters that I would expect to be up for discussion with Reliance and the other partner agencies, and that people would agree that a point had been reached at which—day in, day out—delivery was such that people had confidence in the system. That is also important for Reliance, as it obviously wishes now to repair the damage to its reputation.

The Convener: Nicola Sturgeon has a question. Is it brief?

Nicola Sturgeon: It is very brief—it follows up on what Maureen Macmillan said. Being able to track the progress of performance will be useful, but do you accept that it is in the public interest to know how much of their money will be reimbursed by Reliance if it messes up? I still do not understand why that cannot be made public. If the only reason is that Reliance is worried that that might damage its commercial interests in some way, surely knowing that such information will be published would be a powerful incentive for Reliance to get its performance up to scratch to avoid incurring such financial penalties in the first place.

Cathy Jamieson: Earlier, the Reliance representatives talked about a commitment to a public service ethos. Whether or not financial information is published, I hope that they see that commitment as important and I believe that they do. It is also important that people are able to balance that public interest test with regard for commercial confidentiality. We and the SPS have tried to do that all along; indeed, the prison service has been as open as possible about the contract. The contract itself contains a lot of information and information on performance will also be published. That is what people want.

17:00

Nicola Sturgeon: So you believe that in deciding whether to let people know how much Reliance gets stung for every time a James McCormick is freed, the company's commercial interests are more important than the public's right to know.

Cathy Jamieson: No. I have said that a test must be applied. In looking at and publishing the contract, the SPS has applied that test in line with the code of access to information. The service believes that it has done so correctly.

Nicola Sturgeon: So in the case of James McCormick, you back up the SPS's view that commercial confidentiality—keeping Reliance's financial penalty a secret—outweighs the public interest in knowing what that penalty is.

Cathy Jamieson: The SPS took the decision after balancing commercial interests and the public information test.

Nicola Sturgeon: Yes, but at the end of the day the information is either published or it is not. As a result, it comes down to one interest against another.

Cathy Jamieson: Frankly, I think that in the James McCormick saga most people were concerned, in the interest of public safety, that he was caught or gave himself up and was back where he belonged.

Nicola Sturgeon: But catching him meant that the police—

The Convener: I am sorry, Nicola Sturgeon, but you said that you would be brief.

Nicola Sturgeon: Well, I am sorry, but it is an issue—

The Convener: You have been allowed a concluding supplementary question.

Nicola Sturgeon: All I am saying is that catching James McCormick took up police time and energy that would otherwise have been spent elsewhere. Surely it is in the public interest that Reliance reimburses the public purse for that. Surely the public right to know what that amount is outweighs commercial confidentiality.

Cathy Jamieson: The public interest test has been applied. I am aware that you do not agree with the result. Indeed, I have no doubt that whatever I say this afternoon will not change your mind and that you will take whatever action you believe to be appropriate on this matter. However, it is important to balance the public interest test with regard for commercial confidentiality. The SPS has tried to do that and of course has taken full account of the code of access to information.

Nicola Sturgeon: If the freedom of information commissioner ultimately takes a different view, will you comply with his judgment?

Cathy Jamieson: That is speculation at this point. Obviously, I will take due account of anything that the commissioner says to the Executive.

The Convener: I have a final question on governance. I recall, from the committee inquiry into the Scottish Qualifications Authority, that there was a statutory provision that permitted ministerial direction in exceptional circumstances. Is there a comparable provision for the SPS?

Cathy Jamieson: I sat on the inquiry into the SQA and when I was Minister for Education and Children I put through legislation to reform the SQA board. Although the two matters are not directly comparable, your point is interesting.

The Convener: Minister, it has been a long afternoon and I apologise for the fact that you were kept waiting at the beginning. We thank you for your attendance this afternoon. It is appreciated.

Youth Justice Inquiry

17:03

The Convener: We move on to item 4, which is the youth justice inquiry. Committee members will have before them a proposal for a series of fact-finding visits that will form the basis of a bid to the Conveners Group. Does the committee agree to the proposal?

Members *indicated agreement.*

The Convener: We now move into private session for item 5.

17:03

Meeting continued in private until 17:12.

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