

JUSTICE AND HOME AFFAIRS COMMITTEE

Tuesday 23 November 1999
(Morning)

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JUSTICE AND HOME AFFAIRS COMMITTEE 11th Meeting

CONVENER :

*Roseanna Cunningham (Perth) (SNP)

COMMITTEE MEMBERS :

*Scott Barrie (Dunfermline West) (Lab)
*Phil Gallie (South of Scotland) (Con)
*Christine Grahame (South of Scotland) (SNP)
*Gordon Jackson (Glasgow Govan) (Lab)
*Mrs Lyndsay McIntosh (Central Scotland) (Con)
*Kate MacLean (Dundee West) (Lab)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Pauline McNeill (Glasgow Kelvin) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)
*Euan Robson (Roxburgh and Berwickshire) (LD)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Linda Fabiani (Central Scotland) (SNP)

WITNESSES:

Robert Balfour (Scottish Landowners Federation)
Tony Cameron (Scottish Prison Service)
Mike Duffy (Scottish Prison Service)
Andrew Hogg (Scottish Prison Service Trade Union Side)
Alastair MacIntyre (Scottish Prison Service)
David Melrose (Scottish Prison Service Trade Union Side)
Peter Russell (Scottish Prison Service)
Michael Smith (Scottish Landowners Federation)
Derek Turner (Scottish Prison Officers Association)

COMMITTEE CLERK:

Andrew Mylne

SENIOR ASSISTANT CLERK:

Richard Walsh

ASSISTANT CLERK:

Fiona Groves

Scottish Parliament

Justice and Home Affairs Committee

Tuesday 23 November 1999

(Morning)

[THE CONVENER *opened the meeting at 09:33*]

The Convener (Roseanna Cunningham): Good morning, everybody. There are more than enough members present for us to begin the proceedings. Gordon, would you like to join the rest of us, or are you setting up an alternative committee of your own over there?

Gordon Jackson (Glasgow Govan) (Lab): I am in a huff.

Petition

The Convener: The first item on our agenda this morning relates to petition PE14 from the Carbeth Hutters Association. Members will recall that when we last dealt with that, at our meeting of 26 October, a number of statements were made by witnesses on behalf of the Barns-Graham estate. Some of those comments related to the motivation for the Scottish Landowners Federation's stance towards the estate. Given the allegations that have been made, we felt that it was only appropriate to ask the Scottish Landowners Federation to talk to us briefly about its position and to give it the opportunity to consider the questions that were raised by the representatives of the estate.

We are concerned, in particular, with the comments that were made by Mr Andrew Smith. For the sake of those members of the committee who do not have copies of the *Official Report* of our meeting of 26 October with them, I will read out the relevant passage. Mr Andrew Smith stated:

"The Scottish Landowners Federation has a very difficult job on its hands, trying to convince a sceptical public that it has a role to play. The public perception is that the SLF represents fat-cat absentee landlords who rent out their land for lots of money, for hunting, shooting and fishing and who own huge tracts of Scotland and do not attend to it. What could be more perfect when trying to redress that opinion than to take on a landlord and pillory him in the press? That is exactly what the Scottish Landowners Federation has done.

Allan Barns-Graham's estate has perhaps the greatest public access of any estate—certainly any lowland estate—in Scotland. There are rights of way through it and there is access to crags for climbers and the public. I think that the Scottish Landowners Federation chose to come out publicly, very strongly against Carbeth estate because it

was politically expedient: it suited its purpose nicely."—*[Official Report, Justice and Home Affairs Committee, 26 October 1999; c 258.]*

I welcome the witnesses from the Scottish Landowners Federation. After they have introduced themselves to the committee, we will take a brief statement from the SLF. No doubt committee members will then have questions.

Robert Balfour (Scottish Landowners Federation): My name is Robert Balfour and I am one of the vice-conveners of the Scottish Landowners Federation.

Michael Smith (Scottish Landowners Federation): My name is Michael Smith and I am the in-house legal adviser to the Scottish Landowners Federation.

The Convener: Mr Balfour, would you care to take a couple of minutes to comment briefly on the Scottish Landowners Federation's view of the situation at Carbeth and to respond to the allegations that were made at our meeting of 26 October.

Robert Balfour: The SLF decided to involve itself in the case of the Carbeth hutters when the hutters asked to see us. It is fair to say that they thought that they were taking a big chance when they did that. They came to see us at our office in Leith and put their case, which we listened to and took note of. We then had a meeting with Mr Barns-Graham and one of his solicitors. Having heard both sides of the argument, we concluded that the original commitment that the Barns-Graham family had made—to provide for a social need by allowing the people of Govan to get into the countryside and build holiday accommodation—had been reneged on by the present owner, and that the level of rent and other burdens that he had imposed was unreasonable. For that reason, we decided that we would back the stand of the Carbeth hutters, to the extent that I have become a trustee of the Carbeth Hutters Association.

The Convener: Can we be clear: are you saying that it was the Carbeth hutters who first approached the Scottish Landowners Federation?

Robert Balfour: Absolutely.

The Convener: You have seen the statements that were made at our meeting of 26 October. Can you address what is a political—with a small p—criticism of the Scottish Landowners Federation's stance? Can you respond to what has been said by indicating why you have chosen to back the hutters, rather than the landowner, who might, in the first instance, have been the obvious person for you to have supported?

Robert Balfour: We felt that there was an element of natural injustice in what was happening

at Carbeth. There was certainly nothing political—with either a small or a large p—in what we were trying to do. There was a more fundamental issue of how one deals with short-term leases of what is, in effect, a mixture of commercial and social property. I do not think that it is relevant to the Carbeth hutters' situation for me to comment on what amounts to a rant by Mr Smith against the SLF's position. Quite frankly, what he says is not true and does not merit a response.

The Convener: Do other members of the committee have questions for the witnesses?

Christine Grahame (South of Scotland) (SNP): When did you become a trustee of the Carbeth Hutters Association?

Robert Balfour: After our meeting with the hutters.

Christine Grahame: When was that?

Robert Balfour: About a year ago.

Christine Grahame: Do you think that there is a conflict of interest here? You say that you are taking a dispassionate and objective view, but you are a trustee. There must be a conflict there.

Robert Balfour: I do not see why. I do not believe that there is a conflict of interests. The objectives are the same: to ensure that the hutters at Carbeth get more security and a fairer lease than they have at the moment.

Christine Grahame: Have you considered the ramifications for other hutters in Scotland if a special case is made of the Carbeth hutters in legislation?

Robert Balfour: We are not suggesting that a special case be made of the Carbeth hutters, but that the situation of hutters per se needs to be addressed.

Scott Barrie (Dunfermline West) (Lab): You used the phrase "natural injustice" to describe the situation in which the Carbeth hutters find themselves. In the paper that you have been kind enough to submit to us this morning, you make great play of what you regard as the unacceptably high service charge on the estate. Is that the main element of the natural injustice that you have identified, or does it extend to the lease conditions and the insecurity of tenure?

Robert Balfour: I do not have a copy of the lease in front of me, so I am speaking from memory. However, I believe that the notice periods and the terms of compensation that it stipulates are unreasonable.

Scott Barrie: Do you believe that the level of the service charge is also unreasonable?

Robert Balfour: That is what the paper was

designed to show.

Scott Barrie: Is that because it is unusual for a service charge to be levied in a rural situation?

Robert Balfour: It is unusual for such a charge to be levied in a rural situation, but my objection was rather to the estate's levying a service charge to recoup a capital cost.

The Convener: It is appropriate for me to make clear that the document to which we are referring is the same document that Mr Ballance of the Carbeth Hutters Association mentioned. At the time it was not available to us, but today's witnesses have been kind enough to supply it. We thank them for that. Are any other questions?

09:45

Pauline McNeill (Glasgow Kelvin) (Lab): I take it that, as a trustee, you have been out to the estate and that you know it reasonably well.

Robert Balfour: I beg your pardon?

Pauline McNeill: I take it that you, as a trustee of the Carbeth Hutters Association, are reasonably familiar with the estate and that you have been out to it?

Robert Balfour: That is correct.

Pauline McNeill: We took some evidence a few weeks ago on the issue of the service charge. Some new roads had been laid on the estate by Barns-Graham and the Carbeth hutters' view was that the new roads amounted to some rubble and not much else. Can you comment on that?

Robert Balfour: The roads that were put in were not tarmacked, if that is what you mean. They were tracks that had been upgraded with bottoming and quarry blinding to a standard equivalent to that of a forest access road.

Pauline McNeill: My understanding is that the existing lease is the same as that which existed when the estate was set up. Is that the case?

Robert Balfour: That is my understanding as well. There have been one or two minor alterations.

Pauline McNeill: Would it be fair to say that the same lease has existed throughout, but that there is now a slightly different application of it?

Robert Balfour: That would be fair.

Pauline McNeill: In your view, is the lease that is in force particularly unusual?

Michael Smith: Ground leases are becoming far less usual than they were. Since 1974, new leases of domestic dwelling houses or other domestic property are limited in length to 20 years. Therefore, there is that control. Ground leases are

still granted for commercial and other purposes but they tend not to be used for domestic property for that reason.

Pauline McNeill: I refer in particular to the terms of the lease on notice to quit, which is renewed annually. Is that unusual?

Michael Smith: I think that it probably is.

Pauline McNeill: It is unusual in the sense that it gives the landlord quite inordinate powers over the other party to the lease.

The Carbeth hutters have asked the committee to introduce some sort of protective legislation. Do you have a view on that?

Michael Smith: It would probably be appropriate to review the position of ground leases of various kinds. Ground leases probably fall into three categories. I am speaking now purely about domestic dwelling houses or property that is lived in by people to some extent. I am not addressing the question of commercial property.

The first category is what I might call traditional ground leases: those that were entered into before 1974 and that run for perhaps 99 years, or in some cases for 999 years, although one does see other periods.

The second category is what I might call the unprotected mobile home or caravan. In many cases, these mobile homes are quite luxurious and are on sites that are run purely for commercial purposes. They are second homes. People may like to have a fairly luxurious caravan on a site somewhere in the country. That is a purely commercial operation.

The Carbeth huts are an example of the third category: huts or properties that are of less value and that are on ground that is let under ground leases. A mix of social and commercial considerations may be involved in the lease.

One can distinguish those three categories. Whatever one wanted to do, in examining the Carbeth hutting type of situation, one would need to be careful that one did not cause complications for the rather more commercial dwelling leases or for the traditional ground leases. One has to be careful that what one does for one category does not create problems for other categories.

Gordon Jackson: There are a couple of problems with this situation. One is the basic problem of having what is, for all practical purposes, a heritable structure on land that one does not own—one view is that it is never a very clever thing to do, although from time to time it happens. These huts are not caravans; they are heritable for practical purposes, although the hutters do not own the ground.

The second issue concerns the lease, which has

no rent value control. The landlord can simply say, "As from next week, the rent is £1 million a year. If you don't want to pay it, push off."

I will deal with those points in reverse order.

It was suggested to the owner of the land that the rent should be fixed on a more normal basis; that is, for the next three years, the rent would be so much and there would be rent reviews. If rent could not be agreed, an independent arbiter could fix it, which would stop the landlord from deciding unilaterally that the rent would be £1 million a year in order to drive people off the land. However, we were told that could not apply in this case, as there was no comparison available and that, while it is all very well to fix rent for an office in George Street, in the Carbeth situation there is no basis on which an independent arbiter could work.

In other words, those who spoke for the landlord claimed to us that the situation was unfixable and that the landlord was the only person who would know what the rent should be, because it is a one-off situation. I thought that that response might be disingenuous, but I would like to know what you think and, if you think that those witnesses were wrong, why.

Robert Balfour: I believe that other comparisons can be made, although the sites are not located in Scotland. Comparisons have been made with situations in Wales. My background is as a professional chartered surveyor, and I believe that a chartered surveyor would be perfectly capable of fixing a rent for the sites at Carbeth.

Gordon Jackson: So do you think that it is simply not right to say that it is not practical to fix rents?

Robert Balfour: Absolutely.

Gordon Jackson: The other problem occurs when there is something that I describe as being like a heritable structure on the land. The landlord knows that—he rents out the ground with the heritable structure in place or he allows people to build on his land a structure that, for all practical purposes, can never be moved. Do you think that some sort of rent control of that situation would be appropriate, such as can be found in a rent act situation, or would that cause more problems than it would solve?

Robert Balfour: I think that it would cause more problems than it would solve.

Gordon Jackson: Why?

Robert Balfour: The rent acts are based directly on comparisons or on a market value.

Gordon Jackson: I am not thinking so much of the amount of rent charged. I am thinking about giving people security of tenure, once a structure is in place. In other words, if a landlord allows a

tenant to put a structure on the land that is as immovable as these huts are, that tenant should have some security of tenure.

Robert Balfour: A third-party arbiter, as you suggested, who could fix the rent would probably overcome the need to have any statutory measures such as a rent act. Once an arbiter has fixed the rent, there is immediately an indication of what the level of rent should be. The next person would be able to point to the particular level at which the arbiter fixed the rent, which is therefore deemed to become the market rent. Equally, the arbiter could decide on the length of term of the lease, if the parties were unable to agree that.

Gordon Jackson: How could an arbiter fix a length of term?

Robert Balfour: If the parties do not agree, they could always use an arbiter to broker an agreement. That occurs in other forms of lease, where, if the two parties cannot agree, they can use an arbiter to sort out the disagreement.

Gordon Jackson: I am sorry to press you on this point, but I am trying to get my mind around that. I can see how an arbiter would fix rent—one party says that it should be £5,000, the other says it should be £2,000, and an arbiter fixes the rent. However, I am finding it difficult to understand how an arbiter could fix a length of term.

Robert Balfour: At Carbeth, the hutters are, in effect, sitting tenants. If the landowner and the tenant cannot reach an agreement on any points of the lease, there is nothing to stop them going to arbitration in order to arrive at an agreement.

Michael Smith: Presumably the rent could be balanced against the ish.

The Convener: Could you explain what an ish is, for the benefit of those committee members who are not legally qualified?

Michael Smith: The term refers to the departure of the tenant.

The Convener: So the tenant leaves?

Michael Smith: Yes.

The Convener: It is the opposite of entry.

Are there any further questions for these witnesses? Do the witnesses wish to add anything about the issue in general or about specific points that have not been raised?

Robert Balfour: Michael Smith has been able to put across the Scottish Landowners Federation's view of the kind of lease that would deal with the Carbeth situation—one that does not impinge on other types of lease but that sorts out this particular problem.

The Convener: For the avoidance of doubt, has

the Scottish Landowners Federation publicly criticised other landowners in the past?

Robert Balfour: I do not know, to be quite honest. I cannot give you a straight answer.

The Convener: Thank you very much. You are free to go, although you may stay and listen to whatever you find of interest in the remainder of the proceedings.

Scottish Prisons

The Convener: We now move to the witnesses who are here for item 2 on the agenda, on the recent announcement of cuts in funding to the Scottish Prison Service.

Although the order on the agenda indicates that we will hear the trade union side first, then the chief executive of the Scottish Prison Service, I think it might be more appropriate if we were to hear Tony Cameron first. I ask Tony Cameron to come forward. We will hear evidence from him and from the Scottish Prison Service first and then we will allow the trade union side to give evidence.

I understand that Mr Cameron is accompanied today by Mike Duffy, board member and director of the south and west area of the Scottish Prison Service. Good morning, Mr Duffy. I know Mr Duffy from a different job. Mr Cameron is also accompanied by Peter Russell, director of human resources, and by Alastair MacIntyre, non-executive director.

I understand, Mr Cameron, that you wish to make a short opening statement before we proceed to questions. Please begin that statement now, but keep it reasonably tight, as I am sure that members have a lot of questions to ask.

10:00

Tony Cameron (Scottish Prison Service): Convener, you wrote to me on 4 November and I replied on 11 November, explaining the financial background to this issue. I also enclosed my note of 21 October to all Scottish Prison Service staff and some question and answer material which we provided for them.

On 15 November, I sent all members of this committee a news release from the SPS, with our announcement. I wrote to you, convener, on the same day and provided further Q and A material which we used with our staff. I assume that all members have seen the material.

The news release contains the main decisions that the SPS board has taken but, on Monday, to assist the committee, I sent a copy of the paper which the board considered when meeting to discuss the issue. I would like to say a few words

about that. It is not a formal report, but an internal management document which assisted our decision taking. It is not a record of the board's decisions, but the board accepted the paper's main conclusions.

The board decided to place greater stress than the paper placed on one aspect which I want to mention: the capital programme and what we call our estate strategy. We asked ourselves if we agreed to re-evaluate our use of the Low Moss prison site. The board thought that a strategic examination of the capital programme as a whole was needed in relation to the reduced number of sites. The Scottish Prison Service will be working on that examination next year.

We have planned our announced rationalisation programme to minimise the operational impact across the service. We have tried, where possible, to ensure that the valuable programmes that are under way throughout the service are continued. Our task now is to complete the rationalisation programme as soon as possible without disrupting that valuable work. My preferred approach is for the SPS management and the trade union side to work together.

I want to finish by underlining one important point: apart from Alastair MacIntyre, we are all civil servants and public servants, as are prison officers and all SPS staff. Our salaries—and all the money we spend—are paid for by the taxpayer, who has a right to expect the very best value for money for every pound allocated to us. That is what we aim to achieve.

The Convener: Thank you. I anticipate a fair number of questions.

I would like to go through the letter that you sent on 11 November in response to my letter on behalf of the committee, dated 4 November. I would like to clarify some of the things in your letter, then we can move on to other questions. In my letter, I asked for an explanation of how the money, which is now being clawed back, had been saved over the years. Your response in your letter was:

“The Scottish Prison Service generated savings in running costs budget heads of £13m”.

Your letter continued:

“That was prudent financial management in accordance with the end-year flexibility (EYF) Rules applicable to SPS as an Agency of the then Scottish Office. . . . This funding was earmarked to support the restructuring of our resources”.

When you say that the SPS

“generated savings in running costs budget heads”,

what budget heads were those savings generated from?

Tony Cameron: In all.

The Convener: The committee has expressed a desire to know how the money was accrued in the first place: what savings were being made in what areas. It was money that was clearly not being spent in the Prison Service and which was being piled up. We are making no judgment about that, of course, because there may have been good reasons for it, but we are curious to know from which budget heads the savings were generated.

Tony Cameron: One answer to that is to regard the savings of £13 million like any other £13 million that the Scottish Prison Service would have had to spend. It is no different in pound notes from any other pound notes that the SPS would have spent. In that sense, the £13 million was due to be spent on everything that the Prison Service spends its money on. Over the two years, it is of the order of contributing 3p in every pound that the Scottish Prison Service will spend.

It might be more helpful for the committee if I take a step back and sketch out how the finances of the Prison Service work.

The Convener: It was a fairly simple question in fact, Mr Cameron. I am not making a value judgment. The committee simply wishes to know from which aspects of Prison Service spending the savings were made. We can then make a judgment on what money was not spent over the two years to accrue the £13 million, and on what was planned for the future.

Tony Cameron: The answer is all: that is the simple answer to the simple question.

The Convener: Were the savings evenly spread from across all budget heads?

Tony Cameron: No. They were not evenly spread; they were from different years. A large number of years are involved, and it would be incredibly complex and expensive for the taxpayer for us to go back over all those years now and calculate all the differences over the many thousands of things on which the SPS spends money.

The Convener: So, in your evidence, you cannot actually tell us how the savings were accrued?

Tony Cameron: I can tell you how they were accrued: they were accrued from the total budget. They were, if you like, in proportion to our expenditure.

The SPS, as an agency, has two types of finances. The intention is that its financial affairs should be run more like those of a business than is the case for a normal Government department. We produce income and expenditure and a balance sheet, like a business. We operate on what is called accrual accounting, in which income and expenditure are scored when the decisions

are taken, not when the cash is received or spent. Although we keep an eye on the cash flow, as businesses do, the main focus of our attention is on our accrual accounts.

We also have to operate as a Government department. Until now, Government accounting has been purely in cash. Each year, cash is allocated by Parliament. It has long been recognised, however, that there are expenditures that need to straddle the ends of financial years. Such expenditures can be on anything: they require cash to be carried forward, which is what gives rise to end-year flexibility.

The £13 million was spending power generated by internal savings across the board, which any business might prudently accumulate over the years from its operating profit.

The Convener: So there is no particular pattern to the way that those savings are generated. It is like having a massive piggy-bank. Every time that a few pence were saved here or there, you put them in the piggy-bank rather than putting them back into spending under the budget head that they came from.

Tony Cameron: That is not the analogy that I would use, but it is in the right direction. We would have spent the money in a cost-effective manner at the appropriate time.

The Convener: On what?

Tony Cameron: On everything that the SPS spends its money on.

The Convener: With respect, I do not think that that is a reasonable answer. You were saving the money: it was obviously being saved for a purpose.

Tony Cameron: Yes.

The Convener: The announcement that you were not going to be able to spend that saved money resulted in a great deal of speculation. What was the plan for that money?

Tony Cameron: In one sense, the money can be regarded as having contributed 3p in every pound spent by the SPS over the next two years.

The Convener: Well, what does that mean, Mr Cameron?

Tony Cameron: It is salaries, current, capital—

The Convener: But what does that mean in practice?

Tony Cameron: Salaries, buildings, heat, light, power: everything that a business spends money on.

The Convener: Which, presumably, is already budgeted for?

Tony Cameron: Yes.

The Convener: What was the extra £13 million going to be spent on?

Tony Cameron: It was not extra. It was part of the SPS's total spending power, and was shown in our accounts accordingly.

The Convener: And then taken away?

Tony Cameron: Absolutely.

Parliamentary authority is required to carry funds forward from one year to another. At that point, the £13 million has to be identified; it did not really exist in our accounts as a separate item. It was just part of our spending power.

Let us look at it this way: if ministers had decided to reduce the Scottish Prison Service's baseline expenditure by the same amount, £13 million, the financial effect on the SPS would have been exactly the same over those two years. The fact that it was done using EYF does not alter the fact that the total spending power of the SPS was reduced by £13 million to deployment elsewhere in the justice programme.

The Convener: But the £13 million happened to be accrued savings that you had made in the equivalent of a piggy-bank.

Tony Cameron: It was part of £24 million that we had accrued. We did not accrue £13 million; we accrued £24 million. We retained £11 million of it, and £13 million has been redeployed elsewhere.

The Convener: As a direct result of the cuts in the budget, we now have the announcements of prison closures and job losses, of which we have all received details. Is that correct?

Tony Cameron: No.

The Convener: Are you telling this committee that the announcements about job losses and prison quotas have absolutely nothing to do with the £13 million cut?

Tony Cameron: No.

The Convener: What are you saying? What do you mean by no? Do the announcements have nothing to do with the cut, or do they have something to do with it?

Tony Cameron: They have something to do with it, but your first question was whether the announcements were a direct result of the cuts.

Prior to the last expenditure statement by the Minister for Finance, it was evident that the Scottish Prison Service would need to reduce its staff. That was made plain to the trade union side at a meeting with them in the spring of this year, before the figure of £13 million was known about

as a separate item. That was the position then.

The relevance of the announcement that I made a few days ago is that it accelerated the process of downsizing the Scottish Prison Service. We would have had to reduce our estate and the number of staff in some way in any case. The difference is that we are having to do so more quickly than we had planned.

The Convener: I have a copy of a minute from a meeting that took place in the spring earlier this year, when your predecessor, Mr Eddie Frizzell, was the chief executive. The minute, from April this year, states that:

"The staffing complement had drifted up and currently stood at 5000, and would have to come down a little over 3 years. Natural wastage should allow that."

Tony Cameron: Yes.

The Convener: Is that what you are referring to as advice that job losses would be of the order of 400?

Tony Cameron: I did not say 400. I said that we would have to reduce our estate; 400 is approximately the number of staff that the financial information suggested that we would need to lose.

The Convener: The minute mentions staff numbers coming down a little over three years and says that:

"Natural wastage should allow that."

Do you consider that to be adequate notice of what was subsequently announced?

Tony Cameron: I cannot speak for my predecessor. We notified and quantified the amount of loss of posts because the number of prisoners was not rising as fast as has been previously estimated. Four hundred is the approximate number, and natural wastage would have enabled us to remove approximately that number of posts, as about 130 posts are lost by the Prison Service each year.

Phil Gallie (South of Scotland) (Con): Do you accept, Mr Cameron, that the report of HM chief inspector of prisons for Scotland, published in August of this year, was a fairly accurate reflection of circumstances in the Prison Service?

Tony Cameron: Yes.

Phil Gallie: That being the case, you show figures today which project a rise in the number of prisoners over the next couple of years, but you suggest that the current number is around 6,000.

Tony Cameron: Yes.

Phil Gallie: Why, then, when compared with the chief inspector's report, does that represent about a 20 per cent drop in the number of prisoners since August this year?

Tony Cameron: In August, the statisticians produced revised estimates of the prison population.

Phil Gallie: I am not talking about estimates; I am talking about precise figures. Your figure for 1999-2000 is a precise one of 6,000. It should be 6,100 but is actually 6,000. The chief inspector's report suggests that in August 1999, there were 7,025 people in prison.

Tony Cameron: Really? I do not recognise that figure.

10:15

Phil Gallie: Can I refer you to annexe 4 of that report, which shows the average daily prison populations. The total of those figures is 7,025.

Tony Cameron: Without checking, I could not comment on that.

Phil Gallie: When you are making a major decision, as you have done, on prison numbers and the closure of prisons, surely you should be in the position to give a reasonable, off-the-cuff, answer about why that difference exists.

Tony Cameron: No, I do not agree. It is important for us to focus on the numbers that our statisticians produce. Those are—

Phil Gallie: Never mind the facts. If the statisticians have got it right, that is fine.

Tony Cameron: There are fewer than 6,000 prisoners in our prisons and just over four months of this financial year to go. Nobody can tell exactly what the average prison population for the year 1999-2000 will be, but we will be surprised if it is above 6,000, because we have been running at less than 6,000 for most of the year. Something pretty strange would have had to happen in the past four months to make the figure much more than 6,000. That is the basis for our saying that we expect the average number of prisoners in this financial year to be around 6,000.

It had been estimated by the statisticians that the current figure would be 6,200. Their later estimate, produced in September, was 6,100. As you can imagine, it is a difficult thing to forecast. We do not regard differences of that sort, but to my knowledge—and I stand to be corrected—there have never been as many as 7,000 prisoners in Scottish prisons. I have heard mention of 6,300 or so, but the figure has never been much more than that.

Phil Gallie: That is fine, because you did accept the prison inspector's report.

Tony Cameron: I did, but that is not to say that I accept every figure and word of it.

Phil Gallie: Perhaps that has been overlooked.

In that case, can we accept another aspect of the chief inspector's report, which shows the level of overcrowding in Scottish prisons, even on the base numbers that you suggested, as something like 8 per cent. I refer to Scottish Prison Service establishments and capacity, on page ix. Barlinnie is 32 per cent overcrowded, Greenock 14 per cent, Polmont 10 per cent, Inverness 15 per cent, Edinburgh 16 per cent—

Tony Cameron: Where do you get the 8 per cent?

Phil Gallie: That comes from the chief inspector's report.

Tony Cameron: Where?

Phil Gallie: Page ix.

Tony Cameron: Yes, I have got that. Where is the 8 per cent that you mentioned?

Phil Gallie: I did a rough calculation and took an average. I am quoting Barlinnie, for example, as being 32 per cent overcrowded and Edinburgh as being 16 per cent overcrowded.

Tony Cameron: At the moment, we are 8 per cent under capacity.

Phil Gallie: So there has been a major change there.

Tony Cameron: No, not at all. You have not included the prisons that are not full.

Phil Gallie: I did. I totalled up the number of places that are shown on that page and found that there were, I think, 571 places too few.

Tony Cameron: Totalling up those numbers is not the right way to go about it; totalling up all the prison numbers is.

Phil Gallie: Presumably the statisticians have got the forecasting right and know better than the facts presented in the chief inspector's report.

Tony Cameron: The chief inspector gets his numbers from the same statisticians as we do.

The Convener: Mr Cameron, is your position at the moment that, as a result of the announcement that you have made, overcrowding will not be an issue?

Tony Cameron: What we have announced is unlikely to make overcrowding any different from what it would have been. Phil Gallie is correct in saying that we have overcrowding in some prisons, although not over the whole estate. In the recent past, even when we have had overcrowding in the high-security prisons—if one can put it like that—we have still had a considerable number of spare, unfilled places at the medium-security and open prisons such as Dungavel, Penninghame, Noranside and Castle

Huntly. Reducing the capacity of the open estate and the medium to low-security estate is unlikely to affect overcrowding. That was an important point in our deliberations.

The Convener: Included with the internal note that you put out to various staff on 21 October was a question and answer sheet. Curiously, it was omitted from the information that you sent to the committee. You kindly sent the subsequent question and answer sheet, but not the original one, which included the question:

"Will the inevitable overcrowding cause unrest?"

Judging by the initial advice that you were putting around internally, you have attempted to backtrack on the issue of overcrowding. Your initial response was that overcrowding would be the inevitable result of the announcement about the clawback of the £13 million.

Tony Cameron: I do not see the question to which you refer.

The Convener: It was part of a four-page question and answer sheet, which looks different from the one that you subsequently gave to us. I refer to the second last question from the end. The question and answer sheet—along with a copy of your letter dated 21 October 1999—was provided to me by a prison officer on the Friday, the day after the announcement was made. I find it curious that the question and answer sheet that was helpfully given to the committee does not use the tone of the original one. I am sure it is an oversight that that was not sent to the rest of the committee, for us to see the shift in emphasis. Are you now saying, "Will the inevitable overcrowding cause unrest?" and that your initial response in the Scottish Prisons Service was wrong?

Tony Cameron: No, and nor do I agree that there was any inconsistency or that we have changed our view. The second last question read:

"Does this mean we will face overcrowding in our prisons in a few years time?"

The Convener: With respect, that is not the second last question on the sheet that I have, which was given to me by a prison officer on the Friday immediately after the cuts. That says:

"Will the inevitable overcrowding cause unrest?"

The answer to that was:

"Supervision of prisoners is more difficult in overcrowded conditions but care will be taken to ensure that issues like prisoners visits and other regime opportunities are not affected. SPS has managed overcrowding in the past without major difficulties."

The question and answer sheet was put out to prison officers on the Friday, the day after the original announcement of the £13 million cut. Do you agree that the tone of the question and

answer I have mentioned is somewhat different to the indications that you are giving to the committee this morning?

Tony Cameron: No.

The Convener: You do not agree that there is any difference?

Tony Cameron: No.

The Convener: The committee members may make up their own minds.

Phil Gallie: Can you remind the committee, Mr Cameron, when you took over the role of chief executive?

Tony Cameron: I took over the role in September.

Phil Gallie: Can you also advise us when the review that is now being acted upon was initiated?

Tony Cameron: The review was initiated after 21 October.

Phil Gallie: When was the announcement of the £13.5 million reduction made?

Tony Cameron: The announcement was made on that date: 21 October.

Phil Gallie: Given the short time that you have been in your job, perhaps you should have had some time to settle in before you looked for major changes to the Prison Service. Is it fair to say that the real reason for this review is simply to find a quick means of cutting that £13.5 million out of the budget?

Tony Cameron: The final point is the key one. As I said in my answer to a question from the convener, we might well have taken a similar route anyway, but over a rather longer time scale. You are correct: speed is the reason why we set in hand an immediate review. The result is the internal document that I have made available to the committee.

Phil Gallie: Do you not think that the haste with which this has been undertaken could present dangers in future? On the other hand, looking at the situation at Kilmarnock, perhaps you have got something in your back pocket, which is that if this does not quite work out, you could always find another private prison option.

Tony Cameron: We have no plans at present for another new prison, private or otherwise. Circumstances may change, but that is the current position of the board. No options are without risk; the status quo is not without risk. What we did, as I think that the report I have made available to the committee demonstrates, was to take a careful look at the whole of our estate. We have reduced the capacity—

Phil Gallie: I question the word careful, given the time scale.

Tony Cameron: I am quite satisfied by that. We have reduced the capacity of the Scottish Prison Service by the fraction that we think is safest: the open prisons and the medium-security prisons, not the high-security prisons. The public would expect no less.

Tricia Marwick (Mid Scotland and Fife) (SNP): Is the previous undertaking to end slopping out by 2004-05 now achievable?

Tony Cameron: Probably not by the date at which people have generally understood that that will happen, which is about 2005. It would be technically possible, but difficult. In the letter I sent to the convener on Monday, I specifically drew attention to the board's decision that we need to decide what to do with the whole of our capital programme and our estates on the reduced number of sites. There are some spare spaces on the existing estate, in which we can invest.

Our capital programme has not been cut. We have maintained it because it provides for improvements. However, you are right that there is a tension between ending slopping out by a particular date and providing places for more prisoners, if more come to us. That is something that we need to work through; there are no easy answers. Over the medium term, we need to look at where the priorities lie.

Tricia Marwick: So the target to end slopping out by 2004-05 is directly affected by the clawing back of the £13 million? Is it no longer achievable because of the loss of that £13 million?

Tony Cameron: It may be possible, or providing more prisoner places may be possible. If you press on a balloon, it balloons out elsewhere. If it is not that, it will be something else; but that is a fair point. On our current resources, we cannot provide for increased prisoner numbers of, say, another 500—if, by 2004, we have 6,700 prisoners in our prisons—and end slopping out by 2005.

Tricia Marwick: Is it a direct consequence of the £13 million cut that you cannot guarantee that the medieval practice of slopping out will be abolished from our prisons by 2004-05?

Tony Cameron: No.

Tricia Marwick: At your meeting with us in September, which I appreciate was only about 14 days after you took up your post, you told us why work had not been carried out at Low Moss. One reason why Low Moss was in such a dreadful state was that the priority for the Prison Service—and bear in mind that this was in September—had been to end slopping out by 2004-05. As a result of that cut, a priority for the Prison Service in September is no longer the priority.

Tony Cameron: No, it is not the priority. I recall that well. Low Moss is a site that we regard as unsatisfactory, but it does have night sanitation. The board would have liked to close Low Moss, but the site is very useful. Some of the buildings on it are not very good and we are making some improvements. We have a tension: we would like to do something at Low Moss and we would also like to end slopping out. However, we may have increased prisoner numbers, which would need to be faced. Any business needs to look at the options available to it.

What I said to the committee in my letter is that we propose to have a fundamental look at our estate strategy, taking into account the pressures upon us and the resources that we have. We will do that and make some decisions some time next year, probably in the spring.

10:30

Tricia Marwick: You told us in September that you agreed that Low Moss was in an appalling condition and was rightly condemned by HM chief inspector. You said that one of the reasons Low Moss was in such a poor condition, and that work had not been carried out there, was that the night sanitation programme had priority for the Prison Service. When we asked for improvements to Low Moss, you invited us to say where we would make the cuts.

Tony Cameron: Yes.

Tricia Marwick: We now find that Low Moss has not been modernised—no work has been done—and that there is a £13 million cut. Could that money, which had been accrued in savings, not have gone a long way to modernising the likes of Low Moss?

Tony Cameron: It could, but if we had used £13 million for that, we could not have paid for the salaries over the next two years.

The Convener: With respect, you do not have the money at all now.

Tony Cameron: No, the question was contingent.

Tricia Marwick: I was quite clear on what I was leading to. You accrued £13 million. You suggested to us in September that no work was done at Low Moss because the night sanitation programme had priority. You were sitting with £13 million, which you had not spent on Low Moss. Completion of the night sanitation programme by 2004-05 is no longer a priority. Everything that you told this committee in September has been turned on its head. Do you accept that?

Tony Cameron: No, not at all.

Tricia Marwick: So night sanitation is not

happening, but that has not been turned on its head? Low Moss had never been improved because of the night sanitation programme. You have lost £13 million, which you were allegedly accruing for something. Low Moss is in a truly appalling condition and we have no night sanitation programme to be completed by 2004-05. Do you think that that is progress?

Tony Cameron: I do not agree that Low Moss is in a truly appalling condition, nor did I say to the committee in September that it was. I said that the programme of capital works was focused on ending slopping out.

Low Moss is a valuable site. We are quite open about the fact that the buildings are less than satisfactory. It is untrue to say that no money has been spent on Low Moss; money has been, and will continue to be, spent on Low Moss.

You are right that the comprehensive spending review undertaken by the Government before the Scottish Parliament elections made improvements in night sanitation the No 1 priority for the capital programme—in sites other than Low Moss, as it already has night sanitation. I told the committee that that was the policy. I am now telling you that it is unlikely that we will achieve the 2004-05 aspiration—I do not agree that it was a target—particularly if we have to find accommodation for increased numbers of prisoners.

Tricia Marwick: I accept that you did not tell us that Low Moss was in an appalling condition in September. You had not visited Low Moss then. Have you done so since then?

Tony Cameron: Yes.

Tricia Marwick: I refer you to the evidence that you gave to this committee in September. You said:

“One of the reasons that less has been done there is that a ministerial decision was taken that the priority for the Prison Service was to end slopping out by 2004-05.”

When Christine Grahame asked you about the wooden huts and the disgraceful state of Low Moss, you posed a question to the committee. You said:

“What would you like to cut in order to do the work at Low Moss? The night sanitation programme?”—[*Official Report, Justice and Home Affairs Committee*, 14 September 1999; c 151-52.]

The work at Low Moss was not done and the night sanitation programme has been cut, so do you no longer have the priorities that you had in September?

Tony Cameron: The capital programme has not been cut since I appeared before the committee in September. However, work to refurbish prisons where night sanitation has not yet been installed will be logistically more difficult if we have an

increased number of prisoners, because one has to decant whole halls to carry out the work. That is the tension between providing spaces for more prisoners and running the estate at near its total capacity, and ending slopping out. We have the same capital programme and the same amount of money to spend on capital works as we had in September.

Tricia Marwick: However, the £13 million that has been taken could have made a big difference to the prison estate.

Tony Cameron: If £13 million out of our total resources had been added to the capital programme, you are right. If you postulate that, instead of having a capital programme of almost £20 million, we had a capital programme of £25 million over two years, we could make a big difference. That would mean that that money was not available to spend on current expenditure, 80 per cent of which is on salaries. As I said, the £13 million is best regarded as a contribution to all the money that the SPS spends.

For example, we could have refused our staff a pay increase this year, next year, or the year after, but that is not what we would wish to do. We could have cut the numbers of staff by more. You are right that all sorts of options would have been open to us, and are still open to us, to reduce the number of staff by a greater number than we think is sensible, to provide more capital expenditure. If you are suggesting that I should cut the salary budget to provide more capital, we will consider that, but we have not regarded it as a sensible option.

The Convener: With respect, you have announced that you will cut the salaries budget over the next couple of years—you will reduce the total number of prison officers.

Tony Cameron: Indeed, but the suggestion that I am hearing is that we should cut the salaries budget further to provide capital.

Tricia Marwick: I am not making any sort of suggestion.

Tony Cameron: I misunderstood.

Tricia Marwick: When you were here in September, you said that Low Moss had not been improved because the priority was the night sanitation project. That project is no longer on target for 2004-05. Low Moss has not been improved. You have allowed £13 million that has been accrued over the years to go into the greater Scottish block.

Tony Cameron: On your last point, ministers decided to redeploy the money elsewhere in the justice programme, as it is their perfect right to do. You will agree that it is a matter not for me, but for the Executive Cabinet, which took the decision.

Pauline McNeill: I want to return to the matter of efficiency savings. I appreciate that you have been in post for only a short time, but this committee requires some answers. I give you notice that if we do not get them today, we will have to have them. As I understand it, efficiency savings occur after all bills and salaries have been paid. Over how many years have efficiency savings been accrued?

Tony Cameron: Four, five, maybe more—I am guessing.

Pauline McNeill: For more than five years, you have been making efficiency savings in the Prison Service over and above the payment of salaries, over and above the fact that you have said in your evidence that you have resolved the problem of overcrowding.

Tony Cameron: I do not agree that efficiency savings have been made over and above the payment of salaries.

As I understand the position, the SPS has accrued efficiency savings in its operations pretty well since it was formed in the early '90s. It will continue to do that. Any business that does not seek continuous improvement and greater efficiency to pay its way will be in difficulty.

Pauline McNeill: All parts of the public sector—remember that this is the public sector and not a business—make efficiency savings, as a matter of course, once they have paid for everything for which they are due to pay, including salaries. You are saying something quite different.

Tony Cameron: It is not once they have paid their salaries—

Pauline McNeill: If you have not paid your salaries, how can there possibly be savings?

Tony Cameron: Every part of the public sector—and, indeed, the private sector—is required to conduct a rigorous continuous search for efficiency improvements. The budgets of departments are set on the assumption that such improvements can be gained. For example, no pay rises are allowed for in the budgeting process. Pay rises must be generated by efficiency savings by the Prison Service and other agencies. That creates a spur to achieve greater efficiency. We will continue to search for efficiency savings. We are, of course, in competition at the margin. The taxpayer has a perfect right to expect every pound of taxation to be stretched as far as they would stretch their own spending.

Pauline McNeill: I realise that, obviously.

Tony Cameron: It is a very important point.

Pauline McNeill: Usually, efficiency savings are made for a purpose. Did you have a purpose in mind as you accrued efficiency savings over the

past five years or more?

Tony Cameron: The purpose was to contribute to the expenditure of the whole of the Prison Service. We did not have £13 million of accumulated savings; we had £24 million, of which £13 million has been redeployed, leaving us with £11 million. What you think that money would have been spent on is a matter of semantics. I repeat my view that it would have contributed to every pound of spending by the Prison Service over the next two or three years. It was part of our spending power. There would have been the same effect if ministers had decided to cut the baseline—forget EYF and accumulated savings—and redeploy £13 million elsewhere. Nobody would then have asked what we would have spent our baseline on, as it would have been obvious. The fact that the money is from end-year flexibility is just a piece of semantics.

Pauline McNeill: I give notice that I am not happy with the answers that I have heard this morning. I ask the service to think about this and to give us a real understanding—not semantics—of where the efficiency savings came from, heading by heading, as the convener has already requested.

Will the savings from the proposed closure of the two open prisons be in addition to what you have just said?

Tony Cameron: We are not closing two open prisons. We are closing one open prison.

Pauline McNeill: Will the savings from the proposed closure of the two prisons be in addition to the efficiency savings?

Tony Cameron: We are closing three prisons, mothballing a unit, and amalgamating some prisons.

Pauline McNeill: And that will result in further savings?

Tony Cameron: No, that is how we will make the savings—by closing prisons and reducing staffing.

Pauline McNeill: Is that in addition to the £13 million/£11 million that you talked about earlier?

Tony Cameron: I do not understand the question.

Pauline McNeill: If you close three prisons, you save on salaries; is that in addition to the savings that you have made over the past five years?

Tony Cameron: We have not made the savings over the past five years. We will make the savings over the next two years. What has been redeployed is £7 million this year, and £6 million the year after, which we would otherwise have spent. The closures and reduction in staff are to

enable us to live within our baseline of more than £200 million. We make efficiency savings by closing prisons, reducing staff, switching off the heat and power, and so on, and distributing the assets of those prisons across the rest of the estate. By doing that, our running costs will be £10 million or £11 million less than they otherwise would have been, as the paper that you have before you says.

10:45

Pauline McNeill: I would like to move on from that. Do you project a decline or an increase in the prison population?

Tony Cameron: I do not project prison populations, the statisticians do. The paper before members gives their forecast.

The Convener: Mr Cameron, I do not think that that is an appropriate answer. You are the chief executive of the Scottish Prison Service and you have a duty to be clear to the committee about the Scottish Prison Service estimates of prison population.

Tony Cameron: We do not make those estimates.

The Convener: Are you saying that the Scottish Prison Service makes no estimate of prison population?

Tony Cameron: We share a group of statisticians who work for the Scottish Executive. They provide the projections of prisoner population, based on the actions of the courts. We do not decide how many people we are going to receive. That is decided by those who pass the sentences.

The latest estimate of projected prison population can be found on page five of our paper. We gave the first two figures on actual populations: 6,029 and 6,000. The other four figures on projected populations were provided by the statisticians, based on their models of sentencing behaviour.

The Convener: What is the strategic steer for prison governors?

Tony Cameron: Sorry?

The Convener: "September 1999, the strategic steer for governors in charge of establishments projected that the prisoner population would reach some 6,700 on average by the year 2003-2004."

Is that correct?

Tony Cameron: Yes, based on the figures that have been given to us by the statisticians.

The Convener: The internal estimates that were being used by the Scottish Prison Service in September 1999 were 6,700 prisoners by 2003-

04. In November 1999, the figure had suddenly changed to 6,000.

Tony Cameron: No, the figure is still 6,700, as is shown on page five of the paper in front of you. We have not changed the numbers. We expect to have 6,000 prisoners in this financial year.

The Convener: Do you expect the prison population to increase, rather than decrease?

Tony Cameron: Absolutely.

The Convener: So you intend to close establishments in the face of an expected increase in the prison population?

Tony Cameron: Yes.

Pauline McNeill: I have a few more questions. As the chief executive of the Scottish Prison Service, do you have concerns about future overcrowding?

Tony Cameron: Of course I would be concerned if overcrowding were to reach high levels. Very high prisoner numbers would inhibit prisoner programmes and the good work of my staff in preparing prisoners for release and in addressing their offending behaviour. That work would be jeopardised by very high prisoner numbers.

Pauline McNeill: Will you make representations to the Scottish Executive about those concerns?

Tony Cameron: As members know, the relationship between ministers and their civil servants is a matter for them. I am not at liberty to divulge that information.

Pauline McNeill: Will you make representations to anyone about your concerns about overcrowding? As Trish Marwick said, it seems unlikely that you will meet the aspirations for ending slopping out. Will you raise those concerns?

Tony Cameron: The position that I have outlined today is not secret. There are risks in the future, just as there are risks in the status quo.

The fact is that the prison places that we have closed tended to be those that we found difficult to fill. The overcrowding that has existed in Scottish prisons for many years tends to occur in the high security prisons—Barlinnie, Edinburgh and so on. We have not done anything to that sector. We have gone to great pains not to make a salami slice of cuts across the service. We have concentrated the effects of the cuts. The board took the strategic view that we could either salami slice the entire service—everything would take a percentage cut, which would hit the good, the bad and the indifferent—or we could concentrate the effect by the difficult task of closing establishments, saving whole places, particularly

in the open prison estate.

Pauline McNeill: I hope you will take on board the committee's fears about the future of the Prison Service, particularly in relation to creating more civilised conditions in prisons and to rehabilitation programmes. I would like to hear today that you will take our concerns on board. While the redirection of the £13 million may be a good thing, I think it is part of your role to reassure us that the Prison Service as a whole will not suffer.

Alastair MacIntyre (Scottish Prison Service): I am a businessman and a non-executive director of the Prison Service. I am struck by the tremendous commitment, hard work and quality of the staff at all levels in the Prison Service compared with my experience of the business world. In the rigorous process of deciding what our programme would be, consistent concerns have been expressed by the members of the board about the impact of the changes on staff, on training and development and on taking the service forward.

Speaking personally, I came into the Prison Service because I believe in it and I want to make a contribution. As a Scotsman I am as concerned as you are as MSPs about slopping out and if there was anything I wanted to see achieved faster it was ending that medieval—

Pauline McNeill: It was?

Alastair MacIntyre: It worries me. As you can see from our corporate plan, we aspire to a 21st century prison service. We ought to be setting an example. It is nearly the new millennium and we have prisons built largely in the 19th century and we have slopping out. It is disappointing. We are trying to achieve an end to it within the stated time scale but we would not be honest if we did not say that it is likely to be into the second half of the first decade of the millennium before we get it sorted.

Pauline McNeill: Thank you for your honesty. My final question is whether closing an open prison is likely to be a detriment to the service. I would have thought open prisons contribute to diversity.

Tony Cameron: There are three open prisons. Over the past few years, try as we might, we have had enough prisoners to fill only two of them, so if we have to make reductions that seems the best place to do it.

Pauline McNeill: Why is it difficult to fill them? Who determines that? Do prisoners have a choice?

Tony Cameron: They do.

Mike Duffy (Scottish Prison Service): It is based on security category and perceived danger

to the public. A risk assessment process is in place. All the time, prisons are identifying people who they see as suitable for open prison. As Mr Cameron said, in recent years there have been vacancies, to the equivalent of one open prison, even at times of gross overcrowding in the rest of the estate.

Christine Grahame: I think I understand the now you see it, now you don't £13 million. It would have been used to fund the prisons that are closing, to pay salaries and fund the end of slopping out.

Tony Cameron: You have almost understood it.

Christine Grahame: That is good. I am pleased about that, because I have listened very carefully.

Tony Cameron: The money would have been spent on all the things that you mentioned, as well as others.

Christine Grahame: But you have said why this is happening—plain connection has been made for me.

I now refer you to your corporate plan, to the evidence that you and Mr Clive Fairweather gave at the Justice and Home Affairs Committee's meeting of Tuesday 14 September, to the report of the chief inspector of prisons and—if I get the chance before Roseanna cuts me off—the papers that we have received from Penninghame prison.

On page 15 of your corporate plan, which is dated August 1999, you say:

"The number of prisoners is projected to rise to an average of 6,200 in 1999-2000".

That is not what you are saying now.

Tony Cameron: That is right.

Christine Grahame: On page 16, under goal 1, you mention

"eliminating or at least minimising overcrowding".

Does that remain an aim?

Tony Cameron: Yes.

Christine Grahame: Further down, under goal 3, you refer to "ending slopping out".

Tony Cameron: What page are you talking about now?

Christine Grahame: I am referring to the second line from the bottom on page 16. That objective is now being deferred because £13 million is going elsewhere.

Chapter 5 on page 18 gives prison population projections for 1999-2000 through to 2001-02. Are those now wrong? Are they different?

Tony Cameron: They are different.

Christine Grahame: In two months, they have become different.

Tony Cameron: Not in two months.

Christine Grahame: This plan is dated August 1999.

Tony Cameron: That is when it was published. It is based on figures that were produced considerably earlier than that.

Christine Grahame: When?

Tony Cameron: In March.

Christine Grahame: When were the current figures produced?

Tony Cameron: In September—after the plan was published, in other words.

Christine Grahame: On page 20 of the document, under the heading "Staff Relations", you say:

"The Scottish Prison Service remains committed to good relations with staff, and to improving communications. Formal and informal industrial relations involving information, consultation and negotiation with recognised trade unions are pursued through Whitley Council mechanisms."

I refer to that because the prison officers might have a different view on whether that was the case here.

Tony Cameron: Do you mean prison officers or my staff?

Christine Grahame: Prison officers—people who are going to lose their jobs, and so on.

Tony Cameron: This is not a matter solely of prison officers. The majority of staff in the SPS are not only prison officers. It is important that we do not forget that three trade unions are recognised.

Christine Grahame: But you remain committed to good relations with staff?

Tony Cameron: Indeed.

Christine Grahame: I do not want to go back over the issue of slopping out, which Tricia dealt with thoroughly. We now know why the goal of ending that has been dropped, although it is a barbaric, Victorian practice that is not appropriate to a new century—that is one of the costs that we must pay.

I want to ask about prison numbers. The figures vary over a period of a few months, so we do not really know what numbers we are dealing with. Do you concede that they could vary again within a few months?

Tony Cameron: Yes.

Christine Grahame: That means that your projections about the capacity that you require

could be completely wrong.

Tony Cameron: That is possible.

Christine Grahame: They have changed within the space of a few months.

Tony Cameron: That is why it is difficult to plan. The best basis for planning is the statisticians' projections. We do not make up the numbers that we might like to see, but take them from the statisticians. Those form the basis for our judgments. Like all forecasts, projections can turn out to be wrong—for all sorts of reasons.

Christine Grahame: Yes, but you are erring on the way down, which is handy.

Tony Cameron: I agree, but the figures could move in the other direction. I am not arguing that there is a static prison population, just that we have observed a static prison population over the past two or three years. That was not expected, but it has turned out that way.

Christine Grahame: I refer you now to the *Official Report* for our meeting of Tuesday 14 September, at which Mr Clive Fairweather was giving evidence on the complicated matter of prisons capacity. He said:

"I suspect that that means that pockets of overcrowding will continue for the next couple of years at least, although, in theory—provided that the prison population steadies at 6,000—there will be spare capacity to allow the refurbishment to take place."

That ties in with the fact that you will not be able to have decanted prisoners anywhere because they will be squeezed into the minimum amount of space.

11:00

Tony Cameron: Not at current numbers.

Christine Grahame: Mr Fairweather goes on to say that an increase in numbers

"will affect the refurbishment programme and reduce the Prison Service's options".

Furthermore, he says:

"Of course, if we have overcrowding again, it will reduce the ability of the staff to continue various programmes; they will be forced back into dealing only with what is in front of them."

You concede that point. Mr Fairweather says that it is a complicated matter, but then comments:

"Spare capacity is needed because, if there is trouble in a prison, there must always be somewhere to decant inmates to. The number is kept to the absolute minimum, but it will always be required."—[*Official Report, Justice and Home Affairs Committee*, 14 September 1999; c 101.]

When the three prisons close, will there be spare capacity during refurbishment or if there is trouble?

Tony Cameron: At current numbers, yes.

Christine Grahame: Which are?

Tony Cameron: Six thousand.

The Convener: But you have conceded that the numbers will increase to 6,700.

Tony Cameron: Yes, but we will examine our estates and capital programmes to find out the best use of the capital programme. We can use some of the capital for increased capacity or for other purposes, but it is open to us to adjust the capital programme. That is why my letter specifically says that the board's most significant decision is to examine the capital programme.

Christine Grahame: In your evidence to the committee on 14 September, you said:

"The capacity of the system, a subject on which Clive Fairweather and his team spoke, is 6,650 prisoners. Overcrowding has been reduced, although the problem has not been solved completely. Overcrowding depends on prisoner numbers, which is not something that the service is able to anticipate. We have to receive all those who are referred to us. However, easing of overcrowding will enable the estate to be improved."—[*Official Report, Justice and Home Affairs Committee*, 14 September 1999; c 146.]

I am concerned at that disclaimer about the reliability of projections for the prison population.

Tony Cameron: The projections are indeed uncertain.

Christine Grahame: You seem to be saying that it is the fault of the statisticians. All you do is rely on them.

Tony Cameron: There is no better basis. We could make up the statistics ourselves.

Christine Grahame: That means that there is not a lot of slack. If there is an increase in numbers, refurbishment or trouble, you will not have room to manoeuvre.

Tony Cameron: We will see whether we have room to manoeuvre.

Christine Grahame: We will, won't we?

Tony Cameron: We will.

Christine Grahame: You said that the report of the chief inspector of prisons was fair. On Dungavel prison, he said:

"In conclusion we recognise that there has been a remarkable transformation at Dungavel, partly due to changes in management, efforts by staff and finally, some much needed clarity about the establishment's future. Whilst a drug sub-culture previously flourished in an environment recognised to be boring, we sense that it should now be possible to create a drug-free establishment. Drugs and other key issues are now being addressed in a structured, cohesive and realistic way, by a closely knit and enthusiastic management team."

That prison certainly sounds like a good candidate

for closure. Do you accept that the report was fair?

Tony Cameron: Absolutely.

Christine Grahame: In the light of that conclusion, how did you decide that that prison should be closed?

Tony Cameron: Mike Duffy's team examined all the establishments. The press release that Clive Fairweather issued on the same day as ours said that our rationalisation was good.

Christine Grahame: I did not ask that.

Tony Cameron: I know that you did not ask that, but—

Christine Grahame: You said that the report was good. Why have you targeted a prison that seems to be going in the right direction? What were the criteria for that decision?

Tony Cameron: The criteria are set out in the paper on the options for the rationalisation of the SPS estate. The first option was to close Longriggend and Low Moss, which we did not do for custody and order reasons. We considered a number of criteria. Mike Duffy will tell the committee what his team examined at Penninghame.

Christine Grahame: I got this 22-page document only today, and I have not had the opportunity to look at it. At the convener's discretion, we might have to have you and other witnesses back, because I have certainly not been able to digest all the information in the many papers that are before us. However, based on what you have said, the report on Dungavel is good. I want to move on to discuss Penninghame.

Tony Cameron: If you look at annexe A of the paper before you, you will see that—

Christine Grahame: I will look at it when I get the chance.

I move on to Penninghame. Page 39 of the report says:

"With regard to some of the current physical conditions at Penninghame, it was evident from a brief look round the kitchen that much of its ancillary equipment would soon be time expired. We therefore welcome plans which are being drawn up for a completely new development adjacent to the present site. It was noted that the ad hoc gymnasium arrangements were being well used though they bore no comparison to the excellent facilities just inspected at Noranside. Generally, however, the much more relaxed approach to recreation, visits, etc., was an example which the latter might wish to consider following.

Lack of time precluded an in depth assessment of staff morale, but those individuals spoken to appeared confident and happy."

The report also states:

"A number of prisoners were spoken to at random and were all extremely positive about their time at

Penninghame."

The paper on Penninghame, which the witnesses will have seen, mentions simple things such as value for money. Apart from the plaudits that the prison appears to have received, not just from the prisoners and the prison staff but from the community, it shows that the cost of a prisoner at Penninghame is £17,137. Compared with the average SPS annual cost of £28,761, that seems to be money well spent in a successful open prison. Are the criteria for closing the prison also included in the papers that I have just received?

Tony Cameron: They are in annexe A.

Christine Grahame: I have to say that it surprises me that those two prisons are earmarked for closure.

Tony Cameron: You mentioned Clive Fairweather's report, which is a good report overall and says some useful things. In his press statement on 16 November, he said of Penninghame:

"This open prison has served a very useful purpose in the past in preparing long term prisoners for release into the community . . . Nevertheless it is in a very isolated location, especially for family contact. One of the other open prisons in Scotland, at Noranside, near Dundee, is under capacity (indeed we criticised it for that last year). It seems sensible to rationalise here."

Christine Grahame: I will have to look at that report, but that is not the point. From the prisoners' point of view, Penninghame is a successful open prison. I hate the word rationalisation, but your use of it indicates that you will cut something. I lived in Newton Stewart for years, so I know from experience how the community accepts the prison and the prisoners. I am therefore unhappy to see that recommendation.

Tony Cameron: It was not always thus, as you will remember. The local community has had mixed views over the years about the prison.

Christine Grahame: I would dispute that.

My last point concerns the morale of the staff, an issue that I would like to discuss with prison officers later. I am most concerned about the way in which the people who work in the Prison Service have been dealt with. When you came before us in September, were you aware that £30 million—or a substantial part of that little piggy pot—would have to be taken away from the system?

Tony Cameron: No.

Scott Barrie: A number of my questions have already been asked by other members, so I shall be brief. I have been able to skim through the papers only briefly while others have been talking. However, it appears that, in the arguments for and against closure, both Penninghame and Dungavel

are identified as being on prime sites that could easily be disposed of on the open market for around £1 million. Is that the real reason for those two prisons being identified, rather than some of the other arguments that have been articulated this morning?

Tony Cameron: No.

Scott Barrie: Although you accept that those are the only two prisons that have market values next to them in the column covering arguments for closure.

Tony Cameron: No, they all have market values.

Scott Barrie: I was unaware of that. We will examine that in greater detail.

Tony Cameron: They all have market values.

Scott Barrie: Those are the only two market values that are mentioned.

Tony Cameron: They all have market values, but I agree that for the next three, they are not stated.

Scott Barrie: It is interesting that the two that are identified for closure are the two that have market values attached to them.

Tony Cameron: That is deliberate, as those are the ones that we are closing.

Scott Barrie: You could draw different conclusions. Perhaps you can see why I did so.

On Shotts prison, which is not one of those identified for closure, the report says that other savings will be accumulated by amalgamating the complex, yet the column covering arguments for retention says that one of the advantages of Shotts is that it provides segregated accommodation. Are those two contradictory?

Tony Cameron: No. The prison will still provide segregated accommodation. We are talking about management, not accommodation.

Scott Barrie: On the capacity issue, which the convener and others have touched on, you project that by 2003-04 the number of people in prison should total about 6,700, which will leave a shortfall of about 500 places. I am aware that different prisons have different categories of prisoner and that the categories do not always correspond to the number of places required. Should we consider rationalising our prison accommodation when the figures are due to increase and will lead to increased overcrowding? Presumably, that will accumulate year on year if we have a shortfall of places.

Tony Cameron: Yes, because rationalisation will allow us to concentrate on a smaller number of sites. As you observed, our decisions do not affect

overcrowding in the high-security estate. You are right that by 2003-04, if we have 6,700—that number comes from the statisticians—we will, on the figures of estimated available capacity, be 500 places short. That is equivalent to a medium-sized high-security prison.

However, there is time between now and then and we have some spaces on our existing estate. It is not all full, and as I said earlier, we will examine our capital programme and our estate fundamentally to see what we can do. By closing the prisons, we are concentrating our effort on fewer sites. We will not be spreading our effort to the three sites that we will have closed and the one that we will have mothballed. There will be four fewer establishments to manage.

Scott Barrie: I hear what you are saying about your ability to rationalise the use of the prisons that will remain, but you have not been able to do that up to now. Unless there is a difference in the category of prisoners—a point that Pauline McNeill alluded to—it seems unlikely that we will be able to reduce overcrowding in higher-security prisons.

Tony Cameron: Work has been done and continues with that objective in view. The top line of the table, on page 5 of the paper, shows that the estimated available capacity over the six years in the table rises, then stabilises. We must consider that again and try to improve it.

Scott Barrie: I read the table as saying that the estimated available capacity will increase, then fall.

Tony Cameron: It increases, falls, then stabilises. The last four columns are not statistically different.

Scott Barrie: The figure stabilises after a fall.

Tony Cameron: And after the rise.

Scott Barrie: No, after an increase.

Tony Cameron: Okay, but the figure stabilises over the last four years of the table.

Mrs Lyndsay McIntosh (Central Scotland) (Con): For the record, and for the education of your staff, can you tell us what the Prison Service's priorities will be, bearing in mind that they change from month to month?

Tony Cameron: Custody, good order, care and opportunity.

Mrs McIntosh: I have a feeling that you will be making yet another return appearance, by popular demand. Will those priorities not change between now and the next time that you appear before us?

Tony Cameron: No.

Mrs McIntosh: Can you tell us about time off in lieu? Why, if so much money is swilling around in

the budget and savings can be made, have the number of hours for time off in lieu not been made up to your staff?

Tony Cameron: And the time that they owe us should be made up as well?

Mrs McIntosh: Give us the balance. Who owes whom?

Tony Cameron: We always owe them. There is nothing peculiar about that.

Mrs McIntosh: But if savings were to be made, why could your staff not get time off in lieu of pay?

Tony Cameron: There is a balance to be struck. We need to run a service and there is a contract between the SPS and our staff that involves time off in lieu, which is voluntary in all cases.

11:15

Peter Russell (Scottish Prison Service): Time off in lieu has reduced by around 20 per cent over the past year. It currently sits at about 20 hours per member of staff. That is a little over two shifts. Many staff find that a convenient arrangement. People on flexitime in offices often like to have some time in their back pocket to allow for contingencies. Some individuals have excessive TOIL, but overall, TOIL has been reduced.

Mrs McIntosh: You intend to close prisons and to draft the money towards the drugs enforcement agency, but are you not planning for failure? You do not seem to be making sufficient contingency plans for the success of the drugs enforcement agency in putting more people in prison.

Tony Cameron: Those arguments suggest that the numbers that the statisticians use do not allow for that. I do not know whether they do. One could also argue that the alternatives to custody might have the opposite effect. Laymen can debate whether the figures are right or wrong, but I am not in a position to do that. Like us, the statisticians are aware of Government policy and the effects of sentencing. They have reached their best estimates accordingly.

Mrs McIntosh: I am glad that you brought up the question of statisticians. My understanding is that the statisticians have been wrong on several occasions. Why are you basing so many of your plans on evidence which, if it were presented in a court of law, would be found to be not credible? In court, that could result in your being put in prison.

Tony Cameron: I do not recognise that analogy. All I can say is that forecasting is a difficult business, which does not mean that one should not make use of it. The forecast is based on the best available evidence. The committee is welcome to choose its own figures, but I do not think that the statisticians are likely to be as wrong

as most other folk. That is their job.

Mrs McIntosh: On the evidence that we have heard so far, that would appear to be questionable.

Tony Cameron: Hindsight is a wonderful thing.

Mrs McIntosh: Indeed, 20:20 hindsight is a wonderful thing; we are always smart after the event.

The Convener: I have said that Gordon Jackson will be the last questioner and I am sticking to that, although I can tell that other members still have questions.

Gordon Jackson: Let us say that you are right. I can tell that you are surprised by that comment. However, suppose that you are right and it is appropriate to make cuts and to rationalise and that Clive Fairweather is also right and that what you are doing is a good thing. Mr Fairweather concentrates on the problem that would arise if the prison population increased. That is my concern, too. He says:

"Provided numbers remain at roughly present levels for the foreseeable future . . . I would think that these closures are not only manageable, but are to be welcomed."

I can live with that. However, he wonders what would happen if numbers did not stay at that level and whether your projection of 6,700 is accurate. If I may say so, I find you a little woolly in telling us how you intend to deal with that. I am not as concerned about why you are making the cuts and why, with current numbers, that is manageable—I can be convinced on that—but what do you propose to do if the number of prisoners goes up to 6,700? Rather than saying that the solution is that you will look at the figures and consider the matter, what do you think specifically, and in—perhaps literally—concrete terms, should be done about it?

Tony Cameron: There are two options in those circumstances. First, we will have very high numbers in relation to available prisoner places, and we will have to cope with significant overcrowding. The other option is to provide more prisoner places than we have resources to do now. We might be able to make some adjustment by reordering our capital programme. I repeat that that is why we will have a fundamental examination of that programme.

You are quite correct to assume that we are unlikely to have enough slack in our available capacity to provide for 6,700 prisoners. In such circumstances, the Executive needs to take a view on whether and, if so, how to provide extra spaces.

Gordon Jackson: I am asking you what you want. Assuming that we do not want chronic

overcrowding—it is dangerous and bad—what do you want from the Executive to address the problem? Do you want a new prison, or more blocks at Saughton and Barlinnie? Do you have a concrete proposal on how to deal with the problem?

Tony Cameron: That is precisely why the board took the decision, which I have described as one of its most important decisions—if not its most important decision—to produce a set of options.

Gordon Jackson: When will we get those specific suggestions on how to deal with 6,700 people?

Tony Cameron: Next year. That is exactly the piece of work that we have decided to get. It is not a quick piece of work, because it requires a close examination of the existing estate, as well as consideration of the option, to which you alluded, of building another prison. In the table on page 5, 500 places are equivalent to another high-security prison or to four or five house blocks on existing sites.

Gordon Jackson: Can I press you on this? When next year might we expect to get your suggestions on how to cope with the situation?

Tony Cameron: The first people who will receive that piece of work will be the ministers who take decisions and make proposals. They will receive it in the spring.

The Convener: That ends this section of the evidence on prisons. I thank the witnesses for their attendance—they are welcome to stay to hear the remainder of the evidence.

Committee members will be aware that we have overrun considerably. We have other items on the agenda. It is my intention to push the end of the meeting past 12.30 pm. Labour members do not have a group meeting today. I appreciate that some members will have meetings, but we might need to work on after 12.30 pm to ensure that we finish our work today. We will try not to be too late.

I apologise to the witnesses from the trade union side, who have had to sit here for considerably longer than they anticipated. I hope that they understand why that was considered appropriate. I thank them for their forbearance.

We have continued confusion about the trade union side in the Prison Service. Because it is the biggest union, there is a tendency to refer to the trade union side as the Scottish Prison Officers Association, but the trade union side is more than just the SPOA. Today we have before us Andrew Hogg, secretary of the trade union side, and David Melrose, chair of the trade union side. David Melrose is also chairman of the SPOA, which helps to add to the confusion, and Derek Turner is general secretary of the SPOA.

We will proceed directly to questioning. I have an initial question. The chief executive made references to a clear indication that was supposed to have been given in the spring this year in respect of likely job losses. I mentioned to Mr Cameron a minute that had been provided to me and which did not make matters clear cut. I would like to hear the trade union's views on that.

Derek Turner (Scottish Prison Officers Association): We were confused when we read Mr Wallace's comments in the press, because the minute did not indicate that there would be job losses. We believed that too many staff had been recruited but that the situation would be remedied through natural wastage.

In the period from March to now, an extra 123 prison staff have been recruited, which seems strange in light of the minister's statement. We have difficulty understanding such contradictions: how can the financial planning of the organisation allow staff to be recruited at a time when we have been told that staff must be shed?

Phil Gallie: You mentioned natural wastage, but is not the average age of staff in the Prison Service about 28? That suggests that there will not be a lot of natural wastage in the future.

Derek Turner: The figures that we have been given show that natural wastage runs at about 138 a year. We can be sceptical of that figure as, on top of natural wastage, people will leave to get other jobs and others will retire. There are difficulties with the figure as it is hard for the statisticians to work out exactly how many will leave.

Phil Gallie: Am I right to say that the average age is 28?

Derek Turner: It is very low, yes.

Phil Gallie: So not many people will retire from the service.

In answer to a question that I asked in the chamber about time off in lieu, the Minister for Justice said that around 110,000 hours were outstanding. How easy is it for your members to claim that time or equivalent overtime payments?

Derek Turner: There are no overtime payments in the prison system, although ex gratia payments are sometimes made for additional attendance.

The number of hours of time off in lieu that were outstanding in August was 101,208. That rose to 101,643 in October. Staff owe the service 27,500 hours.

The difficulty with a system of time off in lieu is that not everybody works it. It is a personal choice: some people work more time because they want the staffing level to be maintained. Such people accrue more than 500 hours. That makes it difficult

to break the figures down into an average. It is difficult for staff to claim their hours. Posts have to be covered and there is a lot of pressure to meet targets that have been set.

Phil Gallie: Have you examined the time off in lieu that has been accrued by those at Dungavel and Penninghame? Is time off in lieu a problem in those places or only in overcrowded prisons?

Derek Turner: Overcrowded prisons are an anomaly. We are discussing the need for prisons to lose staff as the numbers of prisoners have dropped. In the past, we have found that there has been no help for the Prison Service when prisoner numbers have gone through the roof. When Barlinnie had 1,500 prisoners, no additional resources were provided.

History shows that we cannot predict the number of people who will be imprisoned. We feel that the policy is short-sighted and will have a grave impact on the working conditions of prison staff in the future.

Phil Gallie: Did the staff feel that there was always a safety net in the form of additional positions in the Scottish Prison Service that had not been taken up, and that that brought them some comfort when things were at their peak?

11:30

Derek Turner: We went through a bad time in the late 1980s, when there were prison riots. It was difficult for the whole of the Prison Service. Thankfully, the situation has stabilised considerably, but we should not lose sight of the fact that such things can happen at any time in a prison system. If we reduce the number of available places now, we will have very few contingency spaces left, should something happen to the service: we would need to move prisoners, for example, if a hall or an accommodation block is lost someplace.

Phil Gallie: I recognise that my next question will not be too popular, because I will refer to the private prison at Bowhouse, Kilmarnock. Have you any idea of the running costs there? Can you tell us about the differences for staff between serving in the SPS and serving at Kilmarnock? Do you view it as part of a hidden agenda that, if a crisis arises in the future, further private prison facilities might be the option?

Derek Turner: I would love to be able to tell you the cost per prisoner place at Kilmarnock, but we are told that that is commercially confidential. We cannot find out that figure. That is a concern for us, because Kilmarnock prison is held up as the paragon of virtue against the public sector. It is an uneven playing field, as we do not know what we are being compared with: it is like comparing

apples with pears.

We hope that the proposal to use house blocks and vacant space within establishments is the preferred option—perhaps the cheaper option—should further accommodation be required. We recognise the potential for speculative buying by private sector companies if prisons such as Dungavel are shut for future refurbishment. That is a fear for us.

David Melrose (Scottish Prison Service Trade Union Side): I believe that the option to put in place additional spaces is part of the contract for Bowhouse. I understand that the number of spaces there is around 192. If we take the scenario that the present public sector accommodation becomes overcrowded, it would seem to me that the private sector could then be used for additional spaces—which are available at Bowhouse. My understanding is that there will be a doubling up process: if a prisoner is in a single cell, he will have a partner shortly. It is those 192 extra spaces that are available through the contract for Bowhouse, and they may be used should the overcrowding in the public sector increase.

Phil Gallie: Thank you—that was helpful.

Mr MacIntyre, the non-executive director of the Scottish Prison Service, emphasised his commitment to the service, which I do not doubt in any way. Would you like to give your opinion on the business approach to making such a major decision in such a short time scale: from 21 October to the announcement last week? That seems a remarkably short time in which to make such a major statement.

Derek Turner: That is a real cause for concern to us. We believe that the decision represents one of the biggest impacts on the service in more than 100 years. We were incredulous about the time scale involved. We went from losing £13 million from the budget to closing a number of establishments and shedding 400 posts in the service. It was difficult for us to become involved in such a process because of our limited resources.

David Melrose: My colleagues and I share some knowledge from 1998, when there appeared to be a major strategic review of the Scottish Prison Service. I am very concerned that, in that review, mention was made of closures and rationalisation of the estate. My understanding is that although the exercise took a short time, we are in fact going back to September 1998 when the prison board was well aware that there might be a need to rationalise the estate. Some of the establishments targeted for closure, including Longriggend and Friarton, were mentioned then. It is not the case with Friarton now, but it was with Penninghame.

Phil Gallie: Longriggend and Low Moss were thought to be ripe for closure, but that did not come across to me in the most recent inspector's report.

David Melrose: I do not know whether the prison inspector was aware of that review. We certainly were not. It has just come to light.

The trade union side was involved in the working group that discussed the closure of Longriggend. I am sorry that you do not have a copy of the population and accommodation review, but the opening statement in paragraph 1.1 tells us quite clearly that

"A major strategic review of the SPS estate, undertaken in 1998, looked at capacity requirements as well as the optimum means of achieving an end to slopping out, either by hall upgrading or new build prisoner accommodation. One of the important conclusions reached was that it would not be practical to retain Longriggend."

That is another issue, but I am sure that it is still relevant in today's situation.

Mrs McIntosh: On the strength of what you have heard today from Mr Cameron and his colleagues, are you any clearer about how you will address the concerns of your members?

Derek Turner: To be quite honest, no. The staff are devastated. They feel that they have worked very hard over the past four years to achieve the restructuring that has taken place in the Prison Service. That was a tremendously painful process at the start. The staff did not like it, but they were confronted with the choice of going through the staffing structure review or potentially facing market testing. It was Hobson's choice.

The staff feel that they have contributed to the service and to the efficiency savings that have been made—to the extent that today we have a £24 million underspend. The staff feel as if they have been deserted.

Mrs McIntosh: Would you paraphrase that by saying, "The staff have been ill done by"?

Derek Turner: Certainly.

Mrs McIntosh: Can you tell me about the stress levels in the Prison Service? Does stress contribute to the amount of sick leave, which then impinges on time off in lieu?

Andrew Hogg (Scottish Prison Service Trade Union Side): Late last year, a survey was carried out on behalf of the trade union. The results were published in January or February this year. I believe that the committee has had access to the figures. I do not know the figures that you are requesting off the top of my head, but if you consult that document, you will find them.

It is clear that all trade union members who are in the SPS at the moment felt significant stress.

The factors that affect how members feel span everything from environmental conditions such as poor lighting and heating to management intimidation. A range of factors affected the stress that people felt.

Mrs McIntosh: Mr Cameron said that prisoners have a choice of establishment in which to serve their sentence. Is that your impression? Or are they directed to specific places that are determined by the way in which they have been categorised? In that case, they would not be able to pick the prison that was closest to their home and was therefore convenient for their family to visit. There would be no choice.

Derek Turner: Within the system, prisoners are allocated a certain category. Most of the prisons also have categories. There is a security algorithm that comes out with the final categories. A problem that we have had is that it is not always possible to get categories of prisoner into the category of prison that is required.

I could not talk with authority on how prisoners are allocated a place, but I believe that they are asked for their first, second and third choices. They do not always get their first choice. One of the problems of the allocation system in the early days was that we gave prisoners the hope that they would be able to choose which prison they went to. That turned out to be unrealistic because of the estate.

Mrs McIntosh: Did the fact that people were not accessible lead to some of the riots in the past?

Derek Turner: It is difficult to say what contribution that made. I would not want to commit myself on that one.

Euan Robson (Roxburgh and Berwickshire LD): We have heard today that populations in open prisons have generally been less than the prisons' capacity in recent years. At one time, apparently, the population was enough only for two prisons, and yet there were three. Does that evidence coincide with your experience in the past few years? Have you found that open prisons have not been at capacity?

Derek Turner: Open prisons are a challenging environment that not every prisoner wants to go to. It is up to the Prison Service to encourage prisoners to move to that environment. Penninghame, as you probably know from the testimonies of various people who have visited Penninghame and its staff, is a challenging environment for prisoners. It incorporates the concept of small living areas in which prisoners can manage themselves and prepare for release. It is sometimes difficult to get prisoners to go there, but that is not to say that we should not be trying to do that as best we can.

Euan Robson: I understand the value and the difficulties of open prisons, but I am anxious to focus on this question: is there overcapacity in the open prisons? There may be three although only two are needed. Does that accord with your experience, or do you feel that we still need three open prisons?

Derek Turner: There may be some overcapacity, but it depends on the overall number of prisoners—that dictates the number that can be farmed out to the various other prisons.

In the past, it was proposed that Friarton prison should close. We did not think that that was a good idea, as it meant closing an entire prison only to re-open it, which would be more difficult. We put alternative suggestions to the prisons board at the time, such as closing parts of the accommodation throughout the estate that could be brought on-stream if the number of prisoners rose again. That was accepted at that time—thankfully, as the number of prisoners rose.

David Melrose: It was made clear to me yesterday, when I visited Dungavel, that there are times when Prison Service management makes a decision to underpopulate establishments. Such was the case at Dungavel over the past year. That happened to facilitate the introduction of the drug-free prison. I understand that the area director who is responsible for Dungavel had indicated to the governor of Dungavel that he would be allowed to have his prison run short of prisoners by around 25 per cent, to achieve a target. There will be times when there is a requirement to have prisons run short of prisoners.

Euan Robson: Do you feel that the estate could do without one open prison, but that it needs another prison or extensions to other prisons? You are not of the same view as the Scottish Prison Service, that we are over-provided for by open prisons but not well enough provided for by other types of prisons? That is not your position?

David Melrose: That is certainly not our position. We consider that there is a need for all the various types of establishment throughout the estate and we recognise their value in the Prison Service.

Euan Robson: Thank you. I shall now ask you a technical question to which I do not know the answer. When there is talk of the redeployment of prison officers, is there anything to suggest that an officer in an open prison cannot automatically transfer to another type of prison? Are the skills and training different, so that an intervening course would be necessary, or is that not the case?

David Melrose: There is a chance of that. A generic training exercise takes place at the beginning of one service and no further training is

necessary to gain the expertise that is required to carry out an officer's duties in the various establishments. There is no further training. At the last meeting of the Justice and Home Affairs Committee, which we attended, the point was made that an officer who has carried out all his service—let us say 12 years—at Longriggend, an untried young offenders institution, may encounter difficulty applying to be transferred to an open prison or a high security prison within the estate. It is unfortunate—we identified it before—that there is no on-going training to enable prison staff to make that move.

Euan Robson: I want to conclude this. In addition to the complications of remoteness at Penninghame, where staff have settled, there will be other difficulties for staff who want to be redeployed because they need special training to be able to move to another prison. Is that what you are saying?

David Melrose: That may well be the case, yes.

Euan Robson: Thank you very much.

The Convener: I call Pauline McNeill to ask the next question, followed by Christine Grahame. Trish Marwick and Maureen Macmillan also want to ask questions, so I ask members to keep their questions as brief as possible and witnesses to keep their answers as succinct as possible too.

11:45

Pauline McNeill: I have three questions, the first of which concerns pay increases. During your negotiations with management, is it clear where your pay increases are funded from?

Andrew Hogg: It is fairly clear that, in line with Government policy, they are generated from the efficiency savings that the service makes.

Pauline McNeill: Is it therefore the case that any increase in your salary comes from efficiency savings in the Prison Service?

Andrew Hogg: That is our understanding.

Pauline McNeill: Are there any agreements with management on staffing levels, including levels to ensure that emergencies can be catered for?

Derek Turner: We have what we call a line roster. Within an establishment we identify a number of posts that we would expect to be filled at any time. As far as we are concerned, those posts should be filled each day on each shift. Those are minimum staffing levels. There is no provision for additional staff, except in places where untried prisoner numbers exceed a certain number. There was such an arrangement at Barlinnie, although I do not know whether it has fallen by the wayside or whether those extra staff have now been built into the complement. Does

that answer your question?

Pauline McNeill: It answers it in part. Are those establishment figures agreed with management?

Derek Turner: The staffing complement should be agreed with management locally and signed off nationally. That was the original agreement.

Pauline McNeill: Given the proposals for closures and job losses, will it be more difficult to achieve a drug-free environment in the Prison Service?

Derek Turner: Any change to the present system will impact on our ability to deliver. After working hard over the past four or five years to deliver what they have delivered and reach this stage, job losses and the resulting demoralisation will impact on the staff's ability to deliver the initiatives in the service.

I have heard platitudes about staff. Staff are not interested in platitudes. It is nice to hear them, but staff want to hear that they are being treated fairly and are valued.

Christine Grahame: I have four questions. The first concerns funding. Do you know how the £24 million was accumulated?

Derek Turner: No. We can only speculate on the fact that we occasionally run close to short-staffed in some establishments. We really do not have a clue how it was accumulated, over what period of time it was accrued, what the end-year flexibilities were, or how much was carried over each year. We therefore have no evidence to give the committee about the matter.

Christine Grahame: Did you know that £24 million had been accumulated?

Derek Turner: We had no knowledge of that amount. There had been some speculation about a sum of money earlier in the year when we were discussing pay, but we could not confirm the figure. As pay negotiators, we were obviously interested in knowing what funds were available to pay the staff.

Christine Grahame: Have you asked the management to provide you with details of how the £24 million was accumulated?

Derek Turner: We have not asked them specifically. We have spoken about it, but it has been a rollercoaster ride between the announcement being made and the position we are now in, trying to deal with the situation. In that interim period, it has been difficult to deal with pay negotiations, the closure of Longriggend and various other events.

Christine Grahame: We can ask about that, of course, and try to determine how it happened. This question may now be superfluous, but do you

know what that money might be earmarked for?

Derek Turner: It was my understanding that the comprehensive spending review for the next three years starting this year produced a flat budget across the three-year period, with uplifts of £3 million, £2 million and £1 million in each of those years. That is barely enough to cover the costs of staff wage rises and inflation. I understood that the money that was earmarked from the underspend would be built into the budget for the next three years, allowing us to cover the cost of wage rises.

Christine Grahame: So there are to be prison cuts because £30 million is going.

My second question is about overcrowding. On Tuesday 14 September, you gave evidence to this committee, saying:

"It was . . . recognised that we needed a national contingency in case there was a riot; that fitted in quite well with the strategy at the time."

You are speaking about the fact that it is not simply a numbers game; there must be overcapacity in the prisons, for a variety of reasons. Therefore, are you concerned that we seem to be working on numbers to fit pigeonholes and that there will not be capacity, should it be required, to cope with, for example, a riot—that there will be no decanting facilities?

Andrew Hogg: That is a very serious concern. The committee has raised the matter and the estimate of 6,700 prisoners in 2004 has been mentioned. I think that that estimate has been underplayed. In determining the population estimates—I am no statistician—we should look at the Scottish Office statistical bulletin, which deals with the prison statistics in the Scottish criminal justice system. The statistics in the bulletin—I think that I have the most recent edition—indicate that between 1988 and 1997 total prisoner numbers have increased by 16 per cent. If that increase were to be repeated in the next 10 years, we could not begin to cope, but we are now reducing capacity by 416 places.

Christine Grahame: I wish to raise a more political point. Mr Turner said that

"the private prison at Kilmarnock was established and staff regard it as a potential threat for the future. Staff are worried because the private prison has a 30-year contract and has to be guaranteed the number of places that the taxpayer is paying for. If job losses occur in the Prison Service because prisoner numbers continue to fall, the staff's perception is that the losses will take place in the public sector" —[*Official Report, Justice and Home Affairs Committee*, 14 September 1999; c 135-36.]

Is that what we are seeing?

Andrew Hogg: Very much so.

Christine Grahame: On overcrowding, I have something before me that says that there is

evidence that increased orders for bunk beds are being put through the system. It appears that prisoners will double up in rooms and that there will be multiple occupancy in rooms. Are you aware of that?

Andrew Hogg: I am aware only of speculation. I have never seen evidence.

Christine Grahame: The closure of Dungavel has been dealt with.

If and when these cuts are implemented, I am concerned that we will be left with a demoralised Prison Service, as prison officers will be moved to places where they do not want to be. What impact do you think the way cuts are being implemented and the forced transfer of employees will have on morale in the Prison Service?

Derek Turner: I understand the need for the Prison Service to tell staff sooner rather than later what is happening to them, but people have to be given full information. I have been phoned by people who were transferred to Dungavel four weeks ago. They have moved house and changed their kids' schools, and now they face an uncertain future. People who have been transferred to Penninghame in the past year, and have moved their families down to that area, also face uncertainty. We have been invited to join a human resource management committee to deal with the closures. We have had one meeting so far and we hope to get involved to influence matters and to assist in informing the staff about what is happening.

Christine Grahame: My last ancillary point is that Clive Fairweather raised the importance of training. I am concerned that people are moving from one kind of prison operation to another without training. What are your concerns about that? How will that impact on the Prison Service?

David Melrose: The question of training came to light as a result of the closure at Longriggind. We suggested to management that it carry out a training needs analysis of staff there. We were guaranteed that that would take place, but I doubt whether it has been carried out so far. The present closures will have a more serious impact on the potential to deliver the training needs of the staff. There is a considerable need for additional training for staff who have been at one establishment for long periods of their service. Transferring to a completely different facility is a difficult process.

The Convener: I will take two more points, from Tricia Marwick and Maureen Macmillan. I ask them to be as quick as possible, as I want to finish this by noon.

Tricia Marwick: I have two quick points that have been touched on by Christine Grahame.

When we spoke in September, you referred to

the survey, "Work and Health in the Scottish Prison Service". Almost 50 per cent of the prison officers who responded to that survey were concerned about long-term job security. I found that a surprising figure. Obviously prison officers knew in September something that the rest of us did not know. If you conducted a similar survey now, do you think that that figure would be higher or lower?

Derek Turner: I think it would be higher, following the recent announcements. The organisation has been going through a tremendous amount of flux over the years. There have been threats of privatised prisons and various other things. People are continually looking for packages to get out, because of the uncertainty. That is not healthy for any organisation.

Tricia Marwick: I have just one other point, concerning the action team that was formed. I understand that, originally, you decided to take no part in that action team, as you did not want simply to implement the cuts and job losses. However, you are now taking part in the action team. What is your role in it?

Derek Turner: Originally, the trade union side had to decide whether to participate in the action team. The original decision was that two nominated representatives would attend the meeting of the action team. When we went to speak to Mr Duffy, the impression that we got was that things would be moving very fast and that it would not be a working party as such, but that team members would be tasked to carry out the work on behalf of Mr Duffy, who would report to the prisons board on his decisions and recommendations. We felt that our role in such a process would be peripheral, apart from putting in some suggestions. We put in some suggestions about closing or keeping closed some of the areas in prisons that are now closed for refurbishment, but the action group felt that that did not produce enough savings overall.

We were left to decide which prisons were to close. As a trade union side, we reported to the action group that we did not feel that that was a good position to put anyone in, and that we would do better to get involved with the human resource issues of the prison closures, trying to manage those as best we could.

Maureen Macmillan (Highlands and Islands) (Lab): I wanted to ask about training, career progression and redeployment, but that has more or less been covered. When you gave evidence to us before, you talked about the lack of career progression. I presume that you feel that what is happening now is making that even worse. People cannot enter the service—if they get the chance to enter the service over the next couple of years—

and feel that they have a worthwhile career in front of them.

Derek Turner: To address the problem of surplus staff, establishments have put a block on all promotion and lateral transfers. The staff who are in danger of losing their position within the establishment must be managed. To manage that situation, a promotion bar has been established—not completely, as for specialist posts there may be some promotion—to ensure that people who are displaced can find a job within the system. Those who want packages can take the packages and leave. We are told that there will be a freeze in recruitment at the same time, so few people will enter the service except in specialist roles.

Maureen Macmillan: Everything will be static? Nobody will be looking ahead and thinking, “In a couple of years’ time I can get a promotion”?

Derek Turner: It is as static as it can be, while ensuring that specialist posts in the organisation are filled.

David Melrose: There may be a double impact, in that when recruitment starts again, individuals who intend to take up a job in the Prison Service may think twice as a result of what is happening now. There may be a recruitment problem.

The Convener: I thank the three of you for attending and answering our questions. We have run considerably over the time that had been unofficially allocated for this item. Despite the fact that this is a matter of some controversy, I advise you that we have invited representatives of another organisation in the Prison Service to give evidence to us on a separate occasion because, as I understand it, they represent a large number of prison staff in Dungavel and Penninghame. As those are the two prisons that are marked for closure, we felt that it would be inappropriate not to give them the opportunity to speak. This is an item to which the committee will return. We will need to come to a decision about further potential witnesses.

Thank you for coming along this morning and I am sorry that you had to wait so long. I apologise to all the witnesses that this meeting has gone on considerably longer than they were initially advised it would. The nature of this kind of procedure is that it takes on a life of its own, no matter how the convener may try to corral individuals.

Thank you very much, everybody. We now move into private session, to discuss a number of agenda items. I ask everybody in the galleries to leave.

12:00

Meeting continued in private until 12:58.

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