

JUSTICE 2 COMMITTEE

Tuesday 10 May 2005

Session 2

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CONTENTS

Tuesday 10 May 2005

Col.

SUBORDINATE LEGISLATION.....	1599
Fire (Scotland) Act 2005 (Relevant Premises) Regulations 2005 (draft)	1599
MANAGEMENT OF OFFENDERS ETC (SCOTLAND) BILL: STAGE 1	1601

JUSTICE 2 COMMITTEE

15th Meeting 2005, Session 2

CONVENER

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

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mr Stewart Maxwell (West of Scotland) (SNP)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Andrew Brown (Scottish Executive Justice Department)

Brian Cole (Scottish Executive Justice Department)

Cathy Jamieson (Minister for Justice)

Susan Wiltshire (Scottish Executive Justice Department)

CLERKS TO THE COMMITTEE

Gillian Baxendine

Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

LOCATION

Committee Room 5

Scottish Parliament

Justice 2 Committee

Tuesday 10 May 2005

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

Subordinate Legislation

Fire (Scotland) Act 2005 (Relevant Premises) Regulations 2005 (draft)

The Convener (Miss Annabel Goldie): I welcome everyone to the 15th meeting in 2005 of the Justice 2 Committee. As usual, papers have been circulated to members. We have received no apologies and we are all here—physically at least.

It is my pleasure to welcome the Minister for Justice along with Jill Clark, her adviser, for agenda item 1, which concerns a statutory instrument that is subject to the affirmative procedure. The minister is here to move the motion to approve the regulations.

The Minister for Justice (Cathy Jamieson): I am pleased to have the opportunity to move and speak to the motion. I will outline to the committee the background to the proposed regulations to be made under section 78 of the Fire (Scotland) Act 2005. Members will wish to consider that the purpose of the regulations is to modify the definition of “relevant premises” in section 78 of the 2005 act so that construction sites and premises as specified in part 1 of schedule 1 to the Fire Certificates (Special Premises) Regulations 1976 will be included as relevant premises for the purposes of part 3 of the 2005 act.

Members will recall that on 18 January, the committee agreed to recommend the approval of an order made under section 30 of the Scotland Act 1998 to amend the reservation in section H2 of schedule 5 to the 2005 act in respect of health and safety. The intention was to reflect the split in policy responsibility for fire safety matters between the Health and Safety Executive and the Scottish Executive. The order was subsequently approved by the Scottish Parliament and the Westminster Parliament and came into force on 23 March.

As a result, the legislative competence of the Scottish Parliament has been extended to cover fire safety on construction sites and premises as specified in part 1 of schedule 1 to the Fire Certificates (Special Premises) Regulations 1976. Accordingly, the regulations to which I speak today will amend section 78 of the 2005 act to bring

special premises and construction sites within the new fire safety regime.

Once the regulations and the act commence, fire and rescue authorities and joint fire and rescue boards in Scotland will become responsible for enforcing the new legislation in respect of the majority of special premises. We are currently discussing with Whitehall colleagues the means by which the existing arrangements for enforcement in respect of the other premises will continue.

Fire and rescue authorities will already be familiar with the premises for firefighting purposes. When preparing their integrated risk management plans, they will take into account their enforcement duties, including duties related to special premises. The proposed regulations, together with the 2005 act and other fire safety regulations, will help to ensure that we have a consistent approach throughout the United Kingdom, subject to differences between Scottish, English and Welsh legislation, as well as a level playing field with regard to the impact of fire safety requirements on industry and commerce. I hope that the committee will be able to support the motion.

I move,

That the Justice 2 Committee recommends that the draft Fire (Scotland) Act 2005 (Relevant Premises) Regulations 2005 be approved.

Motion agreed to.

Management of Offenders etc (Scotland) Bill: Stage 1

14:11

The Convener: Agenda item 2 is stage 1 of the Management of Offenders etc (Scotland) Bill. We are pleased to welcome again the Minister for Justice, who will deal with the committee's questions. I also welcome the minister's colleagues from the Justice Department. Susan Wiltshire is branch head of the criminal justice group projects division, Brian Cole is head of branch 1 of the community justice services division, Andrew Brown of the reducing reoffending division is the bill team leader and Sharon Grant is head of branch 2 of the community justice services division.

I invite the minister to make some introductory remarks.

Cathy Jamieson: I will make short introductory remarks. As you see, a number of officials are with me. I have suggested to them that, as the meeting progresses, rather than wait for me to forget to make pertinent points, they may jump in where appropriate and remind me about important points that the committee would want to hear about.

I am pleased to appear before the committee. I have heard and read with interest the points that have been raised in earlier evidence sessions, and I expect today's discussion to be interesting and lively.

The bill is a major plank of the wide-ranging reform of the criminal justice system that is under way, so it is important not to view it in isolation from other changes that we are making. In particular, we should think about changes in the High Court processes, the reforms that are about to come to fruition in summary justice or as a result of the establishment of the Sentencing Commission and the Risk Management Authority, and work on police and community safety initiatives. Our commitment to safer and stronger communities and to ensuring that we improve public safety underpins all those changes. The criminal justice plan, which was published last December, gave an overview of how we intend to progress the comprehensive reform package. I will confine my brief remaining remarks to how the bill came about.

It is important to recognise that the problems of reoffending are a major issue. Our consultation on reducing reoffending raised many issues—many of which we will discuss this afternoon—but one thing was clear throughout the consultation process: the status quo is simply unacceptable and is not an option.

Much of the bill is the Executive's response to many points that different agencies made during the consultation. The bill's provisions are designed to address identified weaknesses, in particular the lack of a strategic approach, accountability and direction; the limited integration of, and communication among, criminal justice agencies; duplication and inconsistency of service delivery that sometimes happens; and the overreliance—if I may use that word without its being taken wrongly—on short-term custodial sentences at times.

I am not so naive as to expect that any one piece of legislation will entirely cure us of the blight of crime or reoffending, but it is clear to me that the reforms must be in place if we are to tackle the problems meaningfully. The bill represents a real opportunity for us to consider how we can improve management of offenders in our communities for the benefit of victims, offenders, criminal justice professionals—all of whom want to do a good job—and, more broadly, the people of Scotland. I will confine my opening remarks to what I have just said and I hope that we can answer questions.

14:15

Maureen Macmillan (Highlands and Islands) (Lab): What effect will the bill have on levels of reoffending? You are saying that it is about structures, so if the bill itself will not be the vehicle for reducing reoffending, who has the lead responsibility for reducing levels of offending?

Cathy Jamieson: There are a number of important points to make in answer to those questions. As I said in my opening remarks, no single bill or structural change will reduce the levels of reoffending because the nature of offending behaviour and of reoffending is complex. We need a strategic approach across all agencies in the criminal justice system to ensure that tackling and trying to reduce reoffending is a goal for each agency and that the agencies are held to account for how they do that.

With the bill, we are trying to deal with issues that were raised in the consultation and which require a legislative solution, but the bill is part of a much wider reform agenda. One of the key points on that wider reform is that, for the first time, we will set up a national advisory body that I, as minister, will chair. We expect that body to establish how best to move on, how best to measure reoffending rates and to set challenging but realistic targets that will be reflected in the national strategy. I know that the committee took evidence on what might be realistic targets to set.

The second question was about who would have lead responsibility for reducing reoffending. Part of the reason for establishing community justice

authorities is to ensure coherent local focus. The core professionals who have responsibility for working with offenders will be brought together and charged with the responsibility for putting local strategies and plans in place in order to break down some of the barriers and problems that exist. Although I would certainly not suggest that the bill is the only thing that requires to be done, it is critical that we put in place the right legislative framework at local level. We have made some changes to the governance of the Scottish Prison Service, and that relationship will be critical, but the bill must also act as a catalyst and a focus for all the agencies to acknowledge that there is a problem with the reoffending rate and take on the problem.

Jackie Baillie (Dumbarton) (Lab): I welcome the minister's analysis, but I will explore it further. A number of witnesses said that the greatest impact on reoffending can be made through social policy; for example, providing access to housing and to employment and tackling poverty. As you acknowledge that we need to pursue that wider agenda, will you tell us how we can do that, allied to the criminal justice agenda?

Cathy Jamieson: That, too, is in an important question. It is a correct analysis to say that we must, if we want to reduce reoffending, reduce offending in the first place. In some instances, that means early intervention, but it also means a robust framework to deal with the problems of youth justice, including antisocial behaviour in communities. It also means that we have to be prepared to consider radical options for keeping out of the court system people who should not be in it.

On the social policy agenda, the community justice authorities will be made up of the component local authorities, but the other partner agencies will have a responsibility to work with them, and the community justice authorities will have a responsibility to reach out to some of those agencies. As Jackie Baillie will be aware, people are much less likely to reoffend if they have access to employment, have roofs over their heads, their addictions are dealt with and they are literate, numerate and able to make their way in the world. All those matters can be dealt with in a coherent framework.

Issues were raised during the committee's evidence-taking meetings about which bodies should be under a statutory duty to co-operate. It is my view that the key players ought to be under a statutory duty to co-operate with one another, but we must also consider the wider partners that need to contribute, such as housing and health authorities.

Mr Stewart Maxwell (West of Scotland) (SNP): I want to follow up on the bodies that should have

a statutory duty to co-operate and on the organisations that should be part of the wider body that is involved in trying to reduce reoffending. Obviously, a large number of organisations are involved, some of which have been mentioned. Under the bill, the Scottish ministers, the community justice authorities and local authorities will be involved statutorily, but why is that right and proper, when other bodies will not have that statutory duty?

Cathy Jamieson: The best way to approach the issue is to consider which agencies and organisations have the sole purpose of dealing with the criminal justice agenda. We need to try to ensure that the Scottish Prison Service and criminal justice social work departments in local authorities are compelled to co-operate with one another to produce plans. There is a range of other local partners, some of which I alluded to, such as local health services and voluntary organisations that work with offenders. Obviously, such groups have a slightly different role, but we need to ensure that they are involved. We do not, however, want to compromise the independence of other key players, such as the Crown Office and Procurator Fiscal Service. We must ensure that all those bodies are brought together in a wider grouping and that they co-operate.

A fundamental point that came through strongly in the consultation is that the work of the key players—the Scottish Prison Service and criminal justice social work departments—results in barriers that mean that offenders are not dealt with because there is no joined-up service. I intend to tackle that issue, particularly through the bill.

Mr Maxwell: I understand that the key players are those that are solely focused on the criminal justice sector, but surely there are other organisations whose sole purpose is to deal with offenders, reoffending and various other aspects of the criminal justice system—I am thinking of organisations in the voluntary sector. Should not they be involved statutorily?

Cathy Jamieson: Such organisations are not statutory organisations, which is one difference, although I hope that I have outlined that such organisations are important players. However, the key players that have statutory responsibility for supervision of offenders are the Scottish Prison Service, for people who are in custody, and the criminal justice social work departments, which are responsible for probation orders and community sentences, when there is a statutory order from the court. It is important that we bring in some of the other players; we have an opportunity to do so, not just at local level, but through the national advisory body. That will ensure that organisations that have expertise in working with offenders are on board to help us set the strategy.

Mr Maxwell: In effect, my question was about how important it is that voluntary organisations are on the inside, rather than on the outside. I am sure that you appreciate that.

Cathy Jamieson: Absolutely. I am trying to get across the point that, although the role of such organisations is slightly different, it is nonetheless important. If we get the overall planning right, we will have an opportunity to give those organisations a greater say, not just on delivery of services, but in helping us to shape policy.

Mr Maxwell: There seems to be a lack of clarity among some organisations that have been in touch with us about exactly how the structures that the bill will introduce will operate. How will the system operate and how will the structures look on the ground for the various organisations that you have mentioned, including the SPS?

Cathy Jamieson: There are a number of issues to consider, including the final shape of the community justice authorities, their number and the geographical split. We have been consulting on those issues, and we await the final analysis of the consultation. The Scottish Prison Service is conscious that it will have to consider how it operates and how it may have to change its practices and structures so that it can play its full part in developing local services. The SPS is working on that.

Mr Maxwell: Exactly how will the SPS relate to CJAs locally?

Cathy Jamieson: I am not sure what you mean. Do you want to know how they will operate?

Mr Maxwell: I want to know how the SPS will relate to the CJAs. Obviously, it has not yet been decided how many CJAs there will be but, for clarity, how will the relationship between the SPS and the CJAs work, irrespective of how many CJAs there are?

Cathy Jamieson: I suggest that the best way to look at that is in terms of the outcomes that we expect from community justice authorities. The idea is that a localised plan will be produced for management of offenders. Some of the gaps that were identified through consultation related to a lack of clarity or a lack of a joined-up approach being used in a person's coming out of prison and their being reintegrated into the community. I expect the CJAs to improve the ability to provide throughcare, to get that working on the ground and to deal with some of the problems around housing, access to services and so on. That will mean—to put not too fine a point on it—that people in the Scottish Prison Service and people in criminal justice social work at local authority level will need to work more closely together in setting out how they will manage that locally.

I am not sure whether that is what you were asking about or whether you were asking whether the SPS will restructure itself completely.

Andrew Brown (Scottish Executive Justice Department): Perhaps I can add something that might help to clarify the situation. The issue for the SPS is dependent on the shape and number of CJAs. A CJA may have one, two or no prisons within its boundaries, so it is difficult for the SPS to develop a model before we know what the CJA boundaries will look like.

Also, there is an issue about local and national prisons; a number of SPS estates serve a national function. The SPS is working on several different models to work out how it can best configure itself with the CJAs. It is considering the emphasis on the role of local prisons and the desire to keep an offender as local as possible within the prison estate. The SPS is working carefully on that, but that work will need to continue in conjunction with the outcome of the consultation exercise.

Mr Maxwell: My question was not related to the internal structure of the SPS. I understand that there is difficulty in that we have not yet reached the point at which we know the number of CJAs, but the roles of local prisons and national centres for the SPS, and the relationship of those two different types of prison to the CJAs, will be important for all the organisations that will be involved.

Cathy Jamieson: That is correct and that relationship will be very important for the organisations, but if the starting point is the need to manage offenders more effectively, the structures and relationships should follow from that. I have always been keen not to say, "This is going to be the structure—we'll see what happens afterwards." The point that Andrew Brown made is absolutely correct. Once we have got a decision on the number of CJAs, the people on the ground in those areas and the Scottish Prison Service must work together. The key principle is the desire to improve the service and to break down some of the barriers that were identified during consultation.

The Convener: A specific example for Stewart Maxwell's question may be a large prison that has a diverse population from all parts of Scotland. What is not clear to the committee is whether such a prison, which is part of the SPS, would have to try to relate to a number of CJAs because its population may, at various times, be released into different parts of Scotland.

Cathy Jamieson: That large prison may currently relate to 32 local authorities. We are trying to develop a more coherent approach, such that there would be a single point of contact with the CJAs and a clearly identified local plan, rather

than the SPS trying to relate to many different authorities and there not being a coherent approach.

Bill Butler (Glasgow Anniesland) (Lab): Let us turn to specific issues that have been raised in relation to the proposed community justice authorities. Local authorities have expressed concerns about further organisational change. Could the deficiencies in the existing criminal justice social work groupings have been addressed without legislative or structural change?

14:30

Cathy Jamieson: The evidence from the consultation and from some of the inspection reports on the criminal justice groupings does not suggest that everything is rosy in the garden. It suggests to me that, although the intention was to set up the groupings to have a single point of contact to try to get a more coherent and integrated approach, that has not necessarily happened.

We have seen inconsistencies in some of the inspection reports. We have also seen good practice not being shared and practice not necessarily coming up to the standards that we want in the future. It is important to move on from there and to manage the whole process more effectively, so that we can reap the benefits of the good practice that exists.

Bill Butler: Are you confident that CJAs will deal with the inconsistencies that you have mentioned and will ensure that good practice is shared?

Cathy Jamieson: One of the reasons why it will be important that a CJA has a chief officer in post is to ensure that that happens. There must be an individual who has responsibility for working across different local authority areas. Members will be aware that the plan is not to transfer staff from local authorities but to have a chief officer whose responsibility and remit are to drive the agenda forward, to ensure that we have the appropriate plans in place and to be accountable, and make others accountable, for improving practice and ensuring that we manage offenders more effectively at the end of the day.

Bill Butler: I turn to the doubts that the Convention of Scottish Local Authorities has expressed about the ministerial powers of direction in section 2(10). COSLA questions whether those powers are really necessary or desirable. In fact, in the briefing paper that we received today, it states that it is concerned that, in proposing the powers, you may be

"setting a dangerous precedent in relation to Ministerial control of local services".

Do you see it that way?

Cathy Jamieson: No, I do not see it that way. There is, perhaps, a bit of a misunderstanding around the fact that the powers of direction are intended for the CJAs, not for individual local authorities. That is an important distinction. It is not the Executive's intention to micromanage local authorities. We have made it clear that the proposal does not include a staff transfer, which means that local authorities will not have to transfer staff, unless they choose to do so. A group of local authorities might see that as a better approach and a better way to work, and it would be up to them to consider that.

It is not our intention to micromanage the CJAs either, and I hope that guidance and discussion will be sufficient to ensure that we get consistency and comparability across the CJAs. Nonetheless, I believe that it is important that we have a power to ensure that, if a CJA is not delivering, we can give it direction on how it should prepare its plan or operate on the ground.

Bill Butler: Do you envisage a CJA being in that situation and those powers being used?

Cathy Jamieson: I hope that that will not happen and that we will only ever consider using the powers infrequently, after we have gone through a process to deal with problems, involving inspection. However, it is important that we have the powers to use if necessary. I stress again that this is not a question of our taking powers to direct individual local authorities. The bill also proposes powers to intervene at various stages that are comparable with powers that have been taken in education. I know that they were not universally welcomed by local authorities, but they were accepted nonetheless.

Bill Butler: For the record, and to satisfy my inquisitiveness, will you give an example or two of the difference between the power of direction and the power of intervention? There seems to be some doubt about that given the local authority apprehensions that I mentioned.

Cathy Jamieson: As I see it, the difference is that the proposed powers of direction in the bill are aimed at the CJAs themselves. If the CJA's chief officer did not perform, did not produce plans and did not do the work that was expected, the Executive would have the power to direct the CJA rather than the local authority. The difference for local authorities is that there could be staged intervention if an authority failed in its duty to provide a service. Andrew Brown might want to comment on that; he has been involved in the proposals.

Andrew Brown: There are important differences between the powers of direction and the powers of intervention. The powers of intervention are a staged approach to dealing with

a failure by either the CJA or a local authority within that CJA, which has been reported to ministers. The intention behind the powers of direction is a little more subtle. The aim is to get the CJAs to perform in a consistent way, by which I mean for them to monitor and report on performance in a way that allows comparison between the various CJA areas. Without that comparability, the danger is that we have different models for monitoring in each CJA area. That would make it difficult for the minister or, indeed, a national advisory body to compare the success rates of different CJAs in achieving their objectives.

As I said, although the powers of direction will be needed only infrequently, they might be needed to ensure that the benefits that should result from the introduction of coherent and consistent legislation, under which the CJAs will provide services, are replicated in the same way across the country.

Bill Butler: I am obliged.

The Convener: Will the minister clarify whether the structure will sit on top of the existing criminal justice social work groupings? If not, does she expect the groupings to wither on the vine?

Cathy Jamieson: The idea behind the proposed CJAs is that they will build on good practice and on the work of the existing groupings. We do not expect the CJAs to act as another layer over and above the existing groupings. We recognise that some of the groupings have come together. We want not to dismantle all that work, but to build on it.

The Convener: Will the members of the groupings be clear about that? If the CJAs are not to be another layer, surely the groupings either stay put or evaporate?

Cathy Jamieson: The idea is for the new CJAs to supersede the existing groupings. We have taken account of the areas where the groupings have come together. Whatever we do with the final map, we will not completely dismantle the relationships that have built up; we will try to improve on them and to get them to work together more coherently.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I seek clarity on the powers of direction. I accept what the minister said about the power not being intended to direct individual local authorities. However, a CJA chief officer could well be acting specifically at the behest of the local authorities in the CJA area. Mr Brown said that what he called the subtle power of direction could be used for reasons of simple comparability—to compare different regions across Scotland—but surely that is different. In effect, there would be a power of direction over the local authorities that

are responsible for running the CJA not because of a considerable failure but for reasons of comparability and neat auditing. Surely we would expect other systems, including those of Audit Scotland and others, to audit success or otherwise.

Cathy Jamieson: I do not accept that the power is a power to direct individual local authorities. The important point to remember is that local authorities will continue to employ the staff and to work within the CJA to ensure that local services are delivered. Obviously, the member will be aware of the background; he will know that, because funding is to be provided by the Executive, people will have to meet a number of national standards.

Given that the Executive is trying to work on a national basis to tackle the problems of offending across Scotland and thereby to reduce reoffending, I hope—indeed, I expect—that CJAs will understand the need to work with each other in a way that is compatible. I also hope that they will understand the need for us to compare systems. There are issues around information technology systems and how we would measure a reduction in reoffending rates and a range of issues. However, it is not my intention to use the power to direct individual local authorities.

Jeremy Purvis: The minister might have seen the evidence that we received from the police, who suggested that there might be a conflict of duties and responsibilities between CJAs and local criminal justice boards. In addition, local authorities told us that they see a potential conflict between the role of the CJA chief officer and chief social work officers. An alternative model was suggested under which an existing director of social work, for instance, could undertake the role of CJA chief officer. How do you respond to the concerns? It seems to me that a model has evolved that is based on existing practice within the criminal justice social work groupings. Have you considered another approach?

Cathy Jamieson: I will deal with your last point first. Although it was certainly the intention that there would be an identified officer within the criminal justice social work groupings, that has not happened universally. That is one of the problems that has emerged. I accept that it has been suggested to the committee in evidence that there might be a conflict of interests, but the chief social work officer in a local authority area is responsible for a wide range of duties. The idea of having chief officers of the CJAs is to ensure that the correct strategies are in place across the different local authority areas; it is not about those chief officers having responsibility for managing individual social workers or social work departments. That role will still fall on chief social work officers.

I accept that there could be creative tensions in the relationships between CJA chief officers and chief social work officers, but I do not think that that will always be a bad thing. What is important is that people will be working together to improve services.

It is important to acknowledge that the purpose that CJAs are being set up to serve is different from that which criminal justice boards were set up to serve. The role of criminal justice boards is to focus on the efficient operation of the system in reaching and enforcing speedy disposals through the courts; it is about getting that process up and running. The CJAs will play a role at the opposite end of that spectrum—they will deal with what happens to people once they have been through the courts and have been sentenced. The key themes of ensuring speed, efficiency and effectiveness run through the work of the CJAs and the boards, but they are designed to do different jobs and I do not think that they will be in conflict. In fact, the reverse is true: if they work together, they should be complementary in achieving their objectives.

Jeremy Purvis: Are any of the groupings across which a chief social work officer is co-ordinating failing badly? Which groupings are they?

Cathy Jamieson: I am not sure that it would be helpful to name and shame the individuals concerned without giving them due warning and it is not my practice to do that. If you examine some of the inspection reports that have been produced and some of the evidence that has emerged from the consultation exercise, you will see that it is not universally the case that other agencies have been able to channel all the work through one officer, even when that officer has been identified as a single point of contact. At times, some local authorities have felt it necessary to have each of their officials involved in processes. That is not just inefficient; it is not helpful from the point of view of getting the strategy right. I hope that Mr Purvis will appreciate that I do not feel that it is appropriate to focus on a particular authority.

Brian Cole (Scottish Executive Justice Department): Only one of the eight existing groupings has a single manager for the whole grouping, although a second grouping is about to go in that direction. The constituent authorities of each grouping have chief social work officers, but to date only one grouping employs the practice of having a single manager for the whole grouping.

The Convener: I have studied the provisions in the bill that constitute the position of the CJA chief officer. Will not that person just be seen as your spy in the camp?

Cathy Jamieson: I do not expect that to be the case. Our proposals are not about the Executive

being in opposition to what goes on at local authority level. My concern is that we need to have a strategic approach across Scotland. Local authorities were keen to retain the delivery of criminal justice social work services. Members will recall that there were some fairly heated discussions about whether there should be a single organisation to deliver everything. I listened carefully during the consultation exercise and have taken the view that we should go for local delivery of a national strategy. The individuals who will be appointed to the CJA chief officer role will be appointed by the CJAs, so it is not a question of ministers parachuting people in. Our approach is to have a national strategy, but with local delivery of services. On the basis of the consultation, that seemed to be the best way forward.

The Convener: I have a final question about the chief officer role. It seems to me that there is a fundamental flaw, in that they will be paid not by the Scottish Executive but by the CJA.

Cathy Jamieson: We will provide the resources for that.

The Convener: I am sure that that will be a comfort to those who end up being members of the CJA, but nonetheless I presume that the chief officer will be an employee of the CJA, which will determine their conditions of employment.

Cathy Jamieson: Yes.

14:45

The Convener: However, under section 4, if the chief officer thinks that an authority is failing he or she is to report not to the CJA or to the constituent members of that grouping but to the Scottish ministers.

Cathy Jamieson: That is right and proper, because we need to have that relationship between what goes on at the local level and what goes on nationally. We will have a national strategy; it is in the interests of public safety for us to take a strong line on dealing with the problem of offending and reoffending—I am sure that you welcome that. We must try to change individuals' patterns of behaviour by ensuring that the right resources and programmes are in place and that there are better transitional arrangements between custody and the community. Frankly, up to now the status quo has not been able to deliver that. As I said, I appreciate that there will be what we might describe as creative tensions in some relationships, but nonetheless it is right and proper for the Executive to have an overview of the matter because that is in the public interest.

The Convener: "Creative tensions" sounds like a ministerial euphemism for a big barney.

Cathy Jamieson: No, I do not think that that is the case. As I said, we worked hard during the consultation exercise to try to understand what is important to local authorities in relation to the delivery of services. We listened to local authorities and we listened to criminal justice social workers, who make a wide contribution, particularly in the more remote areas, including those that are covered by the island authorities. We took the view that the correct route was not to transfer staff into a single agency but to try to get the right balance between national direction and oversight of the strategy and local delivery. That is exactly what the bill is intended to achieve.

The Convener: You do not think that there is an irreconcilable conflict in asking the chief officer, to put it bluntly, to clype on the people who pay his or her salary?

Cathy Jamieson: It is not a question of anybody being a clype. At the end of the day, it is all public money and public resources and if we are to change things and improve the services that are in place we need to have good working relationships between what goes on at national level and local delivery. Far from being the clype, the CJAs will be the catalyst in ensuring that we have a joined-up approach, not just at local level within agencies but between national and local services.

Maureen Macmillan: You mentioned local delivery of services and the island authorities. As you will know, those authorities have expressed concerns because they stand outside the current groupings. They think that they have an efficient, holistic system; in the islands, few people are sent to prison and most offenders are dealt with in the community. The island authorities do not have separate criminal justice social work departments and social workers have dual roles. Under the proposals, will the island authorities be able to continue with their holistic approach?

Cathy Jamieson: There are two important points. First, there is no reason why they will not be able to continue with their current approach, which you describe as holistic, because their front-line staff will not be transferred. We heard a lot about that during the consultation, particularly from the island authorities. I also recognise that it is likely that fewer people will be involved in the criminal justice system. On a recent visit to the Western Isles—I was there about something entirely different—a number of people commented that the introduction of electronic monitoring and some other community penalties has been appropriate in their communities because people are able to remain on the island and serve their sentence in a different way. They can remain in employment and support their families rather than being in jail on the mainland, and I was interested in that approach.

However, it would be wrong to suggest that everything will continue as before or to give any guarantees. The important thing will be for people in the islands and other more rural areas to get the benefit of being part of the wider CJA. There are issues around practice, consistency and support for the people who deal with the criminal justice social work case load. I am concerned that we should recognise the particular needs of the islands and remote communities. Although we are having discussions with the island authorities, I am not convinced that having them as stand-alone units is the best way in which to protect their interests.

Maureen Macmillan: Funding has also been raised. At the moment, each island authority has separate, ring-fenced funds. They are worried about losing out financially if they move into a larger grouping. Have you discussed that?

Cathy Jamieson: A number of discussions are being held. To sound a cautionary note, I stress that resources need to be allocated where the problems. The CJAs must identify where the problem areas are and get the right programmes and resources in place to deal with them. Discussions have been continuing, and Andrew Brown might want to comment on the position that we have reached.

Andrew Brown: The minister is correct to point out that a number of discussions are going on. Colleagues are up in the Highlands and Islands this week and next week to talk to local authorities and understand their concerns. Consultation is proceeding on the CJAs, not just on their boundaries but on how they will operate and arrive at decisions. We are concerned to ensure that larger CJAs do not ride roughshod over the smaller partners. I will not say any more on the matter now, other than that we are aware of the concerns and will put them into the mix when assessing the results of the consultation.

The Convener: Let us turn to transition and throughcare. What more do you think prisons could do to assist offenders' transition back into communities?

Cathy Jamieson: There are a range of issues around the transition from prison back into the community. It would be too simplistic to say that preparation for returning to the community must begin at as early a stage as possible in the custodial career. Part of the current problem, which has been identified and highlighted in the evidence that the committee has received, is that prisoners serving short-term sentences can have little or no opportunity to get to grips with some of the problem areas in their lives. There might have been a punishment element to their sentence, but they might return to their local communities without rehabilitation having been attempted. The

clear message that I want to get across throughout our reforms is that we should always talk about both punishment and rehabilitation. The public want to see punishment, but they also want to have confidence that every effort is being made to ensure that an individual does not repeat their offence.

Throughcare is important. People will be aware that there are distinctions. There are short-term sentences with opportunities for voluntary throughcare, and more use could be made of some services. Work is being done at the link centres and through other resources that are available in prisons. We want more people to come through the prison gates and get involved with prisoners inside prisons, helping them to prepare for their eventual release. The idea behind joining up services is to ensure that that is done more seamlessly and more effectively.

The Convener: Everyone agrees that drug addiction is a considerable difficulty among the prison population, for both short-term and long-term prisoners. Are you content with the current situation?

Cathy Jamieson: I am hesitant to say that I am not content with the situation, in case it becomes a headline, but clearly I am not content that a large number of people with a drug problem go into the prison system and a large number of people come out the other end with a drug problem. We have perhaps not used all the opportunities that are available to us to get people stabilised, to put them on detoxification programmes or to get them on other programmes that treat drug addictions.

The SPS estimates that 75 per cent of men and more than 90 per cent of women who arrive at prison are on drugs and would test positive for them on entry. That shows the scale of the problem and that we must pursue detoxification and stabilisation with prisoners during the first part of their imprisonment, as well as helping them to adjust to life in prison. For short-term prisoners, that can be especially problematic, as there might not be enough time for them to complete some programmes and there might not be an opportunity to get them on to other regimes. We also know that many people, when they return to the community, face a significant wait before they receive an appointment to follow up the treatment that has begun in prison. Often that is the point at which people fall through the net. The issues that I have highlighted are serious and we need to address them.

The Convener: I return to the question that Stewart Maxwell asked about how the Scottish Prison Service relates to local communities. I assume that, if the service is trying to provide meaningful throughcare and transition for prisoners, a relationship must be cultivated

between the place where the prisoner is and the place where they may end up on release. All members of the committee are a little unclear about how that will be achieved physically, given the nature of the Scottish Prison Service.

Cathy Jamieson: As we outlined earlier, there are issues that the Scottish Prison Service will have to address. However, if we want to improve the working relationship between the different parts of the system and to manage offenders, we must ensure that, regardless of whether they are in prison, preparing for release back into the community, or at another point in the system, the correct resources are in place. Relationships between prisons and local authority social work and other agencies have been built up. The changes that we are trying to implement are intended to bring greater coherence to such relationships and to provide a better framework. The aim is to remove inconsistencies and to put an end to a situation in which the system works well in some areas, perhaps because of the personalities involved, but does not work so well in other areas, because people are not doing joined-up work. We want to set a national direction. In each CJA area, people will have to produce a plan that demonstrates exactly how they intend to do joined-up work and get results from it.

The Convener: Are you worried that the possibility of a home detention curfew might reduce the opportunity for pre-release work in prisons?

Cathy Jamieson: I saw that some witnesses had suggested as much in evidence to the committee, which surprised me. The provisions for home detention curfews will allow us to highlight the type of prisoners who might be eligible for them and the stage of their sentence at which they might be eligible for release. If that were flagged up as part of a proper sentence management programme, some pre-release work would be done. Clearly, people who were being considered for release under a home detention curfew would have to be given preparation. I would not expect such curfews to be available to people who are in prison for particularly serious offences or who have done nothing to address their problems. Instead of seeing home detention curfews as a disincentive, we can see them as an opportunity for low-risk prisoners to return to the community, to access some of the services there and to make the transition within a structure. At the moment, people are sometimes released without any structure.

Jeremy Purvis: I would like to ask two questions about young offending. Evidence from YouthLink Scotland highlighted an SPS report on young people in custody that showed that 43.6 per cent of young offenders had attended special

schools, 76.2 per cent had a history of truancy, 79.4 per cent had contact with the children's hearings system and 51.9 per cent had an immediate family member who had been in custody. All of those factors are trigger points for social work and other interventions.

What will the bill do for early intervention, which you highlighted? What will be the youth input to local plans to reduce reoffending? Will there be youth input to and representation on the national advisory body?

15:00

Cathy Jamieson: You asked several questions.

Jeremy Purvis: I am sorry, convener—I asked three questions.

Cathy Jamieson: You asked what the bill will do. I repeat that any one piece of legislation will not in itself solve the problem of youth offending. We must put the bill in the context of the youth crime action plan and other work that has been taken on board, such as fast-track hearings, youth courts and a range of measures that are in place.

You mentioned trigger points. It is right to examine at every stage the possibility of intervening to change young people's offending behaviour. I return to some points that I made earlier. That involves not waiting until young people are in the adult court system. We must deal quickly and effectively with the first signs of offending behaviour, perhaps through diversionary schemes; through intervention schemes for people who have been through the hearings system; by using antisocial behaviour orders constructively, perhaps with electronic monitoring or perhaps not, depending on the circumstances; and through secure accommodation. All those measures are relevant.

You asked about the representation of young people. How we can involve young people in the process should be considered locally. Several good examples of work of which I am sure you are aware have been done at Polmont young offenders institution. YouthLink and other youth organisations have worked with some young men in Polmont to address their behaviour.

Jeremy Purvis: You talked about changing behaviour and providing proper rehabilitation. Some disappointment may be felt if you do not expect the national advisory body and CJAs to have active input from youth work and youth groups.

Cathy Jamieson: I am not saying that. I am saying that we must consider carefully how dealing with youth justice and youth offending fits in. We need a better approach. Until now, we have had a clear action plan for the youth justice

system. Local authorities have challenges in meeting the national standards for youth justice and in early intervention, to ensure that the full range of resources—including antisocial behaviour orders—is used effectively to try to prevent young people from entering the adult justice system. That is important. If people do not consider the full range of measures for use at the appropriate stage, they fail young people.

When young people enter the adult system, the key issue must be to deal effectively with some of their problems to prevent them from returning. We know that a high proportion of the young people at Polmont have had problems in education, are not literate or numerate and have no possibility of gaining useful employment or sustaining a tenancy without the right support. We must free up time to focus on such programmes. I expect all those issues to be considered as part of a national strategy and to be given a degree of importance.

Maureen Macmillan: I will follow up what Jeremy Purvis said. I attended a conference yesterday that addressed issues that relate to attention deficit hyperactivity disorder. One point that was made was that the number of young offenders in Scotland who suffer from the disorder is probably high. Statistics from other countries suggest that as many as 70 per cent of young offenders have the disorder. That has huge implications. Unless they are medicated, the young men and women who are affected will exhibit impulsive and unpremeditated behaviour, which is extremely challenging. The carrot-and-stick approach does not work. Perhaps the carrot works, but the stick does not seem to.

Has the matter caught the minister's attention? It is more of a health issue than a justice issue. The conference has interested me tremendously in the subject, which I want to pursue.

Cathy Jamieson: I would be interested to hear more about the findings of any research that was discussed at the conference. I am sure that Maureen Macmillan could supply that information to me. Her comments raise a number of issues. Early intervention to identify the issues for young people is important, but it is also important to try to provide the appropriate response. That is significant in the context of provision for young people in supervision, who might well end up in secure accommodation. We commissioned the "Review of Young People on Remand in Secure Accommodation" and I was keen to increase not just the number of places but the range and quality of programmes that try to deal with the issues. We acknowledge that many of the young people who end up in secure accommodation might have mental health problems of an unspecified nature or that have not been diagnosed. Such matters could usefully be picked up.

Questions have been asked about whether the SPS has carried out research into the number of young people with autistic spectrum disorders who enter the adult prison system. I am not aware of work on the issue that Maureen Macmillan raised, but I can follow up the matter if she provides me with the information.

Colin Fox (Lothians) (SSP): You mentioned home detention curfews in answer to a question from the convener. The convener, Mr Maxwell and I spent yesterday afternoon in the company of Reliance Monitoring Services in East Kilbride—

Maureen Macmillan: And you did not escape?

Colin Fox: The three of us are now experts on tagging and curfews.

How will home detention curfews contribute to the drive to reduce reoffending? To what extent will they be more effective than completion of the custodial sentence would be?

Cathy Jamieson: I am pleased that the three of you lived to tell the tale and that you were released from Reliance's custody. I am also glad that you are now experts on tagging and curfews. I hope that Mr Fox will never have to sample Reliance's wares in any other capacity in future.

The home detention curfew scheme alone will not reduce reoffending. The committee heard evidence that highlighted that point. However, home detention curfews are part of a package of measures that works in a number of ways. For many prisoners, the transition back into the community is difficult and home detention curfews offer one way of easing that difficulty. Members will be aware that currently some prisoners have home leave and that there is provision in the open estate for people to move into community placements as they approach the end of their sentence. However, the key factors in the success of the transition tend to relate to employment and opportunities to retain and build family relationships. In some circumstances, home detention curfews will enable people who do not pose a huge risk to the community and who are motivated to reintegrate to get back to the community to rebuild relationships and become involved in training or seek employment.

Colin Fox: Are you saying that you envisage that home detention curfews will not be used separately but be used as part of a package? Will the home detention curfew always be accompanied by other supervision and support?

Cathy Jamieson: We should be careful about what we mean by "accompanied by". At some stage we must begin to place responsibility on individuals. There are opportunities for people on short sentences to be involved in voluntary throughcare and work, as I said. However, at this

stage, I would be reluctant to suggest that for everyone who goes home on a home detention curfew, the scheme will be accompanied by a huge package of 24-hour, wraparound care. To be frank, I think that a person who needs that level of care should remain in custody. We need to grapple with such issues. The home detention curfew will allow people to begin to take responsibility for themselves and to prove that they can be trusted to be in the community. The electronic tag is part of a framework, part of which is to do with ensuring that people stick to the rules of the scheme. However, the individuals have a responsibility to want to change their behaviour.

Colin Fox: I do not want to get bogged down in a discussion about what we mean by "a framework" or "accompanied by", but would it be correct to say that you do not envisage the home detention curfew as something that will be used on its own?

Cathy Jamieson: It may be that in some cases the electronic tag is all that is required as an additional support for someone who will be released back out into the community. The important issue is to get the assessment right. What I am reluctant to say—I am not sure whether this is what you are getting at—is that everyone who goes out on a home detention curfew will be allocated a certain amount of social work time. That is not the way to look at this. Instead, we should consider what package of measures individuals need. The home detention curfew scheme is designed for low-risk prisoners who are going back out into the community.

Colin Fox: I will address the wider issue. You will have read the evidence that was given to the committee last week by Professor McManus from the Parole Board for Scotland, who said that he will be surprised if the bill achieves more than a 5 per cent reduction in reoffending overall. Do you share that assessment?

Cathy Jamieson: As I said, just passing a piece of legislation will not result in a reduction in reoffending. It is about changing people's behaviour. We were criticised when we set a modest 3 per cent target. If we achieve the 5 per cent that Professor McManus talked about, we will have exceeded that initial target. That is one of the issues that the national advisory body would have to examine. We are breaking new ground. I am not aware of other countries having tackled the problem successfully. Many people have said to us that the problem is intractable and that because it is so difficult to address we should not go down this road. However, that does not let us off the hook of trying to change something that is unacceptable. In the initial stage we have set a fairly modest target, but that is an issue that we

would want to consider with the national advisory body.

Colin Fox: What criteria will governors use when they decide which prisoners will be eligible for home detention curfew?

Cathy Jamieson: It is important to recognise that the prison governor's decision would be informed by an assessment by both the prison and local authority criminal justice social work staff. We are currently trying to draw up an assessment process. It would have to be fairly robust and take into account information such as reports from prison officers, the records in prison, offending history, and perhaps information from the prison liaison officer and from the criminal justice social workers. The assessment would also have to consider the likelihood of the prisoner reoffending and any potential danger to the victims or to the public. I have made it clear that those who wish to be considered would need to be low-supervision prisoners within the prison. I also make it clear that I would not like prisoners who have a history of domestic violence to be included. That is very important because we do not want to put victims at risk.

I would also expect a prisoner's behaviour in custody to be one of the factors that is assessed along with information from the home background reports. When it is considered that a prisoner does not pose a risk to the community and that there is not a high likelihood of their reoffending, we would be likely to look favourably on a home detention curfew unless their index offence fell within some of the categories of exclusion.

It is important to recognise that this way of assessing people is not entirely new within the prison system. For example, the prison system already has to make assessments before it transfers prisoners to low-security open conditions or grants long-term prisoners home leave. The process that exists must be built on and it must be robust.

Colin Fox: That is interesting. You talked about prisoners who are under low supervision inside prison. Is that one of the criteria that the governors would consider, given that the person will necessarily be under low supervision when they are outside prison on the home detention curfew?

Cathy Jamieson: I hope that we would not move people into low-supervision situations in prisons if they were still assessed as being a high risk. As I have said, some prisoners already go out on home leave and some go out on community placements at various stages. Such decisions and risk assessments are being made at the moment. It is important that there is a robust framework that allows people to make such judgments.

Colin Fox: If prisoners disagree with the governor's decision that they are not eligible for home detention curfew, what appeal mechanism will they have?

15:15

Cathy Jamieson: As I said, some prisoners would not be considered as being eligible for home detention curfew in the first place, but that issue has been fairly well rehearsed during the course of the committee's evidence taking. However, prisoners who are assessed as being unsuitable for HDC would be able to appeal. We are currently working with the Scottish Prison Service to consider how such an appeals process might be put in place, but initial discussions suggest that it is likely that the appeal would be considered by someone separate from the original decision maker. That might involve the prison governor, a more senior person and ultimately someone in SPS headquarters. It is important to recognise that there will be a process by which such categories of prisoner will be able to appeal their eligibility assessment.

Colin Fox: Evidence that we received last week suggested that such decisions might be subject to challenge under human rights legislation if they are made simply at the governor's discretion rather than through a quasi-judicial process. What is your view of that evidence?

Cathy Jamieson: I am aware of that evidence, which I asked people to consider quite closely. We considered whether an entirely administrative system for deciding on the release and recall of prisoners on home detention curfew might be subject to challenge on the basis that such decisions were not taken by an independent and impartial tribunal and were therefore incompatible with the European convention on human rights. However, our advice is that the proposed system, which will have the considerable advantages of speed and simplicity, will be compliant with the ECHR. The decision on whether to release a prisoner on home detention curfew will be taken by the Scottish Prison Service on behalf of Scottish ministers. We have advice to the effect that that would be compliant.

Mr Maxwell: I seek clarity on a fairly straightforward issue. A number of people have expressed concerns about people being let out of prison under home detention curfew. What are the standard conditions that will be attached to an HDC?

Cathy Jamieson: Home detention curfews will have standard conditions. It is important to recognise that they will not be—as they have been described—a get-out-of-jail-free card or an alternative to a sentence. People will still serve

part of their sentence during the process. The standard conditions will require people to be of good behaviour and not to commit any offence. They will need to comply with the curfew and with any other conditions that are specified.

Mr Maxwell: Of those who are expected to be released on HDC, what proportion will have additional, non-standard conditions attached to their release? In what circumstances will additional conditions be considered?

Cathy Jamieson: Obviously, it is difficult to estimate a percentage. Our working assumption is that in about a quarter of cases other requirements may need to be added to those of the curfew. In some instances—this perhaps answers Colin Fox's earlier question—people with a known addiction problem who have been involved in treatment programmes might be required to continue to be involved in such programmes during the period in which they are on HDC. Such a condition would be in addition to the curfew conditions.

Mr Maxwell: Those who have addiction problems are perhaps an obvious category of prisoner who might have additional conditions attached to their release on HDC. Might the conditions attached to a home detention curfew require a person not just to stay in their home but to stay away from other places, such as the place where their previous offences took place?

Cathy Jamieson: It is always possible that such conditions might be considered. It is important to recognise that the risk assessment process should flag up whether a victim of the original offence was likely to be at risk. In such cases, the individual would not necessarily be considered as appropriate for HDC.

Mr Maxwell: I was thinking more along the lines of the conditions that were explained to us during our visit yesterday to Reliance Monitoring Services, where it was explained to us that the electronic monitoring conditions can include requirements that do not simply restrict the person to being curfewed in their home but keep them away from certain places, such as a shopping centre or other area where they caused a problem.

The Convener: To be fair to the minister, that is covered in proposed new section 12A of the Prisoners and Criminal Proceedings (Scotland) Act 1993, but perhaps one of the advisers can confirm that.

Susan Wiltshire (Scottish Executive Justice Department): The bill allows for prisoners to be restricted away from certain places. We thought about that carefully and it is something that we would wish to happen. As the minister said, if during the risk assessment process we felt that a prisoner was going to pose a danger to the victim

or to a member of the public, they would not get an HDC. However, we could restrict a person with an HDC away from places such as football stadiums or shopping centres.

Mr Maxwell: Minister, you said to Colin Fox that you do not consider that electronic monitoring on its own will necessarily have an effect on reducing offending. Evidence we have received has suggested that additional support and supervision will be necessary. I heard you say that there will not be 24-hour wraparound care and that you do not expect there to be a social worker for everybody who is released on an HDC, but many people feel that some additional support would be advantageous and would assist the whole system to be successful. What support will be offered to people who are going to be released on an HDC? You have said what support you think there will not be; what support will there be?

Cathy Jamieson: I hope that I am being clear on this. One of the elements of the HDC is to put responsibility on the offender. There would potentially be access to various supports. Ordinarily, short-term prisoners do not get any support unless they are in particular categories that take up the voluntary throughcare scheme. We are working on the assumption that around 25 per cent of those who are released on HDCs might require some form of additional support.

Mr Maxwell: What kind of support are you talking about? I accept what you are saying—

Cathy Jamieson: Sorry, I did not mean to be rude and interrupt. It depends on the individual's needs. If someone required assistance because of drug addiction or alcohol misuse—I mentioned that earlier—they may need that kind of support. An individual may require support to enable them to get housing or employment. We ought to be considering the problems in individual circumstances. The reason why I questioned whether those individuals would always get access to social work support is that that will not always be what people need in the circumstances. They might need money advice or help with dealing with a range of other circumstances in their lives.

Mr Maxwell: That is the point of the question. Support would involve all those other types of services. It is not necessarily just about help with drug addiction; it is about money advice and many other things. That support will be necessary for some people because—I assume from what you are saying—the intention is to break the cycle in which someone is in and out of prison all the time, by intervening and offering support. I was concerned not that you were being exactly negative but that you were against providing support for individuals who were being released on an HDC.

Cathy Jamieson: I am never against the in-principle notion of providing support, but the important point is that it is support, which requires individuals to take responsibility for engaging with it and for doing something themselves. I would like a feature of HDCs to be that they place responsibility firmly on the individual. They are being given an opportunity to prove themselves and to move back into the community with a framework. In some instances that will require support, but there is a clear responsibility on the individual. Although there are situations in which people require professional support, there will also be situations in which the family is supportive. They will have accommodation there and the opportunity of training or employment, as they may have commenced a work experience placement or whatever. The HDC gives people an opportunity to be out of prison with those family and community supports already around them. The involvement of the wider professional agencies is not always necessary at that stage.

Jackie Baillie: You said that some perhaps less-informed commentators would regard the home detention curfew as a get-out-of-jail-free card or some kind of soft option. We want the public to have absolute confidence in the criminal justice system. How do you counter that potential negative public perception?

Cathy Jamieson: Members of the committee have been to see at first hand how tagging works. It is not helpful constantly to refer to measures as being hard or soft options, because we need to find effective options. It is also clear from the evidence that the committee received that short prison sentences are not necessarily effective and do not necessarily provide solutions. Therefore, it is incumbent on us to consider the options.

Research on public attitudes to tagging has been done recently. You might recall some of the key points that it raised. It showed positive public support for rehabilitation, but we need to change the view that community penalties are soft options. Members will have heard me speak on the subject a number of times before, but if we want the judiciary to use community penalties, it is important that such penalties be seen to be effective. In a recent example from my area in Ayrshire that was cited in the media, a tag was fitted and the offender broke the curfew but was swiftly brought back to justice. That is the point of the exercise and that example sends a clear message.

Jackie Baillie: The public perception of whether home detention curfew is an effective option will depend on what happens when one is breached. What do you envisage happening if a breach occurs?

Cathy Jamieson: It is important that we put robust measures in place. It is clear that non-compliance with the curfew or with any of the other conditions would constitute a breach. The tagging company or the supervising social worker would pick up any breach and the SPS would be informed. It would then decide what the appropriate measures to take would be. It is most likely that the person would be returned to custody, and it would be a question of that person being brought back and having to face the consequences.

Jackie Baillie: The SPS would take the decision to recall any offender.

Cathy Jamieson: Yes.

Jackie Baillie: The Executive has rightly made support for victims an important plank of its justice agenda. Have you considered extending the victim notification scheme to home detention curfew?

Cathy Jamieson: Committee members will probably be aware that we have been running a victim notification scheme for some time. We are due to evaluate that scheme and we estimate that we will be in a position to do that work by the end of this year. Home detention curfew assessments would need to take account of victim issues—as we have already discussed, that could include keeping offenders away from a particular place—but a number of offenders are not part of the victim notification scheme and I want to consider the whole scheme and think about how we might improve on it.

Jackie Baillie: How will you ensure that the victim's view is accurately reflected in the risk assessment?

Cathy Jamieson: That raises two different issues. The index offence and reports from prison staff or family liaison officers might provide information that suggests that it would not be in a victim's interests for an offender to be released on home detention curfew or that a victim might be at risk if the offender was to be so released. There is no specific proposal for a requirement to notify all victims, which does not happen now with release for home leave or into the community to undertake particular work, but I want to consider such issues when we have an opportunity later in the year.

Jeremy Purvis: On risk assessment and serious and sexual offenders, who will be expected to share data and what is being done to ensure that the technology is fit for that purpose?

15:30

Cathy Jamieson: A number of issues are involved in the question. You will be aware of all the work that the Executive is doing to deal with the problem of sex offenders, who are relatively

few but who are the people who are of most concern to local communities. You will also be aware of the establishment of the Risk Management Authority. My concern, which has been evidenced by a number of recent high-profile cases, is that information is sometimes not shared between police authorities—indeed, sometimes it is not shared appropriately even between local authority departments. Information is also not shared between local authorities and other agencies. For example, some health boards may have information that they do not share appropriately. The overall purpose of the exercise is to ensure that information is shared and that people are clear about the fact that they are able to share information without fear of repercussion for their organisation.

Jeremy Purvis: On a practical level, what is being done to ensure that the technology is in place so that that happens?

Cathy Jamieson: I was just checking that with Andrew Brown. Information has been presented to the committee on the violent and sex offenders register scheme. The VISOR scheme is not dependent on the bill and it will go ahead in any case. We have provided additional finance to the Scottish police service to ensure that the scheme is implemented across all eight police authorities. The on-going revenue costs of the scheme have become an issue that the Finance Committee has picked up on.

Again, the purpose of the VISOR scheme is to try to ensure that we have the information that will allow better risk management to take place and improve crime detection rates. The idea is that the existing information-sharing potential should be used to the benefit of the police and the criminal justice social workers who are responsible for monitoring the offenders. It is critical that we ensure that they get the information and that the monitoring process is joined up. Given that all forces will have access to the database, it is important that the intelligence that is added to the database is accessible across the country.

Jeremy Purvis: Before we move to the committee's questions on VISOR, I return to a question on the Risk Management Authority. Will the authority's role stay limited in its scope or will it be extended? For example, will the authority take a role as a partner with the SPS and others in determining the risks that are involved in prisoners being released on curfew?

Cathy Jamieson: At this stage, I do not envisage the Risk Management Authority being involved in the development of the home detention curfew assessment process. The authority was set up specifically to deal with the most serious and violent offenders but, as I outlined, the HDC will apply to the low-risk prisoners at the other end of

the spectrum. The idea is for the authority to develop policy and to undertake research into risk assessment. The authority will also set standards and issue guidance to those who are involved in the assessment and management of risk. It is important that the authority is able to focus on the relatively small group of serious and violent offenders, as they are the offenders who can cause problems in local communities.

Jeremy Purvis: But, if an element of the information, experience and expertise developed as a result of the research that the authority undertakes is transferable to less serious crimes or to early intervention, you are not opposed to that research being used elsewhere.

Cathy Jamieson: I am never opposed to learning from best practice. That said, in its early stages, the Risk Management Authority must be able to focus its work on the serious and violent offenders whom it was set up to deal with. The authority has a specific job to do in terms of public confidence in the system. I want it to focus on that job in the short term. If, in due course, lessons can be learned, we will be more than happy to look at the issues then.

Bill Butler: You will be aware that the Finance Committee raised the issue of the timetable for the bill not allowing full consultation on costs. Paragraph 17 of its report says:

"ongoing revenue costs for the ViSOR database have not been fully explored".

For the record and the committee's understanding, will you explain why that did not occur?

Cathy Jamieson: It is important to recognise that the comments that were made by a number of witnesses related to consultation on the draft bill. There has been a fairly extensive timetable of consultation. Before the bill was introduced, we tried to ensure that there was as much consultation as possible with COSLA, for example, by having a number of meetings—I could quote the committee chapter and verse on those, but you probably do not want me to do so. Suffice it to say that between October 2003, when we began the pre-consultation dialogue with key stakeholders, and 7 March 2005, when the bill was published, a number of meetings with relevant organisations took place and a considerable amount of work was done with COSLA to try to ensure that we could deal with problems in advance. The lack of formal consultation on the bill is not necessarily problematic, given the work that went on before it was introduced.

Members will be aware that the financial memorandum was drawn up in discussion with the SPS in particular. A number of financial issues remain to be resolved. The VISOR scheme has

been discussed in the context of the bill, but it would have happened in any case.

Bill Butler: Are you confident that the lack of full consultation on costs will not prove to be problematic?

Cathy Jamieson: There will always be issues to do with pinning down the costs. We estimated the costs of setting up CJAs. Some people suggested that we underestimated those costs, but I am not sure that I agree with them, given that we are talking about a chief officer and operating costs, rather than staff transfer. There will also be implications for the Scottish Prison Service, which might need to reorganise. As I said, the SPS is considering the matter. It is worth saying that in the spending review we allocated funds to try to deal with issues that will arise from the implementation of the bill. It is not the case that we have not thought about the matter.

Bill Butler: Are you confident?

Cathy Jamieson: I am as confident as I can be, given the work that has been done.

The Convener: I am no arithmetician. However, the Finance Committee's report estimated that the costs of the home detention curfew scheme would be £4.235 million per annum. We gathered from our visit to Reliance that the average cost of a tag is about £5,000 per six-month period. A matter about which none of us was clear after hearing the evidence was the number of prisoners who are likely to be eligible for home detention curfew—I accept that it is difficult to give a specific answer on that. It seems that either the costs are relatively trackable or they burgeon.

Cathy Jamieson: We have figures on how many people might be on home detention curfew at any one time, which might help.

Susan Wiltshire: We estimate that it is likely that about 7,500 people will be assessed for HDC over a year, about a third of whom will pass the assessment and be granted HDC. We also estimate that annually about 2,000 people will be released on HDC, which translates to about 300 prisoners on HDC at any one time.

The Convener: The period of HDC would vary, depending on the conditions.

Cathy Jamieson: Some people might be on HDC for very short periods; others might be on the scheme for up to 135 days.

Susan Wiltshire: We reckon that the average period of HDC will be 55 days.

The Convener: If there are no further questions from members, I thank the minister and her departmental colleagues for coming to the committee. We appreciated the opportunity to question you.

The clerks are reminding me that, on the assumption that we do not want to take more evidence on the bill—in effect, time constraints preclude our doing so—the intention is to draft our stage 1 report as soon as possible and consider it in private, perhaps at our next meeting. I am being cued by the clerks as I speak, but that is a rough idea of what is proposed.

We move into private session to consider our draft report on the Licensing (Scotland) Bill.

15:40

Meeting continued in private until 16:00.

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