

JUSTICE COMMITTEE

Tuesday 30 September 2008

Session 3

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JUSTICE COMMITTEE

22nd Meeting 2008, Session 3

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Angela Constance (Livingston) (SNP)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Paul Martin (Glasgow Springburn) (Lab)

*Stuart McMillan (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Aileen Campbell (South of Scotland) (SNP)

Marlyn Glen (North East Scotland) (Lab)

John Lamont (Roxburgh and Berwickshire) (Con)

Mike Pringle (Edinburgh South) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Bruce Crawford (Minister for Parliamentary Business)

Doug Cross (Association of Chief Police Officers in Scotland)

Mike Ewart (Scottish Prison Service)

Fergus Ewing (Minister for Community Safety)

Chief Constable Kevin Mathieson (Association of Chief Police Officers in Scotland)

Sandra McDonald (Public Guardian)

Willie Pretswell (Scottish Prison Service)

Mark Richards (Scottish Government Legal Directorate)

CLERK TO THE COMMITTEE

Douglas Wands

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 2

Scottish Parliament

Justice Committee

Tuesday 30 September 2008

[THE CONVENER *opened the meeting at 10:31*]

Decision on Taking Business in Private

The Convener (Bill Aitken): Good morning, ladies and gentlemen. I make the usual request that all mobile phones be switched off.

Under agenda item 1, do members agree to take in private item 10, which is consideration of this morning's evidence on the draft budget, and our consideration of future evidence on the matter?

Members *indicated agreement.*

Subordinate Legislation

Freedom of Information (Relaxation of Statutory Prohibitions on Disclosure of Information) (Scotland) Order 2008 (Draft)

10:32

The Convener: Agenda item 2 is consideration of a draft order under the affirmative procedure. I draw members' attention to the draft order and the cover note, which includes the briefing note from the Scottish Government.

Before we move to the formal procedure on the motion at item 3, members may question the Minister for Parliamentary Business and his officials. I welcome to the meeting Bruce Crawford; Jan Marshall, head of constitutional policy; and Mark Richards from the solicitors transport, cultural and procurement division of the Scottish Government. I invite the minister to speak to the order.

The Minister for Parliamentary Business (Bruce Crawford): I am most grateful, convener.

I welcome this opportunity to contribute to the committee's consideration of the order, which has been made under section 64 of the Freedom of Information (Scotland) Act 2002. Before I outline the order's purpose, it might be helpful if I briefly mention the Government's general approach to FOI as set out in our principles.

I do not propose to go through those principles in detail, but I should highlight the Government's support for FOI as an essential part of open, democratic government and responsive public services. Our principles commit the Government to operating within the 2002 act and adjusting the regime where it is necessary and sensible to do so. The draft order, which has been introduced in support of those principles, is about the Government taking action to ensure that the 2002 act continues to operate effectively.

The draft order removes in five specific instances statutory bars to the disclosure of information. Members might wonder why those bars are being removed; after all, there are many statutory bars in place. However, it would be inappropriate to repeal or amend all of them. The provision in the 2002 act under which the draft order has been made enables such orders to be introduced as and when appropriate to ensure a pragmatic and measured approach to the removal or repeal of statutory provisions that are causing difficulties in practice.

Of course, some bars are necessary and remain in place for good and justifiable reasons. For example, they might help to fulfil European Union

directives or other international obligations or be used to support the operation of the Data Protection Act 1998, which protects personal information.

However, we believe that it is appropriate to focus on bars that are unnecessarily prohibiting the disclosure of information in practice. In that respect, as the explanatory notes make clear, the draft order amends the Factories Act 1961, the Offices, Shops and Railway Premises Act 1963, the Medicines Act 1968 and the Health and Safety at Work etc Act 1974 to ensure that, in those cases, there are no prohibitions to disclosures made by Scottish public authorities. The same applies to the Diseases of Fish Act 1983, which enables Scottish ministers to make orders for the purpose of obtaining information to prevent the spread of fish diseases and makes it an offence to disclose any information that is supplied in that way.

In four of those bars, the draft order mirrors relevant amendments that have been made by the United Kingdom Government under the equivalent UK order. However, the UK order does not apply in Scotland and, to avoid the anomaly of relevant information requests being accepted by public authorities in England and Wales but refused in Scotland because of the statutory bars, we have to lay our own order. The draft order will, as I said, also remove an additional bar in the Diseases of Fish Act 1983 and the committee might wish to note that the Scottish information commissioner, in particular, supports that move.

At the moment, the bars are barriers to the provision of information and their continued existence is inconsistent with our general approach to FOI. I reassure the committee that the draft order that repeals those bars—the first of its kind to be made in Scotland—will have no financial implications. We will of course continue to work with stakeholders to ensure that the 2002 act operates effectively and keep under review the need to make any further orders.

I commend the draft order to the committee.

The Convener: Thank you, minister. Do members have any questions?

Robert Brown (Glasgow) (LD): With regard to the Factories Act 1961 and related industrial legislation, I presume that the offence will be against the factory inspector or whoever goes in, whereas the people making the disclosure will be per se the public authority. However, might any different circumstances arise? For example, the inspector entering the premises might have information that is not deemed to be the property of the authority that employs him.

Bruce Crawford: I will need to ask one of the officials to answer that very technical question.

Mark Richards (Scottish Government Legal Directorate): I am sorry—what was the question again?

Robert Brown: Obviously, a building is entered by an individual rather than by the authority that employs him or which receives the information. Is there any practical difference between the two? Is the person who enters the building left in a particular position as a result of the change in the legislation?

Mark Richards: Given that the individual who enters does so in an official capacity, any information that they obtain will be held by them for the public authority for which they work. As a result, I do not think that the legislation makes any difference or makes any distinction.

Bruce Crawford: I should add that information of commercial interest that might be obtained, particularly under the Factories Act 1961, will still be subject to the provisions of the Freedom of Information (Scotland) Act 2002 and will therefore not be disclosed.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Minister, you passed on the previous question because it was quite technical. However, the draft order itself is pretty technical. Can you give me a practical example of how the order will change the way in which freedom of information inquiries are dealt with? The situation seems clear enough for the Diseases of Fish Act 1983, but under the other headings can you paint a picture that will enable us to understand the issue better?

Bruce Crawford: If a member of the public were to become aware, for example, of an entry into a factory by an official under the Factories Act 1961 and wished to find out what that official was involved in and what information they had sought to obtain, the order would give them the right to know exactly what was going on and why. However, it would not necessarily give them the right in those circumstances to obtain information that is already debarred under the Freedom of Information (Scotland) Act 2002.

The Convener: I imagine that visits by the Health and Safety Executive are a typical example of a situation in which public interest might arise.

Bruce Crawford: Indeed. That is why the order amends the Health and Safety at Work etc Act 1974.

Nigel Don (North East Scotland) (SNP): The Factories Act 1961 is covered by the order. If the person who enters the premises is a consultant rather than someone who is employed by a public authority, is there a risk that information will drop between the cracks?

Bruce Crawford: The order is intended only for those who are involved with the Scottish public

authorities that are covered by the 2002 act. Only someone who was entering the premises to perform that public function would be able to disclose any information, not a private individual or consultant.

Nigel Don: Even if someone was ostensibly acting on behalf of the public authority as a consultant?

Bruce Crawford: That point is covered in section 154A of the Factories Act 1961, under the heading

“Exception to the prohibition: public authorities”.

Mark Richards will explain in greater detail. There is no point in me reading the information over his shoulder when he has it in front of him.

Mark Richards: The answer is similar to the one that I gave to Robert Brown. If a person is acting for a public authority, they are at present subject to the prohibitions. The order will remove that blanket prohibition and leave the freedom of information regime to deal with any request for information that was gained during those inspections and visits. The provision would apply if a consultant who was acting on behalf of the public authority was carrying out the inspection.

Nigel Don: Information that is gleaned at arm's length could still be made available.

Mark Richards: The information is not really gleaned at arm's length if a consultant is acting on behalf of the public authority and performing that public function for it.

Bruce Crawford: The only information that could be disclosed would be information that was held by the public authority, not that which was held by the person, persons or organisation acting as its agent.

Robert Brown: I presume that these matters are at the margin between reserved and devolved functions. My recollection is that the Health and Safety Executive is a reserved body. To whom does the legislation apply? Who would obtain information that was gathered by such inspection visits? Does the legislation include powers for local authorities or others? Does it go beyond the Health and Safety Executive?

Bruce Crawford: It covers the full gamut of public authorities in Scotland. Some have powers of entry.

Robert Brown: I meant under the acts, such as the Factories Act 1961 and the Health and Safety at Work etc Act 1974.

Bruce Crawford: I defer to Mark Richards.

Mark Richards: Basically, it covers whoever has the power under those acts. The order puts in place for the Scottish freedom of information

regime what is already in place under the English and Welsh freedom of information regime. The changes mirror what the UK Government has done.

Robert Brown: I am trying to identify to whom the legislation would apply. I think that I am right in saying that the Health and Safety Executive would be covered under the UK legislation—the Freedom of Information Act 2000—so I presume that it does not need to be covered by the order. What sort of bodies—employment bodies in particular—have powers under the acts that the order amends?

Bruce Crawford: I will give you an example in relation to the Medicines Act 1968. Some people who are employed by Scottish public authorities in Scotland may have the right of entry to a particular medical practice to carry out an inspection. That body or person would therefore be covered in the future by the order. Provided that any request for information from them did not cut across the Freedom of Information (Scotland) Act 2002, the inspector or individual who was involved in seeking information from any health authority or general practitioner practice would be covered by the legislation in those circumstances.

The Convener: Under agenda item 3, I invite Mr Crawford to move motion S3M-2560.

Motion moved,

That the Justice Committee recommends that the draft Freedom of Information (Relaxation of Statutory Prohibitions on Disclosure of Information) (Scotland) Order 2008 be approved.—[*Bruce Crawford.*]

Motion agreed to.

The Convener: I thank Mr Crawford. I suspend the meeting briefly as the witnesses change over.

10:45

Meeting suspended.

10:46

On resuming—

Scottish Commission for Human Rights (Specification) Order 2008 (Draft)

The Convener: Under agenda item 4, we have another draft order to consider under the affirmative procedure.

Before we move to the formal procedure on the motion at item 5, members may ask questions of the minister and his officials from the Scottish Government. I welcome Fergus Ewing, the Minister for Community Safety; Richard Dennis, head of the civil law division; Bill Galbraith, policy manager in the civil law division; and Olive Hogg,

from the solicitors constitutional and civil law division. I invite the minister to speak to the order.

The Minister for Community Safety (Fergus Ewing): Given that the committee has already considered all the papers, I am happy to waive my opening statement if members so wish. I understand that you have a full agenda.

The Convener: Does the committee agree to move straight to questions?

Members indicated agreement.

The Convener: I am obliged for that, Mr Ewing. Are there questions for the minister? Mr Ewing is getting away very lightly this morning.

Cathie Craigie: We cannot let the minister get away as lightly as that.

What benefits will there be for adults with incapacity if the order passes through the parliamentary process?

The Convener: That is the next agenda item.

Cathie Craigie: Sorry.

The Convener: In the Glasgow vernacular, you are chapping at the right door but you are up the wrong close.

Cathie Craigie: That is the difficulty that arises when the minister does not make his statement.

The Convener: Under agenda item 5, I invite Mr Ewing to move motion S3M-2562.

Motion moved,

That the Justice Committee recommends that the draft Scottish Commission for Human Rights (Specification) Order 2008 be approved.—[*Fergus Ewing*.]

Motion agreed to.

Adults with Incapacity (Electronic Communications) (Scotland) Order 2008 (Draft)

The Convener: Agenda item 6 is consideration of a further affirmative instrument. Before we move to the formal procedure on the motion at item 7, members may ask questions of the Minister for Community Safety and his officials. I welcome the new officials who have made their way to their positions discreetly and silently. We have with us Sandra McDonald, public guardian; Stuart Fowler, deputy public guardian; and Kenneth Graham, special projects manager at the office of the public guardian. I invite Mr Ewing to speak to the order.

Fergus Ewing: I have no formal statement prepared, so I cannot offer to waive it. The order will allow the public guardian to receive and process powers of attorney in electronic format. I am advised by the public guardian that the office receives about 40,000 powers of attorney per

annum. Therefore, the processing of the hard copies of those documents is a time-consuming task, which requires the involvement of many personnel, who are perhaps unable to turn their attention to more fruitful endeavours. In short, the order is a measure that will assist considerably the administrative efficiency of the office of the public guardian. The approach is being conducted on a pilot basis with six of the legal firms that are most frequently involved in this area of work, although other firms are entitled to participate at the outset if they wish. It is no more than a measure that will assist the public guardian and her staff in their duties.

The Convener: I anticipate a question from Cathie Craigie.

Cathie Craigie: I thank the minister for that brief introduction. I am surprised by the volume of applications that the public guardian deals with. What benefit will the draft order bring to individuals and to families who are applying for the power?

Fergus Ewing: I have outlined the administrative benefits of the order, which I think are fairly clear and understandable. The public receive an excellent service from the office of the public guardian. It is a measure of security and confidence that those whose affairs are being managed by somebody else have an office that is there to ensure that the rules and procedures are properly applied and preserved. Those who grant a power of attorney are in a state of some vulnerability in having their affairs looked after by a third party—usually, or very often, a family member. In case I have missed anything out, I invite Sandra McDonald to make any other points that are relevant to Cathie Craigie's question.

Sandra McDonald (Public Guardian): The most specific point to make is that the power of attorney is granted by somebody while they are capable and determines who they wish to look after their affairs once they become incapable. The benefit to the incapable adult is that they select that person ahead of their becoming incapable. If the power of attorney is not granted before they become incapable, they get into the guardianship and court processes, with which I know that Cathie Craigie is familiar, which determine for them who we think should have power of attorney. We must stress the importance of people selecting, while they are capable of doing so, the person whom they would wish to be their attorney if and when they need them later in life.

Cathie Craigie: Would the electronic application be followed by the relevant documents being sent in hard copy?

Sandra McDonald: We propose that the relevant documents that are currently attached in

hard copy be scanned by the solicitor who is dealing with the power of attorney—90 per cent of cases are dealt with by a solicitor. The solicitor would scan the principal document—the power of attorney deed—and the relevant attachments, all of which would be sent to us electronically. We are not looking at online submission, whereby somebody completes the form, presses a button and sends it to us, but, rather, at a process whereby the solicitor who has dealt with the documents in hard copy scans them to send to us.

The efficiency for us is that instead of our having to take a hard copy of documents, scan them and process them before we can even begin to check them, we cut out step 1 of what for us is a three-step process. Currently, we scan everything before we can check it and we have a return process, whereby we have to send the copy of what we registered back to the solicitor. If you were to permit what we are requesting, we could, in effect, smooth the first and third steps of the process. We would still have the check in the middle of the process, but we would be able to receive the documents in a scanned format and to return them in an electronic format. As the minister said, what we propose would allow for streamlining and efficiency in our departmental procedures, given the sheer volume of powers of attorney that we deal with.

We have already made 32 tweaks to the process to streamline and smooth it. We have had our processing reviewed by an independent party, who is satisfied that we have got it as clean and smooth as we can. Given the increasing volume of documents that we are receiving, we have to use more staff. We said to ourselves that there has to be a more cost-effective way of working. The information technology solution is the best approach, but the Adults with Incapacity (Scotland) Act 2000 does not allow us to manage the information electronically, which is why we are here.

Paul Martin (Glasgow Springburn) (Lab): Will the cost benefits be passed on to the client? I take it that people pay fees to the solicitors or to the public guardian. The note that is attached to the draft order says that there will be “small savings”. Will they be passed on to the applicant?

Fergus Ewing: The fees that are charged to those who seek to register powers of attorney were fixed by the Justice Committee just before the summer recess through the Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2008. I indicated that we did not plan to revisit that after the committee took its decision to support that move. I seem to remember that I also indicated that the fee for registering power of attorney in Scotland is far less than it is in England. In England, the fee is £150

and in Scotland it is now half that—I think that it is £60. We are half as expensive as our friends down south.

The Convener: We are 40 per cent as expensive.

Fergus Ewing: Thank you for doing that arithmetic, convener.

I am also aware that, because of the good work of the public guardian, and following protracted negotiations with HSBC, the cost of obtaining caution—insurance cover for the intromission with funds of attorneys—has been reduced by the offer of a third-party provider, which has been fairly well received by the legal profession. There has been a diminution of costs there, which is welcome.

To answer Paul Martin's question directly, the benefit would be that, as the public guardian has explained, an awful lot of staff will be freed up to do more fruitful work. I will consider the consequences of that as the benefits filter through.

Paul Martin: The note says that “small savings” will be made. How much will the savings be? Will they be recycled back into the service? Is that the point that you are making when you say that people will be freed up to do other work?

Fergus Ewing: I will ask the public guardian to answer that in a second. It is plain that the savings will result from the replacement of overelaborate and complicated procedures, which the public guardian explained, with simple electronic transmission. Perhaps as important as the financial aspect is the fact that those who seek to go through the process of registering power of attorney will be able to do so much more quickly. I imagine that that will be welcomed by many people in that position, who are anxious to resolve matters with due speed, given that there is often an element of urgency. I invite the public guardian to answer the question about the amount of savings and what will happen to them.

11:00

Sandra McDonald: The pilot that we are planning will seek to evaluate the exact savings. If we assume that the pilot is successful and we extend the procedure to all solicitors, the savings will come primarily from the fact that we will not have to store the hard copy of the power of attorney document because we will no longer receive it. At the moment, storage costs are £10,000 a year, so that is one saving. Savings after that will come from paper. We are talking minutiae, but currently we have print out the copy that we send back out to people. If we send the document back out electronically, we will save some paper. We will save on postage—we currently send out 40,000 documents. We have

yet to quantify it, but we will save on some element of staff time. The process involves at least two staff members, one at either end of the process. If all solicitors access the new process, we are talking about a saving, in round figures, of about £50,000.

There is no intention of removing that £50,000 from the budget of the office of the public guardian. For example, the two members of staff whom we would not be putting on to powers of attorney work would be put on to guardianship work. Our key concern is adults with incapacity, not the routine administration of power of attorney documents. The same applies if we make a saving on our stationery budget. In the end, the budget is just one figure that I have available to me, and I will spend it in the office of the public guardian in the way that I feel fits. There is no intention of removing the savings to some other department.

Paul Martin: The point that you are making very clearly to the minister here today is that you expect to keep a hold of that budget.

Sandra McDonald: No. [*Laughter.*]

Nigel Don: My concern was that the hard copy would be held somewhere. As it is clear that it will be held by the administering solicitor, my question has been answered.

The Convener: Under agenda item 7, I invite the minister to move motion S3M-2561.

Motion moved,

That the Justice Committee recommends that the draft Adults with Incapacity (Electronic Communications) (Scotland) Order 2008 be approved.—[*Fergus Ewing.*]

Motion agreed to.

11:02

Meeting suspended.

11:03

On resuming—

Divorce etc (Pensions) (Scotland) Amendment Regulations 2008 (SSI 2008/293)

The Convener: We have two negative instruments to consider under agenda item 8. No points were raised on SSI 2008/293 by the Subordinate Legislation Committee. Do members have any questions?

Robert Brown: The instrument comes into force on 1 October. How will it apply to court cases that are already halfway through the process? Will they be determined under the new arrangements or will they conclude with the arrangements under which the action began?

The Convener: We will seek clarification, but my view would be that if they started under the existing system, they would have to be concluded under that system. Are members content with the instrument?

Members indicated agreement.

Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2008 (SSI 2008/297)

The Convener: No points were raised by the Subordinate Legislation Committee on SSI 2008/297. Do members have any questions?

Stuart McMillan (West of Scotland) (SNP): The organisations in schedule 2 no longer exist. I would be grateful for some clarification regarding the paperwork and files that those organisations would have had, to ensure that they have been disposed of in the correct manner.

The Convener: We can raise that point with the minister in correspondence.

Robert Brown: I have two points, the first of which is minor. Why is there a “ZA” beside the number 62? Perhaps it has just been left there, but it should have been taken away.

Secondly, and more important, taking up Stuart McMillan’s point on the bodies that are being eliminated, I want to clarify that none of those bodies continues to exist in any shape or form.

The Convener: The “ZA” is possibly something that has been left but which should have been deleted; the document has probably not been properly proofread. We will inquire into that, and we will extend the inquiry that was raised by Stuart McMillan in order to resolve your second point. Are members content to note the instrument?

Members indicated agreement.

11:05

Meeting suspended.

11:13

On resuming—

Budget Process 2009-10

The Convener: Item 9 is two oral evidence-taking sessions on the draft budget. I welcome our first witnesses, who are from the Scottish Prison Service: Mike Ewart, the chief executive; and Willie Pretswell, the director of finance and business services. Gentlemen, we are grateful for your attendance and for the fact that you arrived early, as that will enable the committee to get through more business today than might otherwise have been the case.

Before we move to questions, I must express some concern on the part of the committee. Mr Ewart, the fact that you are giving evidence before the committee today was well trailed in the press. I know that the issues that are to be raised today are ones that you are concerned about, but the matter that is before the committee should not be the subject of earlier press comment. The matter that is before the committee is for the committee to determine. I would be grateful if that were remembered in future.

Paul Martin: Mr Ewart, can you confirm who is responsible for the prison projections?

Mike Ewart (Scottish Prison Service): Responsibility for the prison projections lies between the SPS and our colleagues in the statistical service in the Scottish Government.

11:15

Paul Martin: In your correspondence, you said that you are disappointed at how far out the figures appear to be this year.

Mike Ewart: I obviously am concerned that there has been significantly more growth in the prison population than was projected. However, to use the word that you used, Mr Martin, the numbers are projections; they cannot be predictions.

Paul Martin: What information do you feed to the organisation that is responsible for the prison projections?

Mike Ewart: We continually try to improve the process of making the projections. My understanding is that colleagues in the analytical services division in the justice portfolio are seeking ways in which they can improve the quality of the projections. However, the numbers will remain projections—nobody can predict the future.

Paul Martin: In your correspondence, you said that the projection for 2009-10 was originally 7,600 and the outcome was 8,427, including people who

are subject to home detention curfews. From a public perception point of view, the figures—based on projections that were developed in partnership with your organisation—are disappointing.

Mike Ewart: The figures are alarming in that they show significant growth above what was projected. The fact that the figures are greater than the projections obviously suggests that we need to do more work to try to improve the quality of those projections, but I am afraid that I have to insist on the fact that we cannot predict what the future will bring. The figures that we end up with are the result of thousands of individual decisions that are taken daily in the courts.

Paul Martin: I understand that, but the point that I want to amplify is that your correspondence and your recent media interventions create the public perception that you do not have responsibility for the prison projections. However, you are telling us that you feed into the process that comes up with the projections in the first place.

Mike Ewart: That is right. The projections have to take account of a series of factors and other data that come from various sources in the criminal justice system.

Paul Martin: So you need to take some responsibility for the projections as well.

Mike Ewart: I am sorry, but I fail to understand the point of your question.

Paul Martin: I am trying to clarify the point that you have some responsibility for prison projections. Is that the case, yes or no?

Mike Ewart: Yes, of course we do.

Paul Martin: So when your correspondence says that you are disappointed at the figures that have been reached, you should be equally disappointed at the role that you have played in projecting those figures in the first place.

Mike Ewart: I can only repeat what I have said: we can provide the information and make deductions based on historical evidence, but we cannot predict the future, either alone or in consort with our colleagues.

Paul Martin: The statistical information shows that there are seasonal downturns. Can you add any commentary to those figures?

Mike Ewart: The pattern of the seasonality of the figures, particularly the tendency of the figures to drop sharply and then rise again at the turn of the year, is mainly driven by the seasonality of the court process. Those figures relate to the flow out of the sheriff courts across the country. The period of quiet at the end of the year occurs simply because the courts are not sitting at that time.

Paul Martin: Do you accept that the current figures will, in all probability, reduce towards the end of the year, due to the seasonal downturn?

Mike Ewart: I certainly hope that that will happen.

Paul Martin: Are there signs of that already?

Mike Ewart: No. There has been fairly steady growth through the summer. The figures have been significantly higher than they have been in previous years, as you can see from the levels that I have reported to you. Over the past week, there has been a slight flattening in the numbers. Yesterday, there was, of course, a court holiday in the west, so we are bracing ourselves for the outcome tonight.

Paul Martin: What work is being carried out to review the projections?

Mike Ewart: As I understand it, work is currently being carried out to find out whether we can get better short-run information by examining the data on inflow to the courts. Colleagues in the analytical services division of the justice portfolio are working with colleagues from the Crown Office and the Scottish Court Service to find out whether we can make better predictions from those numbers. However, they will be short-run numbers, and we do not know what the quality of the information will be.

Cathie Craigie: What plans does the SPS have for responding to the situation of overcrowding in the short term?

Mike Ewart: In the short term, plans have to be made at a local level within each establishment to try to maximise the amount of available accommodation and services. There is no capacity in the prison system to allow us to expand beyond the limits of our existing building envelopes. Expansion beyond the current extremely high levels of prisoner numbers will involve short-term expedients such as mattresses on gym floors.

Cathie Craigie: Sorry—such as?

Mike Ewart: Using mattresses on gym floors.

Cathie Craigie: Do you have contingency plans for that? You say that you are bracing yourself for what might happen in the west of Scotland following the court holiday weekend.

Mike Ewart: Yes. The establishments are ready to do what they can to accommodate another significant inflow.

Cathie Craigie: In your submission, which is dated 25 September, you state:

“Despite the increase in unplanned prisoner numbers during 2008-09, SPS is still seeking to live within its budget for this period. However, circumstances beyond the control of SPS management present a real risk ... These

unplanned financial pressures were not funded in the 2008-09 SPS budget.”

Given that there have been measures to try to decrease prisoner numbers, which appear on paper not to be decreasing as hoped, how confident are you that the SPS can remain within budget for the next financial year, which we are considering just now?

Mike Ewart: We have stated clearly in our evidence to the committee that we believe that we can manage within the budget that has been set for the coming year, provided that there is a significant downturn in the current levels of the prison population, and a return to the levels—or close to the levels—that we expected. If that is not the case, we will need, as we have said in our evidence, to seek relief from the Government by way of additional resource.

Cathie Craigie: Have you asked the Government for additional resource to supplement the costs for this year? Presumably, the SPS puts in a bid at budget time.

Mike Ewart: We have not asked for additional funding at this stage. We are still talking to ministers about potential measures to reduce the prison population.

Cathie Craigie: Given what you say in your written response, why have you not asked for additional funding? Any commitment to such funding presumably would help you to plan better.

Mike Ewart: We have not made a specific request at the moment, but there was an understanding from the Government at the time of the spending review that if the prison population numbers increased significantly after the budget was set, we would have a case to return. That undertaking is in place, but at the moment we do not have the basis on which to make a specific request.

Cathie Craigie: The convener mentioned what we have been reading in the press and hearing on the television and the radio in recent weeks about prisoner numbers. If the SPS is in such a position that it feels it necessary to go to the press, why have you not gone to ministers with specific details so that they can consider the necessary budgets?

Mike Ewart: Because the Government's objective at the moment is to reduce the prison population. I assure you that we are in continual dialogue with ministers on pretty much a daily basis.

Cathie Craigie: But the fact is—and you have to deal with this—that the prisoner numbers are not decreasing. Surely you have to deal with the number of prisoners who are actually coming through your doors, rather than talking about things that we all hope will reduce prisoner numbers.

Mike Ewart: Absolutely. We are ready to make that case. The conversations continue.

Cathie Craigie: If you are ready to make that case, can you indicate to the committee how much it would cost the SPS to be able to deal with the present situation?

Mike Ewart: A series of questions need to be addressed before we get to the simple question of a figure. If we are to continue to deal with current prison population levels, we will need to consider not only additional financial resource but additional resource in relation to the ways in which we cope with those people, potentially outside prison, because even with additional money, the pressure on our existing staff is significant, and there is a limit to the amount of overtime that prison officers would be prepared to work and a limit to the pressure that we can put on management and the other staff in institutions. It is not simply a question of money.

Cathie Craigie: Perhaps you will be able to share that information with the committee at some point. We are scrutinising the budget, and we want to ensure that the SPS has enough money to deliver a very important public service.

Mike Ewart: Absolutely.

Cathie Craigie: In your submission, you mention dealing with health and safety issues that arise from overcrowding. What options do you have with regard to that?

Mike Ewart: According to the legal advice that we have received, the broad answer is that we have very little option. We will seek to avoid circumstances that are potentially risky to staff, prisoners or visitors in the establishments. However, we have an obligation to take whatever numbers the courts commit to prison. Equally, we have a duty to adhere to our obligations under health and safety legislation. We are caught between the pressures of the two statutory requirements, neither of which trumps the other.

Cathie Craigie: Is increasing the ratio of prison officers to prisoners through more overtime an option to ensure health and safety within establishments? Are your budgets able to cope with that at present? Have you built that into your submission for this year?

Mike Ewart: We have been dealing with significant additional levels of overtime—for obvious reasons, given the rise in the prison population over the past year. As I mentioned earlier, the pressure is not just financial and about being able to afford the overtime: it is about the capacity of the staff to deliver that overtime.

The Convener: I will pursue a related point. Accidents, which are nobody's fault, happen from time to time, even in the best of organisations.

What would happen if there was a fire, which was caused not by vandalism but by an electrical fault, and you lost a hall in Barlinnie for six months?

Mike Ewart: We would need to seek the authority of the Cabinet Secretary for Justice to have an emergency release of prisoners. That would allow us to maintain the stability of the operation by reducing the population to take account of the loss of accommodation that we had suffered. That action would then have to be homologated by Parliament.

The Convener: I am not trying to put words in your mouth, but are you saying that there is no contingency plan for the loss of a facility following the sort of accidents or incidents that can happen in any factory or business?

11:30

Mike Ewart: There is no spare capacity in the system to absorb a significant loss of accommodation. There would have to be a controlled approach to dealing with any significant loss of accommodation of the kind that you describe. Part of that would involve seeking the approval of the Government and, subsequently, Parliament to allow us to correct the overall population level.

The Convener: But surely somewhere down the line, and over a period of years, some sort of contingency planning must have been made to accommodate prisoners rather than simply releasing them. We are talking about a situation where 400 or 500 prisoners might have to be released. In my view, we could not do that without putting the public at risk.

Mike Ewart: If something on that scale were to happen, the question of public safety would definitely arise. We would have to take a decision on whom to release on the basis of the best possible information, taking into account the likely risk to the public. However, there is no spare capacity in the system to absorb a loss of accommodation. There is no contingency plan of the kind that you described. In previous years, it was possible for the SPS to make plans using the spare capacity in the system to absorb emergency levels of overcrowding. We reach those emergency levels of overcrowding on a daily basis now. There is no spare capacity.

The Convener: I hear what you are saying, but I would have thought that there could be a departure from a thought process that appears to be totally predicated on the idea of simply releasing people if there is a problem of the nature that I described, rather than finding alternative ways of accommodating them in custody elsewhere.

Mike Ewart: Nowhere else is suitable to accommodate people in secure custody. There is no spare capacity in the estate, and there is nothing else that the SPS can readily commandeer to make secure accommodation out of.

The Convener: That raises certain issues. However, we can look to the future. I understand that the new prison facility at Addiewell will come on stream in December. Is that likely to be the case? Will the facility be operational in December?

Mike Ewart: It will start to take prisoners from 12 December. That is the plan, and things are going well. There will be a slow ramp-up to begin with, to allow testing of the operational arrangements at the new establishment, then we will be in full operation by the end of March next year.

Cathie Craigie: Is the SPS anywhere near requesting permission to use the emergency release power now?

Mike Ewart: Thankfully, we have not had the kind of emergency that Mr Aitken described, although obviously it could arise at any time. Some of the infrastructure is very elderly. There have been issues with drainage at Barlinnie, which caused significant loss of accommodation, and that could happen again. There is always the possibility of a fire of some kind being caused quite accidentally, as Mr Aitken says. We would have to deal with that situation. However, no such occasion has yet required us to make a live request to ministers.

Cathie Craigie: What level would the current trend of an increasing prison population have to reach before the SPS considered using the emergency release power? We read in the newspapers last week that a judge considered that a sentence should be custodial but, because there was no room at the inn, the person got off without receiving a custodial sentence. It is a serious situation when our judiciary are faced with making such judgments because of prisoner numbers.

Mike Ewart: The exercise that we undertook recently was an attempt to measure the effective and safe limits of capacity at each establishment. I know that when the Audit Committee passed Audit Scotland's report to you, some members of that committee complained about the use of jargon in our responses, so I apologise if I use some now.

Cathie Craigie: If you do, we will ask you to explain.

Mike Ewart: I will do my best to keep it to a minimum.

The exercise was an attempt to establish an assessed operational limit. That is a clumsy phrase, but in using it we are trying to encapsulate

the elements that we are dealing with. It is an assessment rather than an absolutely scientific definition, and it is made for each establishment, taking account of the range of factors that might impact on service delivery in each case. It is an operational limit because it takes account of the delivery of service on a daily basis within the establishment, and it takes account of our legal duties under the European convention on human rights and the prison rules.

I stress again that it is an assessment, because there is no clear legal jurisprudence on which we can draw to define an absolute figure. We call it a limit because we want to define not a line in the sand or a point beyond which we cannot go without breaking things, but an indicator, like the rev counter in a car, which tells you that you are running the engine hot, but you might need to do that for a time to pass the lorry that is in front of you. It is unfortunate that we ended up with the acronym AOL, but let us not go there.

I am sorry to be even more tediously jargonistic, but we take the numbers at establishment level and further define them in a dynamic assessment, because things can change in time, and because the process of identifying the limits also identifies where the bottlenecks are in each establishment. If possible, we begin to take action on those.

The numbers for each establishment have been totted up, and the national figure for the safe operating limit of the estate is 8,126. That number is misleading, in that the total limits at each establishment do not sum together very well, because prisoners do not arrive as immediately interchangeable entities. Also, a significant amount of the available capacity in the open estate is underused, and we are unable to access it because of the extra constraints that were introduced following the Robert Foye case.

If we ran at or above the safe operating levels at establishments for a prolonged period, the establishments would be under severe pressure. The fact is that we have been running at those levels for some weeks now, and the establishments are showing signs of pressure. If we get the seasonal downturn that Mr Martin mentioned, we will get some brief relief from that pressure and we will not need to call on emergency legislation, but if the pressure continues, I have no doubt that we will have to call on that legislation.

Cathie Craigie: I do not want to put words into your mouth, so I will quote what you say in your written submission:

"should the prison population continue at a level in excess of the 'planned' 7,600 prisoners, SPS would expect to seek additional budget provision in-year from the Scottish Government to cope with the actual prisoner population during this period."

Are you saying that, if the prison population numbers continue in the direction that they are going, the budget that we are considering will not be enough to run the service?

Mike Ewart: Yes. I have been answering two different strands of questioning, which it is important not to confuse.

Cathie Craigie: I think that they are linked, though.

Mike Ewart: Absolutely. I agree entirely. I just want to be clear about what I am saying to you. If the population numbers continue to be very high—at the levels that I have described as creating emergency conditions—far from looking for additional budget cover, we might need something more dramatic in the way of relief. If population numbers remain high—above the projections—we will need additional budget cover to meet the costs of overtime, additional food, energy and so on. All those costs have risen significantly higher than projected at the time of the original budget.

Cathie Craigie: According to the SPS submission, the budget is planned on the basis of a prison population of 7,600 prisoners. Above that, there are financial problems.

Mike Ewart: Yes.

Paul Martin: In your discussions with the Cabinet Secretary for Justice, has any reference been made to the possibility of an emergency release of prisoners? Have any faxes or e-mails been exchanged—or anything at all—that have referred to the possibility of the emergency release of prisoners?

Mike Ewart: I am not at liberty to disclose to you what advice has been given to ministers by the SPS. We are a civil service entity and our exchanges with ministers are subject to the constraints or conventions surrounding the advice that is given to ministers.

Paul Martin: Has the SPS considered that? Can you refer to any papers in which you have considered the possibility of the emergency release of prisoners?

Mike Ewart: I have described to you fairly clearly what the position is in terms of our contingency planning.

Paul Martin: But there have been discussions within your organisation about the possibility of an emergency release of prisoners. Has a paper on that been provided or have there been discussions with management about it?

Mike Ewart: No. We have received advice on the legal position and we have considered the possibility of preparing for such an eventuality, if it needed to happen.

Paul Martin: How recently did you do that?

Mike Ewart: We update the thinking on that pretty much on a daily basis.

The Convener: Additional places are to be made available at Edinburgh and Polmont. What is the update on that? When will those places be available?

Mike Ewart: When will Ratho hall come on stream?

Willie Pretswell (Scottish Prison Service):

The new hall at Edinburgh prison, called Ratho hall, will be handed over to the prison around Christmas, and we expect it to be commissioned towards the end of January. It will have about 116 places. The new house block that is planned at HMP Polmont will be available towards the end of 2009 and will have about 120 places.

Stuart McMillan: Before I ask my main question, I return to a point that Paul Martin raised about the projections. In your submission, you discuss the Scottish Government's prisoner population projections from November 2007. Are such projections published annually or quarterly?

Mike Ewart: I understand that an annual document is published in the Government's statistical series.

Stuart McMillan: Have such documents been published for the past 10 or 15 years?

Mike Ewart: I cannot give you an exact answer, but the colloquial answer would be that they have been published "since time immemorial". They have been going for a long time.

11:45

Stuart McMillan: In a previous life, I worked for a private sector company in which great emphasis was put on projections and forecasting, so I am concerned about what has happened in the SPS in the past. I fully appreciate your use of the word "unplanned" in your written submission. Nevertheless, in the past, when the documents and projections were being put together, surely that would not have involved only one set of projections or criteria. Surely there should have been criteria that seemed a bit strange or fanciful at the time.

Mike Ewart: As you will know, the document contains a range of projections—high, medium and low—that were made for the purposes of trying to plan. There is a wide range between the high and low end of those projections, particularly as one moves further away from the base year. That demonstrates just how sensitive the numbers are to a multi-factorial base of influencing events.

As you can imagine, the issue has not arisen only this year, but it has arisen this year in an acute form because the growth in the prison population has been significantly greater than was the case in previous years. Nevertheless, over the long term, it remains the case that refining the projections has defied sophisticated analysis, despite people trying a variety of models to improve forward accuracy and reduce sensitivity.

My limited understanding of the issues is that the numbers are the outcome of many individual decisions that are taken in the system. Many decisions are taken on each case by the police and the Crown Office, and dozens of decisions are taken by the courts and so on. The ultimate effect is that it is very difficult to draw a line and make projections, building all those factors into the analysis. In the past, straight-line projection has often been as good as the most sophisticated analysis that people have tried to employ.

Stuart McMillan: So you are saying that, in the past, although people considered many factors and various criteria, the vast increase in numbers, particularly over the past year, means that projection has not been particularly effective.

Mike Ewart: Yes. If a lay person—I would characterise myself as a lay person in relation to any statistical analysis—were to look at the underlying drivers that might be expected to be the conditioning factors in analysing the prison population, the factor that they would be likely to pick up on would be the underlying rate of offending. However, in our jurisdiction, as in many others around the world, the pattern of overall offending in the community and the pattern for the prison population appear to be completely independent variables. At the moment, offending is going down whereas the prison population is rising significantly.

Stuart McMillan: I will move on to my main point. What is the forecast date for construction beginning at Bishopbriggs? Do any planning hurdles remain?

Willie Pretswell: The procurement process for Bishopbriggs is under way. We have short listed three bidders, all of which have the tender documentation. We are using the European Community procurement process that is known as competitive dialogue. It will take us until approximately next summer before we are at the stage of awarding the contract.

At that point, the preferred bidder will have to secure detailed planning permission from East Dunbartonshire Council. Following the public inquiry, we received outline planning permission. A range of quite onerous conditions were placed on the development and will need to be overcome in

the design and overall construction proposals. That said, we believe that they are achievable.

We do not expect construction to start before next summer, but to minimise delays and because we own the site—part of it was the site of Low Moss prison—we have used our own resources to commission the demolition of the site and its preparation for new construction. By doing that at the same time as we are going through the procurement process, we reckon that we can save about six months on the overall timescale.

A planning condition was that road works should be constructed around the site. We are looking into carrying out that work in parallel with the procurement process as well. We are working with East Dunbartonshire Council to agree a scheme that meets that planning condition. If we can do that, we will deliver that scheme before awarding the main construction contract.

Stuart McMillan: I was elected to the Parliament only last year, and I found it strange that Low Moss was closed when it did not seem that another prison was about to come on stream to take up the Low Moss prisoners. Obviously, the prisoners were then dissipated throughout the rest of the prison estate. Why was Low Moss closed before Addiewell came on stream, or before there was a fixed timeline for Low Moss's replacement to come on stream?

Mike Ewart: Given the unexpected growth in the prison population, I can understand your concerns; but the circumstances bear a bit of careful scrutiny.

When the decision was taken to close Low Moss, significant new accommodation was coming on stream at the development prisons—in particular, at Glenochil and Perth. There was therefore substantial growth in the accommodation available to the Prison Service to disperse the population from Low Moss, which was then about 300 prisoners.

The requirement to close Low Moss was predicated on three key factors. The first was the need for a clear site on which to begin construction of HMP Bishopbriggs. At that stage, we expected to be further ahead now than we are. However, the procurement process, which was under way, was changed for reasons of political choice following the election.

Secondly, the facilities at Low Moss were probably the most seriously unsatisfactory in the estate—in terms of both security and the physical quality of the fabric. The buildings were wooden and of wartime construction. The perimeter fence was described to me when I joined the Prison Service as requiring someone only to lean against it before making their way out. The establishment had been scheduled for closure for a long time;

indeed, when the decision was finally taken, a senior official from the Prison Officers Association Scotland said that, when he had first joined the Prison Service, he had been told that Low Moss was going to close.

The third reason was the need to close Low Moss in a controlled way, when the Prison Service felt that it had the best opportunity of absorbing the 300 prisoners. The alternative would have been for Low Moss to be closed, not by the Prison Service but by local fire officers, who were understandably concerned about the safety of the buildings. There was a risk of that happening at any time, and closing Low Moss in an uncontrolled way would obviously have been chaotic. It was much better to close it in the way that that was done.

Stuart McMillan: Could contingency measures not have been undertaken to buy some time until Addiewell came on stream?

Mike Ewart: In effect, contingency measures were in place, with the additional accommodation that was becoming available in the development prisons. The level of disruption that was caused by the movement of staff and prisoners out of Bishopbriggs was low and was readily accommodated by the rest of the estate. The significant growth has happened in the year since then.

The Convener: I fully accept that we can all have 20:20 vision in hindsight. However, I return to the point that Mr Martin made earlier—basically, the projections were not right. Is that not unfortunately the case?

Mike Ewart: I am not trying to make this a mere debating issue, but it is important that we do not claim that the projections were somehow flawed and wrong. The projections and the reality were a long way apart from each other, not because someone made a mess of the projections but because the reality has been influenced by a set of factors that were not and could not have been taken into account in the projections.

The Convener: We are where we are—the issue is historical.

Nigel Don: Good morning, gentlemen—it is still just morning. There is a £10 million movement of capital from one year to the next. Can you explain the real significance of that? Will it make much difference to what goes on?

Mike Ewart: It should not make a significant difference over the period of the spending review, given that it is a borrow-and-pay-back arrangement. I will not only put words in Willie Pretswell's mouth but give him a role to play for the next two years. We will paddle as hard as we can under the surface and sail on serenely above

it. Obviously, that will require some adjustment to planning. We think that we can accommodate that without detriment to the overall flow of the capital programme.

Nigel Don: The key priorities include £21 million for capital investment to support on-going developments, the most crucial of which is Peterhead. How do you see that going? Are there any risks to the timescale for the Peterhead project?

Mike Ewart: Because of the business that I am in, when anyone asks whether I foresee any risks, both hemispheres start to grind as fast as they can and produce potential risks at a rate that surpasses my capacity to utter them. The honest answer to your question is that at the macro level the Peterhead project ought to be as secure as it can be, given that we own the site and can construct on it without demolishing all the existing buildings. Given our relationship with the local authority and the community in Peterhead, there should be no major planning permission issues.

Cathie Craigie: Was the SPS consulted on the transfer of the £10 million that the Government reprofiled to the housing and communities budget?

Mike Ewart: It is fair to say that we were told about it beforehand.

Cathie Craigie: I do not want to hark back to the transfer, but does it have an impact on your ability to deal with prison overcrowding?

Mike Ewart: Our current assumptions are that we can accommodate the shift between years by adjusting the overall flow of spending on various projects, without interfering with the ultimate timetables for delivery.

Robert Brown: Is the £10 million related to the political decision to change procurement methods, to which you referred earlier?

Mike Ewart: No. The £10 million that has been moved between years is part of a bigger package, which is set out in the Government's budget statement, to bring forward investment in infrastructure, especially in social housing, as part of its countercyclical effort.

Robert Brown: One of the consequences of the change in procurement methods is a delay to the projected finishing point. How long will that delay be?

12:00

Mike Ewart: Obviously, we are doing all that we can to minimise the delay, which the Cabinet Secretary for Justice instructed us to do, but because we reached a fairly late point in the original procurement exercise and had to restart, it would be fair to expect a delay of at least a year.

Angela Constance (Livingston) (SNP): Good morning. What further progress has been made on ending slopping out?

Mike Ewart: Significant progress has been made on the provision of sanitation in almost every part of the estate. Formally speaking, slopping out in the sense that the term was previously understood has ended. Polmont prison was the last place in which there was slopping out in the old sense of the term; it has now ended across the estate. However, chemical porta potties are still used in Peterhead. There is no prospect of being able to provide reasonable integral sanitation in the buildings there because of their nature. Therefore, the use of chemical porta potties will continue until the replacement prison—HMP Grampian—is constructed.

Angela Constance: I have a question about the sharing of cells, which relates to prison conditions and capacity issues. What proportion of the available cells are shared? Given the difficult times that we are in, is there scope to increase the sharing of cells? I accept that the sharing of cells is far from ideal, but we are not in an ideal world just now.

Mike Ewart: No, we are not. Obviously, the number of cells in use that can be doubled up at any one time will vary, depending on the pressures on individual establishments. A proportion of cells in almost all establishments were designed to be used for multiple occupation. Such cells are designed into new halls and new establishments as the elastic in the system—they give capacity to take additional prisoners.

Almost every establishment has moved well beyond using only the planned accommodation that can be doubled up. We have a significant proportion of such accommodation, including more modern accommodation, that was originally designed for single occupancy. For obvious reasons, we have tried and we continue to try to avoid using doubled-up accommodation in long-term establishments—notably Shotts. If somebody has a very long sentence, the pressures on them and a potential cellmate could be significant, and the risks to the good order of the establishment must be considered. Therefore, we try to avoid doubling up, although there has been a certain amount of it, even in Shotts.

I cannot at the moment give you the precise percentage of cells that are being shared on any one day, but we could certainly write to you and give you a schedule that covers a number of days if you would like us to.

Angela Constance: That would be appreciated. Will the elastic in the system stretch a bit more?

Mike Ewart: When I described in what was, I am afraid, tedious detail to Cathie Craigie the

development of the assessed operational limit, one point that I was keen to make was that we must consider more than just the capacity of an establishment's cell accommodation in working out whether it can cope with significant numbers of prisoners.

If we used every possible space in Barlinnie, for example, we could probably push in 2,000 bodies, but we could not supply meals to them all because of the capacity of the kitchens and the infrastructure to deliver meals around the establishment. More important, the major constraint in considering the capacity of Barlinnie is the capacity of the health care staff to deliver methadone in the morning to the inmates who are on methadone scripts. As you can imagine, that creates a particular bottleneck in the life of the jail.

The overall capacity of the estate and of individual establishments obviously depends on the physical capacity of the accommodation, but it also depends on a range of other factors, which we must bear in mind and work on while using the accommodation to its maximum.

Angela Constance: Presumably, issues such as the sharing of cells, while undesirable, will be fully explored before any request is made to the cabinet secretary for the emergency release of prisoners.

Mike Ewart: Absolutely. Every establishment considers that issue daily when it takes new receptions.

One thing that particularly concerns me about the impact on prison staff of the current overcrowding is not so much the major dramas that people can envisage but the fact that every day prison officers are required to make careful assessments of the risks of putting particular people together in cells, perhaps reaching the conclusion that their best decision would be not to double up a particular individual but having no choice but to do so because of the pressure on accommodation.

At some stage, somebody in those circumstances will either be injured or harm themselves. It will be an incident that will not be noticed particularly as a consequence of overcrowding because it will be the kind of incident that can happen at any time. However, the officers who made the decision and who countermanded their own best instincts will have to live with the consequences. It will never be a big drama, but they will be affected by it, and that concerns me.

The Convener: The final question on accommodation comes from Stuart McMillan.

Stuart McMillan: In your submission, you mention that 165 places in the open estate have not yet been filled due to the additional measures

implemented as a consequence of the recommendations in the Foye report. That being the case, would it be possible in the short term to erect a fence around part of the open estate to create more secure accommodation and fill the vacant places?

Mike Ewart: We are undertaking a feasibility study into the possibility of providing a fence around part of the open estate, which recently received some publicity in the *Daily Record*.

It is a question not just of providing a secure perimeter but of providing gate facilities and turning the establishment into something that it was not designed for and for which there are no plans, given its history as an open establishment. Some of the accommodation currently provided in the open estate, particularly at Castle Huntly, is of a building type that we would describe as soft. It is not quite Portakabin style, but it is of that quality of build.

We know from experience that, if we put prisoners who are not suitable for open conditions into such accommodation, the accommodation quickly becomes trashed. That can cause problems internally, even though there is a secure perimeter. There are a lot of questions about how the open estate might be used, and I am afraid that there is no quick fix in simply throwing up a fence.

Stuart McMillan: Do you have any projected costs for such action?

Mike Ewart: At this stage, I would be speculating, but they would be very significant.

The Convener: We now turn to questions on running costs and other current expenditure. Robert Brown will open this section.

Robert Brown: I want to get clear in my own mind the issue of the capacity and the design capacity. In part 2 of your submission, you say:

"The design capacity of the prison estate as at 1 April 2007 was 6,463 places."

If I have got the connection right, you indicated that at that point the average prison population was around 7,500, so there was a shortfall of between 1,000 and 1,100 in the number of places that would have been available in an ideal world. You have provided an additional 162 places—I take it that they are now in place.

Mike Ewart: Yes.

Robert Brown: That brings us up to a total of 6,625 places but, in the meantime, the average population has risen to well above 8,000, so you are about 1,400 places short, which accounts for the crisis that you have mentioned.

Between December and March, another 700 places will be provided at Addiewell, so there will be an element of relief, if you can last that long. Later on, towards the end of next year, another 250 places will be available through the additional provision at Edinburgh and Polmont. In other words, the difference between the design capacity and the average prison population is subject to peaks and troughs, and there are spikes of particular difficulty. Would it be a fair assumption that, provided that nothing goes funny with the projected figures, the coming on stream of Addiewell should offer a reasonable degree of relief to the pressures?

Mike Ewart: It will provide significant relief, particularly if we get seasonal downturn, which will allow us to manage the phasing in of Addiewell. That will be most welcome. If there is a plan B, it is precisely as you have described it—to get through until Addiewell comes on stream. All of us hope that we can do that in reasonable order.

Robert Brown: I assume that the budgets for 2008-09 and 2009-10 include some money for Addiewell's running costs. How much has been allocated to Addiewell?

Willie Pretswell: The projected full-year costs for Addiewell will be around £28 million or £29 million.

Robert Brown: Is that the running cost or does it include an element of capital expenditure?

Willie Pretswell: It is a public-private partnership contract and the contract cost involves buying 700 of what are known as available prisoner places each day. That cost includes the full running costs and the cost of the provision and maintenance of the prison facility.

Robert Brown: I presume that that figure includes some part-year costs for the current financial year.

Willie Pretswell: It includes a small amount for this year. As has been mentioned, the prison opens on 12 December and starts up very slowly—it will get 30 prisoners in the first week and will build up to housing 700 towards the end of March. Not a great deal of money has been allocated for this year.

Robert Brown: I think that it was indicated that your budget is based on a projected prisoner population of 7,600. I appreciate all the caveats that Mr Ewart mentioned in that connection, but can you say that the extra cost will be £X per extra 100 prisoners? Can you give us a feel for the extra costs that might be incurred by going over the figure of 7,600?

Willie Pretswell: The rough cost of a prisoner place in a modern 700-place prison is £40,000 per year. It depends on how such places are provided for.

Robert Brown: Yes—if they are provided for by overcrowding the existing accommodation, that is not a realistic figure.

Willie Pretswell: Yes. If extra prisoners are accommodated through overcrowding, the cost becomes the marginal cost of overtime and so on. The figure varies by prison and type of prisoner, but it would be a fraction of the figure that I quoted.

12:15

Robert Brown: You have indicated that you are very concerned about the issue—the convener referred to all the publicity that there has been in recent weeks. You must be able to give the committee some idea of the amount that you are likely to request from, or the figures on which you will base your approach to, the Scottish Government.

Willie Pretswell: As part of our internal budgeting, we allocate somewhere between £3,500 and £5,000 per annum to SPS prisons as additional budget to cover the marginal cost of providing additional places.

Robert Brown: Is that amount per prisoner?

Willie Pretswell: Yes. It is very crude, but that is the amount of money that is available for us to distribute to try to help the prisons to absorb some of the extra costs that are associated with an increase in prisoners.

Robert Brown: So the total annual extra cost might be something like £5,000, if the amount is at the high end of the range, multiplied by 500 prisoners—or more than 500, as we are heading that way?

Willie Pretswell: We would need more analysis than that. As was mentioned, that is perhaps deliverable in the short term, but it might not be sustainable for a longer period.

Robert Brown: The longer it goes on, the more difficult and expensive it becomes, because of the rostering and the complications.

Willie Pretswell: As Mike Ewart said, it is not just about resources. Staff are currently experiencing fatigue, which affects their ability to service the number of extra hours that are needed.

Robert Brown: In the second graph in your submission, which refers to short and long-term prisoners, it appears that the increase in numbers is substantially an increase in the number of short-term prisoners. If I am reading the graph correctly, the number of long-term prisoners has gone down substantially between 2004 and 2008, while the number of short-term prisoners—the green line at the top of the graph—has gone through the roof. Is it the boost in the number of short-term prisoners that is giving you the problem?

Mike Ewart: There appears to be significant growth in a number of sectors, but short-term prisoners and remands have been the most significant areas. As we discussed this time last year, that growth is a particular issue because of the recycling that happens with short-term sentences. Such sentences are not a matter of somebody being admitted once and serving a sentence for four, five, six, seven or eight years. They are a series of receptions and liberations that take up a significant amount of time in the prison week. The problem is not just the numbers but the administrative churn that goes with them.

Robert Brown: As we know from the McLeish report, your ability to provide services for the short-term prisoners is much more restricted because of the timescales.

Mike Ewart: The conventional wisdom has been that, although prison can do some good through the application of structure to people's lives and the provision of certain types of programmes, it does not have much effect on prisoners whose sentences are less than a year or six months.

Robert Brown: My final question is on the restriction of programmes for prisoners due to budgetary considerations. If the prison numbers are going up—if I am following the argument correctly—there are only three or four ways in which to do something about it. One is a change of policy, perhaps to tackle the number of short-term prisoners; and one is a longer-term policy to cut reoffending rates and levels of crime in general.

The question of the effectiveness of programmes for prisoners is important. How far are programmes for prisoners being cut or restricted due to such budgetary considerations? Where are the pressure points?

Mike Ewart: Our concern is less that the budget provides a constraint on the capacity to deliver programmes, and more that the sheer weight of numbers in an establishment means that there is not the staff capacity to move people round in order to allow them to take part in education, work and programmes to the extent that we would like them to be able to. The restrictions are much more operational than budgetary.

Robert Brown: What about health facilities? It has been suggested that the health facilities in Barlinnie have been almost restricted to supplying people with methadone, and have been largely unable to tackle mental health and other problems.

Mike Ewart: That is an issue of considerable concern. I would not say that we are unable to deal with the health needs of prisoners, but the pressure to deal with the prescription needs of prisoners—not just methadone but other prescription medicines too—is very significant in an establishment such as Barlinnie.

Robert Brown: You have mentioned problems with staff numbers. Do you intend to recruit more full-time people to the SPS, to help you to cope with that pressure?

Mike Ewart: If the longer-term aim of the Government to reduce the prison population were not achieved, we would have to increase the staff resource. At the moment, it is being stretched significantly. As Willie Pretswell has said, we are seeing increases in sickness absence and other indicators of fatigue.

Robert Brown: But you are not recruiting more staff at the moment.

Mike Ewart: No. The policy—and this also relates to the overall accommodation envelope—is to reduce the long-term prison population, not to increase the capacity of the system to deal with it.

Cathie Craigie: This year, the SPS must again achieve 2 per cent efficiency savings. Have you been able to produce a plan for efficiency savings? Last year, you told the committee that you were in the process of producing such a plan.

Mike Ewart: Among Government services, we are unique in being unable to predetermine and then publish the contents of an efficiency plan. There are reasons for that. When the legislation that prohibited industrial action in the prison service was repealed in 1997, it was replaced in Scotland by a voluntary industrial relations agreement, which requires us to operate in partnership with the trade unions to negotiate changes to terms and conditions of service affecting the employment of prison officers and prison staff. Anything that cannot be agreed through that process is subject to binding arbitration. As you know, over the past couple of years in particular, that has had an impact on pay.

We require to negotiate with our trade union partners on our capacity to provide evidence of the delivery of efficiencies. We are in the process of doing that at the moment.

The efficiency requirement for the next again year is, of course, cumulative. It will be 4 per cent—which will be more testing still than the requirement in the current year.

Cathie Craigie: I accept the distinction that you make between prisons and other services.

You say that negotiations are still going on with the trade unions. Are you still negotiating the efficiency savings for this financial year?

Mike Ewart: I am sorry to be tedious about this, but I am afraid that it is the nature of the beast. Subject to the issues that we have raised in evidence on growth in numbers and growth in particular costs, we are confident that we can live

within the cash envelope of the budget for the current year—although it will be nip and tuck.

Separately from that, we need to evidence the efficiency savings that we are making. Taking a lay definition of that, you might think that the fact that, with the same budget, we are dealing with significantly more prisoners than we had planned to deal with would be evidence of an efficiency saving. However, within the technical definitions that are used, that is not necessarily an efficiency saving. According to those definitions, we must not only deal with more prisoners but deliver more for the money and demonstrate that we have not reduced the level of service. I am afraid that we cannot demonstrate that because, as I explained in response to an earlier question, we believe that we are seeing a significant reduction in the level of service. We must be able to provide evidence that satisfies the technical definitions, so that we can publish in line with the rest of the Government's services. That requires us to reach agreement with our trade union partners on how those efficiency savings are described.

I am sorry if that sounds like angels dancing on the head of a pin.

Cathie Craigie: Well, I will simplify it. Do you have an efficiency savings plan in black and white?

Mike Ewart: We have an efficiency savings plan that is being negotiated.

Cathie Craigie: But it is in black and white, and you are discussing it with the trade union.

Mike Ewart: Yes.

Cathie Craigie: Can you share with the committee some of the ways in which the efficiency savings will be made?

Mike Ewart: That is yours, partner.

Willie Pretswell: What we have been describing are staffing efficiencies. As we must negotiate those with the trade unions, I cannot talk about those particular cases just now, but I will give you some other examples.

The target was set of a 2 per cent efficiency saving on the departmental expenditure limit. In the case of the SPS, that encompasses our operating expenditure, our capital charges—depreciation of the significant assets that the SPS owns and the cost of capital associated with that, which is a significant sum for the SPS—and our capital expenditure budget of more than £100 million. We are expected to save 2 per cent on those elements as well as on those that we would negotiate with our trade union partners.

I will give you an example in terms of our capital expenditure. When we take forward the capital expenditure programme, we go through a

significant procurement process. We think that there are examples that we can claim of efficiency savings that we have made through improvements in the value for money achieved in the delivery of that programme. There are a number of fairly significant examples that we will put into a plan and report in due course. For example, we think that there is a valid claim that efficiency savings of around £900,000 will be achieved in the process of awarding a contract for the next phase of development at Glenochil prison. That will form part of our overall package.

Cathie Craigie: Could the committee get some further information on, and a breakdown of, those savings to assist us in our scrutiny of the budget process? As I said, we are basically on your side and want to ensure that enough money is being allocated to the service in the budget. The more information the committee has, the better able we will be to question the minister when he comes before us.

The Convener: It would be helpful if you could write to us, indicating where you are targeting the savings, in so far as you are able to do so. It would also be helpful if you could get that information to us fairly speedily, as the minister will come before us next week.

Robert Brown: I have a question on the figures that have been mentioned. You said—albeit with some caveats—that a prison population of 8,126 was the safe operating limit. However, according to your written submission, the recorded custodial population in September was 8,137. Allowing for the fact that HMP Addiewell will come on stream, it seems that the SPS has already breached what you regard as the safe operating limit. I presume that, if there is an increase in that number in October, November and December, you will face a significant challenge. Would you like to comment on that, given your observation on the safe operating limit?

12:30

Mike Ewart: The caveat that I gave about the operating limit was that it is not useful to give the committee that total and say that it is the line in the sand, for two reasons, which I have set out. First, the limit does not take account of the fact that prisoners are in different categories and need to be accommodated in different places. It is most obvious that that applies to the categories of women prisoners and men prisoners.

Secondly, the number of spaces that appear to be available is overstated, because we cannot use the open estate in the way that we have used it in the past. A significant number of spaces appear to be vacant, but we cannot fill them. Therefore, we are further over the limit than we appear to be. At

some times, individual establishments—especially local prisons that receive prisoners from the courts, such as Barlinnie and Saughton—are under particular pressure. They can be well over their assessed limits and have been for several weeks.

The pressures on establishments and staff are significant, as are the pressures on inmates.

Robert Brown: So the situation is even worse than the figures technically suggest.

Stuart McMillan: I ask my question because I am a member of the Audit Committee as well as this committee. Recently, Mike Ewart and Robert Gordon sent the Audit Committee correspondence, which has been forwarded to this committee. The eighth point that the Audit Committee raised with you was about a recommendation that you

“Examine the impact of transferring prisoners to other prisons on their access to support and services required for rehabilitation.”

The final paragraph of your response to that point says:

“Work has already begun to make prison populations more community focused which could assist prisoner access to appropriate support and services. This is the early stages of ‘community facing prisons’”.

What does that mean?

Mike Ewart: From watching a video of the Audit Committee’s proceedings, I remember that “community-facing prisons” was described as an obscure term. I apologise for appearing to use jargon, but I will go on to make that worse. The phrase entered the public consciousness when a previous Home Secretary—Charles Clarke—spoke about the desirability of introducing community prisons, which appeared to be prisons that were based close to relatively small communities and which would handle the prisoner populations that those communities produced.

The concept was advanced as highly desirable to community justice authorities when they were in their early stages. It was said that if local prisons took local people, local authorities could communicate much more readily with the people coming out of those prisons who needed social work and housing benefit support.

We have had significant dialogue with CJAs and other partners about that set of concepts and how it might work, given the realities of where prisons are and where we can reasonably expect to build prisons in the future. The phrase “community-facing prison” was generated from that dialogue. We tried to encapsulate in that the desirability of moving to another arrangement. That would not be a fully developed network of community jails, which is an ideal that is unlikely to be realised but,

as we plan new accommodation and the use of existing accommodation, we could try to accommodate more closely a multiplicity of prisoners from more or less the local area.

As we have said, HMP Grampian is planned to be our first fully community-facing prison, in that we are planning for a regime that can accommodate young offenders, females and adult males on the same campus. "Community-facing prison" is a generic term for a prison that will do more to keep prisoners closer to their local communities and to the communities into which they are likely to be discharged. We are not turning the whole estate into a network of community jails—we cannot do that.

The Convener: We must move on but, before we do, I will bring in Cathie Craigie, as I ignored her when she tried to get in earlier.

Cathie Craigie: Are any efficiency savings that the SPS makes reallocated to other departments, or can you keep them and reinvest them in the SPS?

Mike Ewart: In the previous period, the SPS sought to make efficiency savings internally, which were recovered and largely used to fund capital development. The efficiency savings that we are talking about now are savings that are being made across the whole of Government so that it can live within the envelope of cash available to it. The savings are effectively netted off from the cash that is available to us before the budget is set—our budget is net of the efficiency savings that we have to achieve.

The Convener: I thank Mr Ewart and Mr Pretswell for their attendance. I am sorry that the evidence session went on for so long, but a number of issues had to be explored. We are not, in some respects, terribly happy as a result of some of our explorations, but we are grateful to you both for coming.

Mike Ewart: Thank you.

I do not wish to prolong the session. However, in view of the comment that you made at the outset, and without seeking exculpation but in order to assure the committee of, as they say, my best intentions at all times, I want to point out that the media coverage trailing our attendance at the committee today was in no sense sought by us. Indeed, a number of broadcast media approached the SPS to ask for interviews with me prior to my appearance before the committee, but I resolutely refused to do such interviews on the basis that I had to speak to the committee before anybody else heard what I had to say. The media coverage has, as I understand it, been drawn solely from the published evidence that was available ahead of this session. I would not want to leave the

committee in any doubt that we treat it with the proper respect that it is due.

The Convener: I am obliged for those comments.

I suspend the meeting briefly while the witness panel changes over.

12:38

Meeting suspended.

12:39

On resuming—

The Convener: The second panel comprises Chief Constable Kevin Mathieson, chair of the Association of Chief Police Officers in Scotland information management business area, and Doug Cross, chair of the ACPOS finance management business area.

This is the first occasion on which Mr Mathieson has given evidence before the committee. Congratulations on your appointment, which you have achieved after a career that began in Aberdeen before you moved to Northumbria and back to Tayside. You have our best wishes.

You will be relieved to know that this evidence session will not be nearly as lengthy as the previous one. Mr Cross can confirm that last year the committee spent a lot of time on the policing component of the budget in order that we would have the appropriate input on police numbers and so on. That said, a number of questions still arise and I ask Cathie Craigie to open the questioning.

Cathie Craigie: What is the latest total number of police officers in Scotland?

Chief Constable Kevin Mathieson (Association of Chief Police Officers in Scotland): I do not have that number to hand. I take it that your question relates to the recruitment of additional officers.

Cathie Craigie: Yes. I just wanted to know the numbers. If you cannot answer that, perhaps you could—

Chief Constable Mathieson: Doug Cross, who is chair of the business area, is here to answer the financial questions and I will answer any questions that arise on operational issues.

My force is well on track in terms of the additional police officers made available by the funding, but that will not necessarily be seen in the crude figures of the number of police officers available in Scotland, for a valid reason. On our overall police numbers, we have an option. In Tayside, we are going through a civilianisation process, which allows us to replace police officers

in office posts with police staff. That allows us to put those officers back on to the front line, which is a better way of increasing our operational capability than simply going for recruitment. That does not necessarily mean that you get an overall increase in the number of police officers available to Tayside Police. It does mean that you get an overall increase in your operational capability on the front line, but that is a different figure, which has not been bandied around or used properly in Scotland at all.

Cathie Craigie: Thank you. With respect—I am sure that the convener will agree—the committee is very knowledgeable about how you reallocate the resources when you are going through civilianisation. If you need any advice on it, I am sure that the convener would be willing to offer it.

If you cannot provide the information on total police officer numbers today, could you please inform us in writing? Police numbers were an important issue in last year's budget settlement; in fact, the only amendment to the budget that the Government accepted was on police numbers. We need to know the numbers in order that we can do our job properly. I would like to know how many additional officers have been recruited since 31 March 2007 and how many are now operational; how many additional police officers will be operational by 31 March 2009; and how many will be operational by March 2010. I am sure that the committee clerks have been taking note of what I asked and that they will be happy to confirm it for you in writing. It is essential that we have that information in order that we can do our job properly.

Chief Constable Mathieson: That is fine. Thank you. I do not have that information to hand, but I will get back to you.

Cathie Craigie: Thank you.

The Convener: I know that we are a couple of days ahead of ourselves here, but the information should be readily available. It would be particularly helpful if you could let us have the number of officers in post as of 30 September—or, if not, as of 31 August.

Chief Constable Mathieson: I will strive to get that for you, convener.

Cathie Craigie: The Government has decided to ring fence the funding for additional officers, unlike other areas in which it has taken away ring fencing. Does that cause any difficulties for the financial management of our police forces?

Doug Cross (Association of Chief Police Officers in Scotland): No. The fact that the money for the additional police officers is ring fenced does not cause us any difficulties; in fact, it is very useful for us to be able to identify

absolutely the amount of money that will be available for those officers, and for the money to follow the recruitment of the officers.

12:45

Paul Martin: What is the process after funding is provided to police authorities? Do they invoice the Government?

Doug Cross: Yes. We must complete returns to let the Government know how many officers have been recruited, and part of that is an invoicing process.

Paul Martin: Is the funding always specifically for recruitment? Can it be used in other areas?

Doug Cross: No. The money for the additional officers must be based on the numbers of officers who have been recruited against a target of an extra 1,000 over the three years.

Paul Martin: That money is only for the recruitment of officers and is not for associated costs such as advertising or additional training costs or whatever.

Doug Cross: A figure of about £28,800 per officer has been identified, which includes the salary costs of the officer, some equipment costs and some ancillary overhead costs relating to the officers, which might include a bit of training and so on, but would not include the recruitment process. Those kinds of costs are well built in to forces' procedures, so the additional officers do not cause forces a strain as far as that is concerned.

Paul Martin: To reiterate, as soon as you recruit an officer, you invoice the Government or follow an audit process to clarify that the officer has been recruited.

Doug Cross: We are normally asked to provide that information in a quarterly return.

Paul Martin: If the recruitment process does not take place, does the money go back to the Government? There must be cases in which the recruitment target is not reached.

Doug Cross: The money is not released until there is confirmation that the officers have been brought in. The first 150 officers came in at the back end of the previous financial year. We are into the second year, in which 450 additional officers will be recruited. We are not at the stage to which you referred and I do not anticipate that we will be.

Angela Constance: I am not sure whether you have answered this question. However, following on from Ms Craigie's earlier point, I want to look ahead at how many officers will be in the

recruitment pipeline. How many officers are in the pipeline for this year and for 2009-10?

Doug Cross: Again, I do not have those figures just now, but I can provide them for you. What happens is that, to allow planning at the Scottish Police College, forces must provide an estimate of the number of officers to come through in each of the intakes across the year. The estimate will be based on the number of officers who we anticipate will retire, the number of new recruits and the number of officers who might leave the service by other means. The estimate will be continually refined until, about six to eight weeks before the recruitment date, the final figures will be considered. That will be based on the numbers who have retired or have indicated that they will retire, and on others coming through—the additional officers that we were talking about earlier.

Angela Constance: Can you indicate, or will you be able to do so in the immediate future, how many college intakes there will be between now and March 2011? Similarly, do you know how many officers are due to retire between now and March 2011?

Doug Cross: The college intakes happen roughly every six weeks. There is a break at some point during the summer months, so they may not happen every six weeks, but we can get the exact number of intakes on an on-going basis.

We have a better idea of the number of officers who are eligible to retire, but we cannot say with certainty how many will actually retire—that is a choice for the individual officers. We must consider the date at which they reach their 30 years' service because the pension liability then becomes an important issue for us. However, being eligible to retire does not necessarily mean that such officers will retire.

The Convener: We fully accept that that is a matter of personal choice, but it would be interesting for the committee to know how many officers are eligible to retire, as opposed to how many opt to do so.

Doug Cross: Yes.

Bill Butler (Glasgow Anniesland) (Lab): It would also help the committee if we could get some idea of the intake of new officers that the Scottish Police College expects between now and March 2011. Can we have that figure as well, please?

Doug Cross: Yes.

Bill Butler: We do not have that figure before us today, unfortunately. When we have it, we will be able to discuss the matter with the cabinet secretary. I am amazed that figures such as those

sought by Mrs Craigie and Ms Constance have not been forthcoming. I am disappointed, in fact.

The Convener: Yes. The figures should have been available.

Paul Martin: What progress is being made in discussions with the Convention of Scottish Local Authorities and the police about a long-term solution for police pensions?

Doug Cross: There has been quite a lot of discussion in the past couple of months. ACPOS sought to get the matter on the agenda as early as possible because we need a degree of certainty when we set budgets, and the eventual position on pensions is also important in relation to recruitment.

There have been discussions on the matter between the Scottish Government, ACPOS, COSLA and the Scottish police authorities conveners forum, and there is now a fairly clear understanding of what the pensions shortfall is. Work continues to find a solution that does not impact on police numbers or operational capability but ensures that pensions will be funded. It is likely that all parties will have to contribute to that. The discussions continue and we expect a resolution fairly soon.

Cathie Craigie: Your written submission states:

"2008/2009 was the first year that full provision for Police pensions was not made within the Police settlement."

How many years were there—

Doug Cross: The spending review that covers 2008-09, 2009-10 and 2010-11 is the first one in which full provision for police pensions was not made within the police settlement. In the current year, we are living with that. The identified shortfall of £17 million in the pensions figure for 2008-09 has been addressed through various funding measures that local authorities and police boards have put in place. The problem in 2009-10 is much bigger, as I am sure you appreciate, and we are having further discussions with the Scottish Government about how to plug the gap, which will be some £40 million.

Cathie Craigie: Since devolution in 1999, has provision always been made within the budget settlement? I am not too interested in going back further than that.

Doug Cross: It was certainly included in all previous spending review settlements. This is the first time that full provision for police pensions has not been made in the police settlement.

Stuart McMillan: I seek some more information on trends in the police force. How many people are there in each intake to the Scottish Police College and how many of them drop out? Can we

have that information for each of the past five years?

Chief Constable Mathieson: Yes. We can add that to the information that we will provide.

Stuart McMillan: Secondly, can you provide information on the number of officers who go through the Scottish Police College and then leave the force during their probationary period, and the number who leave within five years?

Chief Constable Mathieson: Yes, we can provide that—we have the data on that.

Stuart McMillan: It is important to establish the past trend so that we can consider what will happen in the future.

Bill Butler: What progress has been made on the efficiency savings that police forces planned and what efficiency savings are planned in addition to those that have been achieved?

Doug Cross: As you are probably aware from our previous evidence and our written submission, ACPOS has for some time been pulling together the work on efficiencies on behalf of the eight forces. We will shortly publish the best value annual report for 2007-08, which will pick up on the last year of the three-year Government efficiency programme and show that we achieved the target that was set for us. In the previous three years, the efficiency target was split between cash savings and non-cash savings, with the emphasis on non-cash savings. For the present spending review, the overall efficiency savings target for local government is 2 per cent. There is no set target for the police, but the expectation is that each component part will achieve its share.

We have been considering the targets. We will try to build on the good work that we have already done. We will consider measures such as better procurement, joint working and improvements from civilianisation. However, achieving efficiencies will be more difficult, because they move into cash savings. We need to examine how we can convert some of the time savings that we anticipate into cash savings.

Bill Butler: Your written evidence states that it will be more difficult to make efficiency savings. Paragraph 7.6 states:

“The ability of the Service to achieve this level of efficiencies will also be blunted by the impact of the considerable level of savings already achieved over the previous 3 year spending review period.”

Given that difficulty, where will further efficiencies be sought?

Doug Cross: One measure is to build on the capital programme of business change that we have been developing. The programme has several central planks, including measures on

mobile data and common information management systems. Through investment in the technology in those applications, we hope to free up officers from some of their current duties. For example, officers will not have to return to the police station for some information, but will be able to get it online. Through those types of efficiency savings, we hope to go some way towards meeting the target.

Bill Butler: You say that you will go some way towards meeting the target. Are you not confident about meeting the target? Your submission states that the level of efficiencies will “be blunted” as a result of the savings that have already been achieved. Are you confident that you will be able to meet the target?

Doug Cross: The situation is similar to the one that the SPS witnesses described. The efficiency targets have in effect been netted off against the settlement that we have received. We are confident that we will operate within the settlement. We hope to demonstrate not only that we have operated within the settlement, but that we have achieved efficiencies without an impact on service delivery, so that they are true efficiency savings.

Bill Butler: That is a desired aim. It is good to hear it stated, but it will be even better to see it delivered.

What benefits have so far been obtained through the establishment of the Scottish Police Services Authority? If, as your written evidence suggests, it is too early to tell, when will you be able to inform us?

13:00

Chief Constable Mathieson: In some ways, the SPSA will be in a better position than we are to answer that question.

It is early for us to give a view on its success. It is still a relatively new organisation and it still has teething problems to address in getting up and running and getting the right number and quality of staff in place. I am speaking from the perspective of information and communication technology, which is the really big area of business that it has entered into this year.

Bill Butler: Yes, it is only around six months since ICT was transferred to the SPSA.

Chief Constable Mathieson: ACPOS and the SPSA are working closely together on the business change programme that Doug Cross mentioned to secure a more efficient use of police ICT in future. An ambitious programme is being developed—some of it is on the cards—and if it is realised, it will bring significant efficiencies to the

police service. It is still early days, though, and there are a lot of hurdles for us to get over.

Bill Butler: I understand that.

Paragraph 6.3 of your written submission states:

"It will be important to ensure an independent review of these arrangements is carried out to demonstrate"

operational and financial benefits and efficiencies and so on.

Given that the transfer of responsibilities other than ICT to the SPSA took place 18 months ago, when should such a review be carried out? Responsibility for ICT was transferred six months ago. Will another six months be needed, so that the arrangements are considered a year after responsibility for ICT was transferred?

Doug Cross: You would need to take a view a year, or possibly a bit longer than that, after the ICT arrangements were transferred. They are a considerable add-on to the SPSA's services, as are the forensic services. Some form of review in 2009-10 would be appropriate.

Bill Butler: Okay. What is the position with VAT payments and the SPSA?

Doug Cross: Discussions have taken place involving ACPOS, the SPSA and representatives of HM Revenue and Customs on how the SPSA can act as an agent on behalf of the police forces to procure ICT goods and services. Each of the police boards and the SPSA will be required to sign up to an agency agreement, which is being developed. When that agreement is finalised to the satisfaction of those who represent the interests of the police boards and the SPSA, it will allow arrangements to be put in place.

Bill Butler: When do you expect the agreement to be finalised?

Doug Cross: I hope that it will be finalised within this financial year to allow us to take it forward. At the moment, interim arrangements are in place through which forces are continuing to procure such goods and recover moneys from the Government. There is therefore no loss of VAT in relation to ICT.

Bill Butler: So you expect the agreement to be finalised within 2008-09.

Doug Cross: Indeed. That is the hope.

Bill Butler: I am grateful for that.

Robert Brown: I want to follow up on ICT-enabled projects. You say in your submission that the business change programme

"will take a long time to deliver"

without the injection of pump-prime funding or something of that sort. Can you give us an

indication of the total cost of the projects that are involved, the sort of pump priming that you are thinking about and what the result would be if pump-prime funding was not made available?

Doug Cross: The programme is still developing, but it will potentially cost in the region of £60 million, depending on the mobile data and information management solutions that are eventually put in place. We have already tackled several projects to put the infrastructure in place that will allow information to be shared, and that will be completed within this financial year. All the forces are moving towards a common command-and-control application, which will mean that information will be shared better. We are managing to do that within our own resources and the top-slice funding. The two big projects that it will be impossible to deliver within the £5 million top slice and within a reasonable time are the mobile data and information management projects. Those represent a cost of around £40 million between them. If we do not have access to some pump priming, it will take eight years to deliver the projects using the £5 million top slice, which means that any benefits would be significantly diluted over that time.

Robert Brown: What kinds of benefits, in financial terms, would you anticipate as a result of the developments?

Doug Cross: We touched on some of that earlier, when we talked about the need to demonstrate efficiency savings. Mobile data will save officer time, as officers will be able to give and receive information without having to come back to the office. The efficiency savings arising from information management will be more to do with using the common applications to share information and intelligence across the piece.

Chief Constable Mathieson: One of the key benefits that will accrue to the service is a significant reduction in bureaucracy. Officers have to fill in the same details time and again for different parts of our process and bringing together the ICT will eliminate that extra work. That is one of the major business benefits that we foresee.

Cathie Craigie: I have concerns about how achievable your efficiency savings goals are, given that a high proportion of the budget is for staff costs. It is difficult to make savings while trying to retain staff or increase staff numbers. Could you say a bit more about that?

Also, the budget is efficiency related and is based on a calculation that inflation is rising at 2.7 per cent. Realistically, however, I think that the rate of inflation is higher than that. How has that been taken into your calculations?

Finally, your submission states that, in some years, you achieve more than the targeted

savings. If you achieve savings, whether the targets were set by the Government or the board, can you reinvest them into front-line services, or are they clawed back for other departments?

Chief Constable Mathieson: On the staff issue, you are right: more than 80 per cent of our budget is staff related. However, there is some wriggle room. My force has conducted a best-value review of all our operational police staff and has identified a significant number of roles that could be carried out by police staff at a significantly reduced cost. That shows that, even though we have had many years of civilianisation, there are still opportunities for us to revisit what is currently in place in order to make some savings.

The workforce modernisation pilots will also be helpful. The well-publicised one that is being run by Central Scotland Police involves using police staff to perform fairly low level but necessary police roles at a lower cost. There are significant opportunities for police forces to use that type of reorganisation to get the same product at a cheaper cost. Most forces are currently exploring those opportunities.

It will not be easy to take advantage of all of the opportunities to make savings, so it is difficult to give you a figure for those savings, but it is important to remember that those opportunities exist. My force is confident that, given the work that we have done so far, we can make the necessary savings over the next couple of years.

Cathie Craigie: Does the 80 per cent of your budget that is taken up by staff costs include civilian staff costs?

Doug Cross: Yes.

Cathie Craigie: How will you deliver the pay increases for the year? Has that been budgeted for?

Doug Cross: Yes. We have budgeted for the 2.5 per cent pay inflation in the settlement for those years. Obviously, discussions are continuing and we need to see how they work out.

We are no different to any other organisation with regard to the other inflationary pressures and, as with all other organisations, it is a mixed picture. Some of the elements within our budget do not increase to the same extent as pay, but the items that have a significant impact on us are fuel costs for our vehicles and utility costs—electricity and gas. I am sure that that is the same for every other organisation. We must try to manage those pressures as best we can as part of our efficiency programme. If we cannot manage them out completely, we need to find efficiencies elsewhere within the budget. Therefore, we would seek to reinvest the savings that we have made from

efficiencies in, for example, the procurement of other items to address cost pressures.

You asked whether we are able to reinvest the savings in the organisation; the answer is yes. About £2 million of the cash efficiencies that we identified last year were connected to managing absence, so they provided more officers on the street, as well as more support staff to provide the service. Just over £2 million of last year's cash efficiencies were made in better procurement, and we can use that money to address other pressures or augment the service. The rest of the efficiencies related to management improvements or joint working arrangements, which provide operational benefits. We try to retain those savings within the service and there is no pressure to lose them from it; they are not being taken away from us.

Cathie Craigie: If you are able to provide the information, it would be interesting to know what percentage of the efficiency savings was made in the staff costs and what percentage was made in the other aspects of the service's administration.

Doug Cross: We have broken our savings down into categories such as managing absence and management improvements. There may be some crossover between some of the categories, but we can certainly have a stab at breaking the savings down into those that are staff related and those that are about procurement or joint working arrangements with external agencies.

The Convener: Thank you very much, gentlemen. Staff costs are clearly the major part of a budget such as yours—indeed, the almost-all-consuming part of it—so we fairly urgently need the answers to the questions that were asked earlier in this evidence-taking session. It would be very useful to get them by the end of the week if that is at all possible. You appreciate that, next week, we must pursue with the minister the question whether the budget is adequate. We do that on your behalf as well as everybody else's.

Doug Cross: Convener, will those questions be provided? I did not manage to take notes.

The Convener: The clerk will contact you, Mr Cross.

Doug Cross: Thank you.

The Convener: I thank both the witnesses for attending. The committee will now move into private.

13:13

Meeting continued in private until 13:31.

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