



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC AUDIT COMMITTEE**

Wednesday 21 November 2012

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**Wednesday 21 November 2012**

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**PUBLIC AUDIT COMMITTEE**  
**16<sup>th</sup> Meeting 2012, Session 4**

**CONVENER**

\*Iain Gray (East Lothian) (Lab)

**DEPUTY CONVENER**

\*Mary Scanlon (Highlands and Islands) (Con)

**COMMITTEE MEMBERS**

\*Colin Beattie (Midlothian North and Musselburgh) (SNP)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*James Dornan (Glasgow Cathcart) (SNP)

\*Mark Griffin (Central Scotland) (Lab)

\*Colin Keir (Edinburgh Western) (SNP)

\*Tavish Scott (Shetland Islands) (LD)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Miranda Alcock (Audit Scotland)

Leslie Evans (Scottish Government)

Caroline Gardner (Auditor General for Scotland)

Joe Griffin (Scottish Government)

Howard Llewellyn (Tayside Community Justice Authority)

Colin McConnell (Scottish Prison Service)

Councillor Peter McNamara (Community Justice Authority Conveners Group)

Amyas Morse (National Audit Office)

Edward Troup (HM Revenue and Customs)

Sarah Walker (HM Revenue and Customs)

Kirsty Whyte (Audit Scotland)

**CLERK TO THE COMMITTEE**

Roz Thomson

**LOCATION**

Committee Room 2



## Scottish Parliament

### Public Audit Committee

*Wednesday 21 November 2012*

[The Convener *opened the meeting at 09:31*]

### Decision on Taking Business in Private

**The Convener (Iain Gray):** We are all here and we have had no apologies, so I welcome members, the press and the public to the Public Audit Committee's 16th meeting in 2012. I ask everybody to ensure that their mobile phones are switched off—that includes Ms White.

Under agenda item 1, does the committee agree to take in private item 4, which is consideration of our approach to the report from the Auditor General for Scotland and the Accounts Commission entitled "Reducing reoffending in Scotland"?

**Members** *indicated agreement.*

## Scotland Act 2012

09:32

**The Convener:** The first substantive item is our consideration of the audit arrangements for the Scottish rate of income tax arising from the Scotland Act 2012. On the committee's behalf, I particularly welcome Mr Troup, who is the second permanent secretary at HM Revenue and Customs and who was recently appointed the accountable officer for the Scottish rate of income tax. With him is Sarah Walker, who is deputy director and head of the devolution team at HMRC. Also with us is Mr Morse, who is the Comptroller and Auditor General from the National Audit Office. Welcome to you all.

I give the witnesses the opportunity to make introductory remarks. Who would like to go first?

**Edward Troup (HM Revenue and Customs):** I shall go first. Thank you for inviting us to the meeting, convener. You have introduced me and Sarah Walker, so I will not go over that. The most important point is that I am here as the additional accounting officer of HMRC and the accounting officer for the Scottish rate of income tax. I am pleased to be here to answer questions.

Our approach to engaging with the Scottish Government and the Scottish Parliament has been one of openness and transparency throughout. This is the beginning of a process. We have quite a long time to get the system right and prepare before 2016. To achieve that, significant changes will be made to the tax systems. As we go through the process, it is important to be able to explain to and share with members the changes.

Good collaborative working has already taken place between HMRC and Scottish Government representatives. I am glad that the committee has had a chance to see the draft memorandum of understanding, which reflects that good collaborative working. The memorandum is a draft, and I understand that you, convener, and your committee are interested in having input to it, which we welcome.

I am sure that members will want to ask me specific questions about how things will work. A general introduction is that implementing the Scottish rate will require us to change our operational, information technology and financial systems, but the largest part of the work to introduce the Scottish rate initially will consist of ensuring that we have the correct information about who is and is not a Scottish taxpayer. That will be the first big activity that residents of Scotland see. We expect to undertake a major publicity campaign and to contact people who

appear to be Scottish taxpayers, probably during 2015, ahead of introduction.

There are, as members know, extensive arrangements for joint governance of the project leading up to that from the programme board, which has representatives of the Scottish Government on it, the intergovernmental assurance board and the Joint Exchequer Committee. That means that there will be, quite rightly, strong oversight of our performance, from both Parliaments. Amyas Morse, on behalf of our colleagues in the National Audit Office, will prepare a separate report on NAO's views on the arrangements, which will be presented to you.

As accounting officer, I am specifically accountable for the collection of the Scottish income tax. I look forward to coming back to the committee at regular intervals over the course of the process, to ensure that I am able directly to answer questions from you about progress up to 2016.

**The Convener:** Thank you. Mr Morse now.

**Amyas Morse (National Audit Office):** I will make a few comments that I hope will be helpful to the committee. First, thank you for inviting me. I am delighted to be here in my home town—it is nice to be here. I very much recognise the importance of the subject. We, too, want to be as supportive and helpful as we can be. Although there is much to be settled, I will try to be reasonably specific and to give the committee as much of a steer as I can.

Although the command paper said that I would be invited to prepare a separate report, that is not provided for as the legislation stands. That is not a bad thing; it gives us a chance to shape the future as we go forward.

It might help if I touch on three areas that I look at in my reporting on HMRC's accounts. I report, first, on whether HMRC's statement of revenue represents a true and fair view of the amounts due; secondly, on whether the resource accounts fairly represent the administrative costs; and thirdly, on whether HMRC's regulations and procedures are an effective check on the proper assessment, collection and allocation of revenue.

I will say a little about those three areas. First, on revenue, the total amount of revenue in the account is £474 billion, of which the income tax element for the United Kingdom is £150 billion. A rough working estimate of what the Scottish share of that might be is £11 billion, which is a big number but a relatively small proportion of the total—roughly 2 per cent of total revenue. For that reason, if the issue were simply dealt with as a note item in the overall HMRC accounts, you probably would not get the focus on it that you might want, therefore you might reasonably look

for a separate statement of account on which you could focus more tightly. Of course I cannot speak for committee members, but I cannot see how you would get the assurance that you would want if you were looking simply at a subsection in HMRC accounts.

If the committee chose to pursue the issue, that might be sensible. You might want to ask HMRC to what extent its systems can give you the level of detail that you want to see. For example, you might want to know how much Scottish tax was unpaid, which can be a significant moving number from year to year and which is important to know. You might ask how easily you could get a clearer number in that regard, and over what period. That is worth asking about.

The second area that I mentioned was the costs of administration, on which the story is similar. A rough estimate of the set-up costs is £45 million, followed by annual expenditure on Scottish income tax of £4.2 million. Of course those are important numbers, but they must be set in the context of the £46 billion being spent by HMRC as a whole. Up to now, it has not been necessary to be able to allocate those costs precisely on a geographical basis. That is an argument for working out with HMRC how you would get the clear and accurate costs that you might want to know.

I report on administration of taxes under the Exchequer and Audit Departments Act 1921. I give an annual report on aspects of administration, and I would be happy to give an annual report on Scottish tax. At the moment, within HMRC accounts I use my discretion to decide what areas I will report on. If I am to report on Scottish tax, which is a new development, it would help me for that to be supported by legislation, rather than me simply doing it on an informal basis. That does not mean that I do not want to do it—I am very happy to do it—but there would be a sounder basis on which to proceed if we got that incorporated in the legislation. That is why it is valuable to talk about such things now. I thought that I would give the committee some thoughts from my perspective about the direction that it might care to travel in.

It is up to the committee to decide what it wants to do. We will be happy to work with the committee. We have a very good relationship with Audit Scotland and we would be more than happy to work or combine with Audit Scotland in any appropriate way. I am extremely happy to be here, and I will be happy to answer any questions.

**The Convener:** Thank you very much.

I will kick off. Mr Morse has flagged up some of the questions that I wanted to ask Mr Troup. I think that the committee would like to hear a little more about HMRC's view of the degree of detail that it

plans to provide. There are two elements to that, both of which the committee is interested in. The first of those is the procurement and implementation of the information technology system, the estimated cost of which, as Mr Morse said, is around £45 million. That resource will come from the Scottish Government, in line with the statement of funding.

Mr Troup, what will be the process whereby we in the Scottish Parliament are kept informed of the development and progress of the project? To give you a bit of context, the committee has just finished looking at a report by the Auditor General for Scotland on a number of public sector information and communication technology projects that went fairly badly wrong, cost significantly more than they had originally been expected to cost and proved to be less than fit for purpose. Therefore, the context is one in which there is a little anxiety around such projects. How do you see progress updates being provided to the Scottish Parliament, as opposed to the Scottish Government?

**Edward Troup:** I will address that in two parts. First, I will talk about the costs, then I will say a little about our performance in this space. That is not to suggest that your concerns are not absolutely legitimate; it is just to provide you with some context.

The £45 million is a total cost, of which IT costs represent £10 million. The cost of changes to our operational and finance systems represent the balance. Indeed, the greater part of the initial set-up cost is for the operational process of identifying Scottish taxpayers and ensuring that appropriate codes are issued to employers of Scottish taxpayers. Although that is a very big operation, it is not a particularly complex one. A lot of operational activity and a significant number of people are required to do it, but it does not involve doing anything particularly new. I can provide a degree of reassurance on the proportion of the £40 million to £45 million that relates to IT and on the nature of the operations that those costs will go towards allowing to be undertaken.

09:45

Secondly, although you are absolutely right to say that IT projects generally have a bit of a bad name, HMRC—while not completely perfect—has an extraordinarily good record compared with that of the private sector, where, I understand, only around 60 per cent of IT projects get delivered on time. Over the past five or six years, more than 90 per cent of our IT projects have been delivered on time. This year, we are at 94 per cent, and 98 per cent of those have been delivered without defects.

None of that is to say that there is no valid need for you to have oversight of the project; I mean only to assure you that, despite what one hears, we have a good record. I would never describe an IT project as straightforward, but this project is not at the groundbreaking end of IT work.

The Government is participating throughout the process. It has a place on the programme board and on the two committees above that. On oversight by the Parliament, I am not sure that we have worked out exactly how to transmit from that process to your committee. Sarah Walker, who has been doing the legwork on the memorandum of understanding, might have something to say about that. My starting point is that I am here today to take those questions away and think about what we can do to give you the necessary degree of reassurance that the process is working, whether that involves appearing before the committee or providing periodic reports or notes on the progress. I will not say that we have a plan, unless Sarah Walker is able to tell me that the process has been worked out in more detail already.

**Sarah Walker (HM Revenue and Customs):** It is true that our appearances before this committee, the Finance Committee and any other committee are part of it. I also point out the requirement under the Scotland Act 2012 for the Secretary of State for Scotland to publish annual reports on the implementation of the act. The first one of those is due within a year of the passage of the act, so it should come out in the spring. We would expect to put in that quite a substantial level of information about the progress that we are making on implementation. Because we have a fairly extended period to work in—between now and April 2016—the IT implementation is unlikely to take place until the start of the 2014-15 financial year, which means that it will be about 18 months before we start spending serious money on IT. However, between now and then, we will be planning, particularly with the process of contacting people and checking whether they are Scottish taxpayers. There will be some quite significant progress to report in those annual reports to both Parliaments.

**The Convener:** That is helpful because, once the Scottish rate of income tax is in place, there will be the annual audit arrangements, which we will go on to discuss. In the meantime, there is no formal process by which we will be able to monitor progress. If we get to 2015 and it transpires that there is a problem with the process or that it will be much more expensive than had been planned, that could cause problems for implementation.

It was helpful of Mr Troup to point out that the figure of £45 million is not wholly concerned with the IT projects and involves other systems. On

that, looking beyond implementation to the year-by-year running of the Scottish rate of income tax, what are the consequences for HMRC staffing in Scotland? Do you envisage having additional staff in Scotland to pursue, for example, compliance year on year?

**Edward Troup:** Although we talk, rightly, about a Scottish rate of income tax, it will never be payable except in circumstances where some United Kingdom income tax is payable as well. We have just as much continuing interest in a Scottish taxpayer who pays Scottish income tax as we do in a UK taxpayer, it is just that we have slightly less tax due to us from that taxpayer. Our interest in compliance activities remains the same, and we certainly do not say, for example, "That taxpayer owes £10 and that taxpayer owes £20, so we will have a completely different regime for each of them." The compliance regime is designed to ensure that all tax that is due is paid. As far as changes to the compliance regime as a result of the Scottish rate of income tax are concerned, it is difficult to see what we would have any incentive to change.

I might be able to dig out some details about how many staff we have in Scotland at present. Staff involved in compliance activities will continue as part of the overall compliance staffing of HMRC, without any particular regard for the location of the taxpayers—or any more than there is at present.

**The Convener:** Is it fair to expect that the figure will be on a downward trend, given the Government's desire to reduce numbers and make savings?

**Edward Troup:** I am told that at present we have 9,364 staff in Scotland, but of course they will not all be dealing just with Scottish taxpayers, because we operate national systems and compliance is operated on a national basis. We have not published detailed headcount forecasts for staff numbers over the period and certainly not a breakdown by region. The overarching point is that there is no incentive or reason for us to make any differential choices about staffing levels in Scotland compared with those in other parts of the UK simply because of the Scottish rate of income tax, because Scottish taxpayers will remain UK taxpayers. We will be accounting to you for only 10p—or such rate as you fix—of their overall tax.

**Sarah Walker:** We will have to set up a process to deal with the specific identification of Scottish taxpayers. That will involve dealing with inquiries about whether someone is a Scottish taxpayer; dealing with issues when people move house into or out of Scotland; and dealing with appeals. So within the £45 million, there is potentially some extra staff cost. We are at the early stages—in the planning process—so we certainly have not

decided exactly what the jobs are, who the people are and where they will be. Obviously, that is an issue for discussion.

**Edward Troup:** Just to ensure that the committee understands the costing basis, I point out that the Scottish Government is responsible only for identifiable additional costs as a result of the Scottish rate of income tax, so the existing costs that HMRC incurs in relation to compliance activity for taxpayers in Scotland and in the rest of the UK will not be shared out between the Scottish Government and the UK Government. Those costs will continue to be part of the costs of running HMRC. As I say, the Scottish Government will be responsible for identifiable additional costs, which, as Sarah Walker says, will include the costs of any additional people who are needed to identify Scottish taxpayers and to deal with specific problems that arise from that identification. That will include additional IT costs, but not any part of the base costs or any costs of basic changes to the basic systems that HMRC runs.

**The Convener:** I have one last question, after which I will give other members a chance to ask questions.

Mr Morse, you said that you have a good working relationship with Audit Scotland. The committee also has a good—although appropriate—working relationship with Audit Scotland. During our deliberations, we will want to explore Audit Scotland's role in the audit framework for the Scottish rate. From the papers that we have seen, there does not seem to be much of a role. What do you see as Audit Scotland's role in working with you?

**Amyas Morse:** As things stand, Audit Scotland does not have access rights to HMRC. It is therefore inevitable, unless there is a much bigger change, that we will be doing that part of the work for the foreseeable future. Nonetheless, as time goes by, if the Scottish Parliament would like to get its assurance directly from Audit Scotland, I would have no objection to providing Audit Scotland with assurance and it then reporting overall. I do not mind that. I am more than happy to go in whatever direction works for the Scottish Parliament.

We conferred with Audit Scotland before the meeting, and I have seen how we would bring together the element of locally administered taxes. If there is any need to talk about that, I expect that we will do so continuously. We are very open to doing that.

As UK colleagues in performing our audit functions, we already discuss matters of mutual interest and keep in touch with each other, so I do not see any difficulty. It is true that the balance right now probably lies with the National Audit



Office, but if, in time, it is thought to be appropriate for the fronting to shift over, we are more than happy to go along with that.

**Mary Scanlon (Highlands and Islands) (Con):**

Perhaps I can pursue the issue of the Scottish taxpayer, which I think you have all mentioned. I have to say that I am struggling slightly with that. I have a copy of the HMRC technical note that was published in May. My understanding is that a UK taxpayer must live in the UK for 183 days a year, and that a Scottish taxpayer must have one place of residence in the UK, which must be in Scotland.

I am thinking about the many thousands of highly paid oil workers, many of whom are not domiciled in Scotland. I was beginning to think that I understood the situation until I came to paragraph 13 in the technical note, which states:

“Individuals who cannot identify a main place of residence will need to count the days they spend in Scotland and elsewhere in the UK—if they spend more days in Scotland, they will be a Scottish taxpayer.”

As a list MSP for the Highlands and Islands, I know that there are thousands of workers in the North Sea, a large percentage of whom—I have the figures from Oil & Gas UK—are not domiciled in Scotland. Perhaps you can bring some clarity to the issue. For example, would someone who lives in Newcastle and works on a rig two weeks on, two weeks off be a Scottish or an English taxpayer? Would the many people who come from other parts of Europe and the world to work offshore in the North Sea fulfil any of the criteria?

**Edward Troup:** Sarah Walker will set me right and give some technical details, but first I will make an overarching point. The first thing that one must ask of any taxpayer is whether they are resident in the UK for tax purposes under existing rules. That will continue to be the test after the Scottish rate is introduced.

To pick up on the last part of Mary Scanlon's question, I understand that if someone comes from elsewhere in Europe and works in the North Sea—as I said, Sarah will put me right—they are not, under existing rules, resident in the UK, and nothing that is happening here will change that in any way. One must get over the first hurdle, which is whether the individual is currently resident in the UK under existing rules, and those rules will continue to apply. One then starts to apply the residence test, and—if necessary—the day counting test.

I know that there are special rules for offshore workers, and I do not claim to be an expert on them, so I ask Sarah Walker whether she wants to add anything. If she does not, we will take that question away and come back to the committee.

**Sarah Walker:** I would add only that, with regard to Mary Scanlon's example, if someone

lives in Newcastle and that is their main residence, they will not be a Scottish taxpayer. As Edward Troup said, someone must first be within the UK tax net, and we will then look at where their main residence is. If a person's home is in Newcastle, they will not—regardless of how many days they spend on either side of the border—be a Scottish taxpayer.

We only start counting the days if we genuinely cannot identify a main home in the UK. For instance, if someone comes from abroad and spends enough time in the UK to qualify as a UK taxpayer, but they do not have an obvious home here, we might have to count days and say, “If you spend more days of the year in Scotland, you will be a Scottish taxpayer.” However, for most people it would be pretty straightforward, as we would ask, “Where's your home? Where do you live?” That is what we base the liability on.

**Mary Scanlon:** So, basically, those who have a Scottish postcode and are resident in Scotland will pay the Scottish rate. If someone comes into Scotland to work, whether on oil rigs or elsewhere—I will stick to oil workers as an example of the many workers who travel to work—but lives elsewhere in the United Kingdom, they will not pay the Scottish rate of income tax.

**Sarah Walker:** Broadly speaking, yes—that is right. *[Interruption.]*

**Mary Scanlon:** I apologise for our little discussion—Willie Coffey suggested that MPs would perhaps not pay tax, but it appears from the Scottish Parliament information centre briefing that they would.

10:00

**Sarah Walker:** There is a specific rule that says that all MPs and MEPs who represent a Scottish constituency—as well as all MSPs—will be Scottish taxpayers.

**Mary Scanlon:** Yes. I apologise for that discussion. I just wanted to demonstrate the point to Mr Coffey as I think that he has other questions on the issue.

Can I have some more clarity on what will be reported to the Scottish Parliament and, indeed, to this committee? I appreciate that the annual running figure is £4.2 million, but in the early days the Scottish rate of income tax will be the same—10p—as that of the United Kingdom. If the rate changed upwards or downwards in future, would that bring significant additional costs, or will having variation in Scotland be built into the system?

**Sarah Walker:** If there was a different rate, people's pay-as-you-earn code would change because to a large extent that code is determined by the rate of tax that someone pays. If the rate

changed, we would probably expect more PAYE codes to be issued, and if that was a direct result of a change in the Scottish rate, there would be an additional charge. The £4.2 million is a broad estimate at this stage, because we have not done the work to design the processes and we do not know how much our costs will change, given that it will all happen some time in the future.

**Mary Scanlon:** But you envisage an increase in costs should the Scottish rate of income tax be different from the UK rate.

**Sarah Walker:** Yes, we would expect that to be the case.

**Edward Troup:** A change is likely to create a cost, as all changes do. It is hard to say whether the steady-state costs would be any different if the rate was set at, say, 12p or 8p. The important point, as Sarah Walker said, is that the figures are very much estimates at this stage.

I think that Amyas Morse wants to say something about that.

**Amyas Morse:** In many ways, this is driven by the decision to have a model that is driven by the actual marginal cost rather than an estimate. For example, in the Isle of Man the arrangement is that HMRC charges a flat-rate estimate that is agreed in advance. That is what the cost of administering Isle of Man tax will be, and there will be no debate about it. However, by having an actual cost, you can win on one side and lose on the other, depending on what the costs do—although that requires quality of information about them.

If we are going to look at costs that go up and down, that will place a certain amount of pressure on HMRC's ability to identify the costs. We will need to be quite careful about that, particularly if you pick up the idea of having a separate account. The question will be whether we can be really comfortable that we have auditable information that is sufficiently clear and separate. Having to separate it out will be new, and we need to give ourselves a reasonable run-up to be able to do that securely. It would be a real pity to produce an account on which I could not give a clean opinion on the first go-round. We need to work on that. If that is what we are going to need to do, the sooner that we get that into people's minds and think about how we will do it practically, the more chance there will be that we will get it done accurately and will not have any upsets.

**Mary Scanlon:** That is interesting.

The purpose of my final question is just to broaden the discussion. I do not think that we simply want to know the estimate and the actual figure; I think that there is an appetite to see what is happening behind the figures. You perhaps

have not gone as far down the line as looking at taking out the Scottish information and analysing it, but I think that we in Scotland would want to understand it better.

This may be an obvious question, but in relation to the accounts, do you intend to reassure the Parliament that you are delivering value for money? In your visits and regular updates to our committee, will you tell us the costs of setting up the system, including the costs of the IT system? Will your updates include tax compliance levels in Scotland and whether they vary from those in the rest of the UK? Will they include your customer service performance in responding to Scottish taxpayer queries and your actual performance in collecting Scottish tax—as opposed to UK tax? A controversial issue this week is tax write-offs. Will you be able to update the committee on whether Scottish taxpayer levels of error or fraud vary from those in the rest of the UK? Will we get that level of detail, so that we can analyse economic behaviour behind the figures?

**Edward Troup:** To the extent that we can provide information, we will. The process should be open and transparent, and to the extent that our systems are capable of producing such information there is no reason why I should not come to talk to the committee or, through the NAO, make sure that there is proper scrutiny.

We do not hold some of the information that you asked about, because we do not disaggregate across the UK. You asked about quite a lot of things and I cannot say which of them our systems could currently tell you about. As the programme develops, there will clearly be a question as to whether you would like that additional information and what the cost of building that into our system would be. In a sense, this is a partnership. While you would have to approve any costs, we would have to decide whether we could prioritise the resource and opportunity costs of the people who would have to do the work if we were to say, "Yes, we will do that for you."

We are approaching this in the spirit of wanting to give you as much information as we can, as is sensible. To the extent that it will incur marginal costs, which you will bear, that is consistent with our wider responsibilities for the whole of the UK's taxes and the £460 billion that Amyas Morse referred to.

I will make a point that I have not made yet and which is worth making. You rightly talked about levels of compliance activities, which is where we put a lot of effort and resource. However, when you look at the numbers—the actual tax that comes through the door in the UK—you will see that something like 98 per cent of receipts comes in without any compliance intervention at all. Those receipts come in because employers

complete their PAYE returns, businesses pay their VAT and corporations pay their corporation tax—people pay whatever tax it is. The vast bulk of money comes in because we have systems that people can engage with that allow them to pay their tax. At an aggregate level, the intensity of compliance activity maintains the integrity of the tax system and ensures that everybody is confident that we are collecting tax, but most tax actually comes in because we run good, cross-UK IT and operational systems. Therefore, although we will focus on compliance, what is really important is that the systems that bring in the 98 per cent are there, because people just pay their taxes. It is important to keep that in mind, because arithmetically you are much more interested in the 98 per cent than the 2 per cent.

**Mary Scanlon:** I asked about those things because we want to understand economic behaviour in Scotland. Would it be fair to say that the more specifically Scottish information we ask for—for example, the list that I gave—the higher the cost?

**Edward Troup:** That must follow. To the extent that it does not just come off a system that exists at the moment, it will cost more to get more information.

**Mary Scanlon:** Thank you.

**Amyas Morse:** If I may presume to say something at this point—because we will have a role in this—as this goes forward, you will be able to have an adult conversation and ask how difficult it would be to get the information that you want. The more frank that one can be about that, the better—for example, how accurate would the information really be, and what would the costs be? You might judge that some bits of information would not be worth having for the price. To have such conversations on a repeating basis would be a good idea.

**Sandra White (Glasgow Kelvin) (SNP):** Good morning to you all. When I phone up the income tax office on behalf of a constituent, I can get information within five minutes. I hope that that will continue—I am sure that it will in the partnership that you have just described.

Let me take a couple of steps back, to get things clear in my mind. Mr Troup talked about set-up costs of £45 million, of which £10 million will go on IT. What will you do with the other £35 million? You said that you will not employ more staff—there will continue to be 9,364 staff. Can you dig down and tell us what the £35 million will be used for?

**Edward Troup:** I will ask Sarah Walker to give a bit of detail. I should say that the number that we have given is £40 million to £45 million, not £45 million. We have been quite open about the fact

that that is an estimate. It is not like a quantity surveyor's spec for a building. There is not a complete breakdown of all the costs; there is an estimate based on our experience of having to deliver policy change and systems change year on year. We have engaged experts in the department who have had to make similar changes, and they have used a high level of judgment and experience in coming up with that number.

The number is an estimate. Although I hope that Sarah Walker can add a bit to the breakdown, there is a point beyond which we are not currently capable of drilling down. However, as the project develops the information will get more and more detailed and precise and ultimately we will get to a point at which the NAO can say something about it in some detail.

**Sarah Walker:** As we said, the big part of setting-up will be the identification of Scottish taxpayers. To do that, we will probably have to do several mailings to people. I am talking about letters, postage and so on and then dealing with a lot of phone calls and inquiries. There will potentially be investigations. There will be publicity, to help people to understand what is going on and what to expect. We will have to deal with employers and help them to set up their systems.

That is the kind of activity that will go on. It is not just about redesigning a computer system; what tends to cost money is the interaction with customers, to ensure that they understand what is going on and that we have the right information, so that we can help them to pay the right tax.

**Sandra White:** You are saying that an estimated £30 million to £35 million will be used for letters, postage, advertising, mailmerges and so on. I am sure that all members are familiar with such activity, because we constantly do mailmerges for constituents, so that we can send out newsletters and things like that.

Can you say definitively when the figure will be able to be broken down?

**Sarah Walker:** We will refine the estimates as we go along. The first phase of the joint work that we are starting with the Scottish Government is to work out the process for identifying Scottish taxpayers. We will have to consider whether to write to people, how many letters to send, when to send them, how to deal with responses and so on.

By the time the secretary of state's first annual report is due, which is towards the end of spring next year, we hope to have a slightly better estimate and breakdown of the costs. However, because the planning process will stretch over three years, it will be some time before we have a full breakdown and accurate figures.

**Sandra White:** We do not really know the cost yet. It could go down or up.

**Edward Troup:** HMRC has an established process for any item of expenditure. There must be a business case approval process, and these arrangements will be subject to exactly that process, as any others would be. There will be a degree of rigour, which is something in which Amyas Morse and the NAO are always interested, and which will apply to the expenditure that we are talking about, just as it would apply to any other expenditure of public money.

**Sandra White:** Thank you for your explanation.

Mr Morse, I think that you said that Audit Scotland does not have a remit to report to the Scottish Parliament—

10:15

**Amyas Morse:** No, sorry—let me be very clear. I am not suggesting anything about Audit Scotland. What I am saying is that we have access rights to HMRC, and therefore if anyone is to carry out an examination of what is happening in HMRC and how it is preparing the Scottish numbers, we will inevitably be involved.

At the moment, it would not be feasible for Audit Scotland to do that and, to be quite honest, I think that it would be quite a big duplication, because we already audit HMRC's systems. I simply wanted to signal to the committee that, although that is true, if at some time in the future—without wishing to predict what may happen in the future—the Scottish Parliament wanted to get assurance primarily from Audit Scotland, I would have no problem with providing my assurance to Audit Scotland and putting it in a position to provide assurance to the Scottish Parliament. I do not see that as an obstruction; I think that we could manage that perfectly well. I do not see there being any great difficulty with that. That was all that I was trying to say.

**Sandra White:** Thank you very much for that clarification.

In relation to your reporting role, you mentioned new legislation.

**Amyas Morse:** If I am to report directly to the Scottish Parliament each year on how Scottish income tax is being administered, which I would probably need to be in a position to do and which has been suggested in the command paper, there would need to be a legislative basis on which I could do that. In the medium term, I would certainly not be comfortable about doing something different from what I do now without having a clear statutory basis on which to do it. I am not saying that we could not make some transitional arrangements but, to be honest, if we

were to prepare such a report without being clear about the basis on which we were doing it, that would put us in a very funny position. I do not think that that is too much to expect or that it would be too difficult to do.

**Sandra White:** Thank you very much.

**Tavish Scott (Shetland Islands) (LD):** I have a couple of questions about points that Mary Scanlon raised. My first is about the costs of collection and how they would vary according to changes that might or might not be made to tax rates. I presume that when the Chancellor of the Exchequer changes the tax rate—which he might do at any stage—you do not charge him more just because he has done so.

**Edward Troup:** It costs us money to change the tax rate because, as Sarah Walker said, it requires codings to be changed. We have provision within HMRC's budget for changes in each year's budget. As it happens, I am responsible for the portfolio of changes, which this year is costing us something north of £30 million. That is part of our normal provisioning for changes year on year as a result of budget and legislative changes.

If the Scottish rate were to be changed, that would incur a cost. The arrangements are quite clear. All that we are saying is that any additional cost that is expressly attributable to the Scottish rate should be for the Scottish Government to bear. We do not send a bill to the chancellor when he announces a change of rate.

I have a general point to make, rather than one that is attributable to any specific policy change. If any ministers make a major policy change that goes well beyond what we have planned for by way of costs, we will go back to the Treasury and say, "That is all very well. You want to announce that in the budget, but it will cost us £X million more to implement. We need a higher spending allocation to do that, because we do not have provision for it." We have done that in the past with identifiable policy changes.

We carry a general provision for change. If the chancellor goes over that, a negotiation takes place with the Treasury. Sometimes we get money; otherwise, we have to scrape around and sacrifice something else. The arrangements that we are discussing for Scotland are slightly more formal, in that we have the ability to recover the marginal cost from you.

**Tavish Scott:** I understand that. The point that I am driving at is that, post the new mechanisms coming into place, when the Scottish finance secretary of the day in a future Scottish Government varies tax, it would be the equivalent of the UK chancellor varying tax at a UK level. Would you cover that in the same way? Would you

use the mechanism that you have just described? Would you hold the same kind of discussions?

**Edward Troup:** We will carry no reserve for changes to the Scottish rate. We would come back explicitly and say, “You have made a change that will cost us £X million. That is to be reimbursed under the memorandum of understanding and the terms of the agreement.”

**Tavish Scott:** Will the costs of a change be detailed? What I am driving at is how Parliament will keep an eye on them.

**Edward Troup:** As I said, they will be identifiable additional costs. As with all the on-going costs that we will incur when the Scottish rate is up and running, they will be part of the invoicing and oversight process, which we have touched on.

**Tavish Scott:** The principle would be the same as that for the UK.

**Edward Troup:** The principle would be the same.

**Tavish Scott:** I appreciate your point about costs, but Mary Scanlon also raised the interesting issue of the ability of the committee and Parliament to ask HMRC to give us numbers on economic aspects. For example, if Parliament wanted to assess the benefits of giving Amazon a chunk of money to relocate a base in Scotland and wanted to understand how much tax Amazon was avoiding, which is a matter of some public disquiet, could we ask you to provide information on the basis of its operations in Scotland and could you tell us that it would cost X to extrapolate the Amazon tax take—or not, as the case may be—in Scotland?

**Edward Troup:** As you know, I and my fellow commissioners are bound by taxpayer confidentiality under the Commissioners for Revenue and Customs Act 2005.

**Tavish Scott:** So we could not ask about Amazon.

**Edward Troup:** That principle is very important. When the act was passed in 2005, there was almost complete parliamentary agreement that such confidentiality should be preserved. That confidentiality extends to ministers, so we do not and cannot give ministers in the UK any information on individual taxpayers’ affairs. If ministers say that they would like to give a particular industry a tax break, we can indicate the potential impact on tax revenues and we might even be able to indicate, through our economic analysis, the potential impact on employment, but we cannot say anything about any individual taxpayer to ministers in the UK—and that extends to ministers in Scotland.

**Tavish Scott:** Of course.

**Edward Troup:** If the aim was to give a tax break with a particular business in mind, and if the Scottish Parliament could do that—in fact, the legislation does not allow you to do anything other than vary the rate of income tax—we could answer only a generic question about the impact. The issue is hypothetical, because what you described goes far beyond the tax-varying powers in the 2012 act.

**Tavish Scott:** However, I am sure that you are well aware that the public are pretty concerned about such things. We want the system in Scotland to be robust, and at the moment it is definitely not robust in some senses—although I could not possibly expect you to comment on that.

The interesting issue of parliamentary oversight has been raised. One of our briefing notes tells me that the National Audit Office provided four reports in 2012 and three reports in 2011 on particular aspects of HMRC. Mr Morse, were they in addition to reports on the three areas that you outlined in your opening remarks?

**Amyas Morse:** Yes. We do a series of reports on HMRC every year. The subject matter of those reports is at my discretion, and I exercise my discretion informedly, if I can put it that way. I try to ensure that I look at serious amounts of money and that we do not leave major areas unexamined. I listen to public concerns and particularly parliamentary concerns. In some cases, HMRC might well like us to examine something. We always do such work completely independently. You will appreciate that we are funded by Parliament and not through the Government.

I would not want to inhibit that general discretionary principle in order to report annually on the operation of the Scottish tax system. I do not want to say that I would always bind myself to exercise my discretion to do that, as that would put me in the position of giving preference to one bit of tax over another. That is why it would help me for there to be an explicit provision for me to provide such a report. In that case, I would report to you on my opinion on the value for money of the costs and on how the system is being run. I would provide a frank and independent report on that—my reports are frank.

**Tavish Scott:** The point that I am driving at is that if Audit Scotland brought issues to our attention—as it often does—we could encourage your office to look at those issues.

**Amyas Morse:** I am always open to representations about what we should look at.

**Tavish Scott:** That is fine.

I come to my last question. I appreciate that the process that we will all go through in the next few

years will be a new experience, but how does HMRC envisage matters being brought to the attention of our committee and the Parliament? I am thinking about what happened with the variable rate in Scotland in 2010, when the mechanism for it was dropped but the change was not brought to Parliament's attention. I do not know whether Mr Troup was personally involved in or aware of that, but what will be the mechanism to ensure that the Parliament, not the Government, properly understands significant changes? How do you envisage that that will operate under the new regime?

**Edward Troup:** The easy answer for me is that that is a matter for you to take up with your ministers and the Government here. In a sense, our relationship is with them. As Sarah Walker said, the Secretary of State for Scotland will lay section 33 reports, which will cover everything. As I said at the beginning, I am happy to talk to the committee, but I think that you are asking whether there could be a more direct relationship whereby we report changes directly to you. That slightly goes outside the relationship that is envisaged. As I say, I suspect that the issue is for you to take up with your ministers.

Sarah Walker might have some thoughts.

**Sarah Walker:** The process that we are describing is slightly different from the Scottish variable rate process. With the Scottish variable rate, there was a choice to be made about whether to fund changes that would allow a change in the rate to be delivered and it was possible for the Government to say that it did not want to do that, but the Scottish rate of income tax will have to be in place whether or not the Scottish Parliament wants to set a different rate. Therefore, we will be in a much more straightforward delivery process, which will be as transparent as we can make it. Our reports will represent the choices that we have made about how we are going to deliver, how the process has been funded and what the costs will be.

**Tavish Scott:** My point about the Scottish variable rate is that Parliament was not told about the changes and we found out only afterwards. I was contemplating whether you might be able to give me an example from Westminster of a major change to the administration of tax not being brought to Parliament's attention. Would it always be a matter for ministers, as Mr Troup said, to bring that to Parliament's attention through the convention of select committees and so on?

**Edward Troup:** I certainly cannot think of any example in which we have not done so, although I suspect that there might be instances in which ministers have taken decisions, or have been involved in or aware of decisions, and Parliament might have felt that it was not informed as soon as

it would have liked. I return to the point that the issue is about you holding your ministers to account for their relationship with us.

To return to my opening point, I do not want to hold anything back from the committee. I want to share with you information on what is happening on a real-time—if not overly frequent—basis. However, I am not in a position to say that we can prepare reports and give you information outside our formal relationship with your Government.

**The Convener:** Just to clear something up, Mr Troup, is it not the case that, in your role as accountable officer, you are accountable to Parliament?

**Edward Troup:** I am.

**The Convener:** That accountability is not to ministers.

**Edward Troup:** That is correct; that is the accountability. The Public Accounts Committee can call accounting officers to account, and it does so regularly. As I say, I do not think that this committee has any formal power to call me up here, but I hope that that is an academic point. I hope that—unless you ask me up here every week, which would be difficult—if you ask me, I will try to come.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** I want to continue on the point about accountable officers, just to be sure that I am clear in my mind. Am I correct that the HMRC Scottish accounting officer is not comparable to the accountable officer as we know it here in Scotland?

**Edward Troup:** I am sorry, but I am not aware of the responsibilities of an accountable officer here. I thought that the responsibilities were broadly the same. All that I can tell you is that, as set out in the appendix to the memorandum of understanding, I have

“responsibility for all matters of governance, decision making and financial management in relation to SRIT. This includes promoting and safeguarding”—

those are important words—

“regularity, propriety, affordability, sustainability, risk, and value for money for SRIT; and accounting accurately, and transparently for all matters relating to it. The AAO will provide an SRIT extract from the audited HMRC accounts to the Scottish Parliament”.

That is the extent of the responsibilities that are set out for me, as additional accounting officer, in the memorandum of understanding.

10:30

**Colin Beattie:** Your position is not, in fact, a statutory one.

**Edward Troup:** No. I think that I am right in saying that accounting officers have a statutory basis but what they do is set out under Treasury guidance. Amyas Morse is the expert on that.

**Amyas Morse:** That is right; the role is set out under Treasury guidance, and it covers everything about appropriate use of the resources of the department rather than policy issues. Other committees might ask accounting officers to comment on policy issues, but the Public Accounts Committee is explicitly not supposed to consider policy matters. It is supposed to be looking at value for money, efficiency, effectiveness, and probity.

**Colin Beattie:** On another issue, when HMRC gave evidence to the Finance Committee in May this year, it seemed to indicate that, if the Scottish Government did something radical with something like stamp duty, it might decline to implement it. Would that also be the case with the SRIT? I cannot imagine that it might be, but if the Scottish Government wanted to bring in some sort of radical change, might you decline to carry it out?

**Edward Troup:** I do not think so. There is a distinction between what we might be asked to do on stamp duty and our obligation to administer the SRIT. As I understand it, the responsibility for raising stamp duty and tax on property transactions now lies with the Scottish Parliament. You may ask us to administer any new tax that you introduce; as it is, you are setting up revenue Scotland. I do not think that we have any legal responsibility to administer any new tax that the Scottish Parliament sets up, such as stamp duty. The distinction is that we have an obligation to administer the SRIT, and the terms under which we would do that are set out in the memorandum of understanding. I do not therefore think that we are free to say that we will not do something in relation to it.

Having said that, if ultimately there was disagreement about what we were or were not prepared to do, I am not sure that we could either say yes or no. The question would go up to the Joint Exchequer Committee, which would make a decision. Sarah Walker will put me right if I am wrong, but I believe that its decision would be binding on the HMRC. We would have to do whatever it required. Have I got that right, Sarah?

**Sarah Walker:** Yes. The only power that the Scottish Parliament has is to vary the rate of the Scottish income tax. We are setting ourselves up to implement that regardless of the rate that is set. There is no other legal power to make any other changes to income tax so it is difficult to imagine the sort of policy changes that the Scottish Parliament might ask for that we would not be able to make.

**Colin Beattie:** I just want to be 100 per cent sure about this: mention was made of a publicity campaign in 2015, and I assume that that cost is already included in the £45 million figure.

**Edward Troup:** Yes.

**Colin Beattie:** So it is not an additional cost.

I have listened to everything that has been said and it is still a bit unclear to me. Perhaps everyone is still feeling their way forward. I am wondering how on-going performance measurement will be reported to the Scottish Parliament Public Audit Committee. Does HMRC have any thoughts about how that might happen?

**Edward Troup:** We measure our performance in a number of ways. Compliance activity includes ensuring that those people who would not otherwise pay do pay, and making sure that due debt is paid. Performance measurement also covers our customer service, the length of time people have to wait on the phone for an answer, and the time that we take to respond to correspondence. We measure all those things and they are reported on.

As was discussed in relation to Mrs Scanlon's questions, we have identified how much information we can break down for Scotland under our existing systems, and the discussion on whether it would be sensible and value for money to incur additional expense to break the information down for Scotland in the future is very much part of the process.

We will look at the issue as we design the IT systems. We will want to hear about the information that you would like, and we will discuss with the Scottish Government the cost of including different reporting features. We will also discuss that with the NAO so that it feels that it has adequate information in order to produce the report to which Amyas Morse referred.

**Colin Beattie:** Would it be right to assume that the estimated on-going costs, which I think are £4.2 million, include the costs of on-going performance measurement, reporting and so forth?

**Sarah Walker:** Our priority will be to report on the elements of performance that are paid for specifically by the Scottish Government. As Edward Troup explained, we will continue with our existing customer service and compliance activity in both Scotland and the rest of the UK. The additional activity will involve maintaining the indicators of Scottish taxpayer status, dealing with enquiries about that status, and dealing with changes in the Scottish rate of income tax. We would expect to have a clear agreement with the Scottish Government on how we will represent

and demonstrate value for money in what it is paying for.

Beyond that, we would have to think about breaking down information on the effectiveness of our general activity and looking at how it applies to Scottish customers differently from other customers. We would have to talk to you about the costs and the additional burden that it would represent. As Edward Troup said, we are very open to talking about that.

**Edward Troup:** The £4.2 million is an estimate. It could perhaps be reduced if we do not do some things, it will go up if we do some other things, and it may change anyway. It is all part of the discussion in the next three years to ensure that the costs, and what the Scottish Government gets for its money, are clearly understood and that we deliver in the most efficient and value-for-money way.

**Colin Beattie:** At present, is there within that £4.2 million an element that covers the costs of reporting and performance measurement?

**Edward Troup:** As I said, it is estimated by people who are professionals at estimating the costs of tax changes, based on some very broad assumptions about what would be covered. It is clear that it will include management information—as all tax changes do—so there will be a broad view.

I do not know for certain, but I am pretty sure that if I went to whoever generated that figure and said, “Did you expect to be reporting on this or that?” and “What management information do you expect?” he or she would say, “That is the best estimate of what it will cost—I cannot tell you exactly what it will cover, but that will be part of the on-going development of the project”.

We want to share information with you, but we have come here at a very early stage before we have done the work. It is useful to hear about your appetite to build in information reporting systems. We will certainly see what we can do about that, and we will ensure that, if we can do it for you, it will be done in the most cost-effective way.

**The Convener:** I have two colleagues who want to come in. As a courtesy to our witnesses—I was going to say “guests”, but perhaps that is not right; they are our guest witnesses—we should not run over time for too much longer, because they have to travel. James Dornan will go first, followed by Willie Coffey.

**James Dornan (Glasgow Cathcart) (SNP):** I have a brief question on cost responsibility; many of the questions that I had have already been asked. We have discussed the rough estimates of £40 million to £45 million in set-up costs and £4.2 million in annual costs. Is there a limit to that?

Who has the final say on what the cost would be? I accept that a lot of that will be done by negotiation and conversation but, at the end of the day, whose responsibility is it to say, “These are the costs that you have incurred, and this is what you owe us”?

**Edward Troup:** All that has to be approved through the programme board and up to the committees if there are any differences.

We are not giving a capped quote and saying that it will not cost more than that, but we are very intent—as we are in everything that we do—on keeping the cost at a minimum and ensuring that there are no surprises, either for our ministers in the changes to the UK system or for you and your ministers in the changes to the Scottish system. The process, as set out in the memorandum, is a way—as with any other public spending—of managing that cost and keeping an eye on it.

The only difference is that the organisation that is delivering this is not part of the Scottish Government. However, through the memorandum of understanding and the Government’s arrangements, we want the situation to be as close as possible to the sort of arrangements for managing any public spending that your committee would have oversight of in Scotland or the Westminster Public Accounts Committee would have oversight of in England.

I cannot say that the cost will definitely not be more than a certain amount. As you know, we just cannot do that.

**James Dornan:** The Scottish Government talks about meeting HMRC’s reasonable costs. Who decides what is reasonable? That is the point that I was getting at.

**Edward Troup:** As with any contract or arrangement, the mechanism for dealing with disputes is designed to deal with situations in which one party appears to be being unreasonable or to be incurring unreasonable costs. However, I do not want to incur any unreasonable costs.

**James Dornan:** I am sure that nobody does.

Mr Morse spoke about the fact that the NAO might let Audit Scotland see his report, and Audit Scotland could bring it to this Parliament—you will correct me if I am wrong, but that is certainly what I took from what was said.

This issue concerns Scottish taxpayers and something that the Scottish Parliament is responsible for, even if it did not ask for it. Is there, therefore, some way in which Audit Scotland could report to us on whether it believed that things were going well or that there were failings?



**The Convener:** I think that Mr Dornan will find that the Scottish Parliament supported the Scottish rate of income tax.

**James Dornan:** I think that you will find that we had little option, but that is a different thing entirely.

**Amyas Morse:** I am trying to indicate as much responsiveness as possible by saying that if, at some point in the future, the Scottish Parliament says that it wants an opinion from Audit Scotland, I am happy to contribute to that opinion. I would still have to do a lot of the work, but I would be happy to report through Audit Scotland if you thought that that was right. I am not against doing that if that is how the situation develops over time. However, if we are doing an awful lot of it, it is quite a good idea to have the dog see the rabbit, if you know what I mean—you are going to want to talk to the people who have done the work.

I hope that we will work with as high a degree of co-operation as possible. The situation over the next few years is quite moveable and I expect that our relationship with Audit Scotland will move around quite a bit. We are very open to anything that is going to make sense. It is not a question of our having a fixed position. The only fixed position is that we have the access rights to look at HMRC systems. That is what we already do and it does not make sense to sit here and say that we will change that. My remarks are based on that fact. I am trying to indicate responsiveness and flexibility, frankly, not the reverse. I hope that my remarks come across in that way.

**James Dornan:** To be fair, that was what I took from your remarks. I was just trying to clarify how the relationship between Audit Scotland and the National Audit Office will work in terms of the Scottish Parliament.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Earlier, Mary Scanlon made a point about oil workers, and I made a remark to her about MPs. Are there any circumstances in which it will be possible for a Scottish MP not to be a Scottish income tax payer?

**Sarah Walker:** The legislation says that any person who represents a Scottish constituency will automatically be a Scottish taxpayer.

**Willie Coffey:** No matter what they do with regard to the designation of their home or their second home?

**Edward Troup:** It does not matter where they live.

**Willie Coffey:** Even if they engage in flipping properties or the other processes that we hear about.

**Edward Troup:** We know where they live. *[Laughter.]*

**Willie Coffey:** That is encouraging.

I do not want to get into the issue of the cost of the IT systems. Instead, I want to ask about how the IT requirements will be defined and who will be doing the defining. As the convener said, there have been examples of poor definition of requirements at an early stage, which has an impact on the ultimate cost of the project to—in this case—the Scottish Government. Could you give us more details about how the relationship between HMRC and the Scottish Government or its appointed officers works with regard to defining exactly what is required?

10:45

**Sarah Walker:** The process that we have started jointly with the Scottish Government is to identify and define the necessary processes and the IT requirements to identify Scottish taxpayers and operate the Scottish rate. This is about changes to our existing PAYE system and self-assessment system. We have a very good knowledge and understanding of those systems. More or less every year, there is a policy change in the budget that affects those systems and changes need to be made, so we are not doing anything new or unusual. It is something that is relatively predictable for us.

The first thing is to define the process that we need, and we can then identify the necessary changes to the IT system. There will be changes to the way in which we do PAYE codes and, as Edward Troup said, there will be changes to the management information that we need to get out of the system. There will also be changes to the accounting systems to ensure that we can properly track money from Scottish taxpayers to ensure that it is correctly accounted for and allocated to the Scottish Government.

There are a number of aspects to the work, but it will be done through the process that we use for implementing tax changes under the budget in the normal way. It is a well-established process.

**Willie Coffey:** I am encouraged by that. I think that you are telling us that there is a two-way relationship with reference to what is required in the system. You will not deliver a system to the Scottish Government without its clear input and agreement about content and delivery.

**Sarah Walker:** That is correct. We set up the delivery process through a project and programme structure in which the Scottish Government has representation at every level, so it will see all our documentation. We have already had a useful workshop with people from the Scottish

Government and our experts talked them through, for example, what IT changes are likely to be needed. We are working with the Scottish Government and, where there are choices to be made because there are different ways in which things could be implemented, we hope to involve it very much in that.

**Willie Coffey:** That is good. At what point do you think that you will be clearer about the cost? You said that there are only rough figures and estimates at present. At what point will we get some clarity about the set-up costs? Several members mentioned a possible cost of £45 million. When will we be clearer about the real cost?

**Sarah Walker:** All that I can say is what I have said before. The first work that we will do is the work on processes, which is not so much about the IT design as it is about the process for contacting people and implementing the identification of Scottish taxpayers. I hope that we will have done some of that work by next summer, so there should be some detail by the time we do the report under the Scotland Act 2012.

We do not expect to start the work on the IT change until some time in 2014, so I do not expect to have more detail on the cost of that change until then. We will refine the costs as we go through the planning process and we expect to report regularly on the development of that.

**Edward Troup:** On the timing of the expenditure, we expect about £13 million of it to be incurred during the current spending review period—that is, to the end of March 2015. It will not be the case that some enormous amount appears in six months' time. This is a long project. The expenses will be managed, and what they are will emerge, over that period.

**Willie Coffey:** Thank you.

Ms Walker mentioned 2014. You will be aware that a significant event will take place in Scotland in that year. You may choose to answer this question, or not. Should there be a yes vote in the referendum in 2014, will the process that the UK Government and the Scottish Government are about to engage in still represent a worthwhile investment? Could it be seen as a step towards disaggregating the tax system or would it be a wasted investment, in your view?

**Edward Troup:** Let me pick that up. The change is now committed to in law and it will happen. A change in the law would be required for it not to happen.

I cannot speculate on what would happen if there were a yes vote in the referendum but, if an independent Scotland wanted to run its own income tax system, this feels like a step on the way to that. It would be perfectly open to an

independent Scotland, depending on what powers it had obtained, to do away with the system and introduce something completely different but, as far as we are concerned, for both Governments, this is now the law. It is not like the variable rate, which was something that might have been introduced but, in the event, was not. This is something that will be introduced, and we are working to introduce it. As with all Government projects, it will be possible to review it at any point, which will be for the Governments to decide. We are here to do what the Governments have legitimately agreed to do—and this is it.

**The Convener:** Thank you very much, Mr Troup, Mr Morse and Ms Walker. I also thank you for your forbearance of our overrun. We are usually quite a disciplined committee, but the novelty of your visit led us to get carried away. I apologise for that.

We will make a virtue of being a bit late, and break until 11.

10:50

*Meeting suspended.*

10:59

*On resuming—*

## Section 23 Report

### “Reducing reoffending in Scotland”

**The Convener:** We are about half an hour behind schedule, so we need to try to make progress. We have an important session ahead of us, which will also be quite long, because we will hear from two panels of witnesses. I welcome the Auditor General for Scotland and Miranda Alcock and Kirsty Whyte, from Audit Scotland. I invite the Auditor General to speak to the report.

**Caroline Gardner (Auditor General for Scotland):** Thank you, convener. I will keep it brief, in view of your time constraints.

**The Convener:** My remarks were not aimed at you. They were aimed at my colleagues on the committee—and at me.

**Caroline Gardner:** It was a useful reminder, anyway.

The report considers the efficiency and effectiveness of approaches to reducing reoffending in Scotland. It follows on from the publication in September last year of “An overview of Scotland’s criminal justice system”. Members will remember that the committee took evidence on that report and asked Audit Scotland to consider a number of audit issues when we carried out the performance audit that we are considering. For easy reference, we summarised the issues in appendix 1 of the report, on pages 36 and 37.

11:00

I will focus briefly on the extent of the problem, on how much is spent on reducing reoffending and what we are getting for that spend, and on the effectiveness of the current arrangements.

As we highlighted in the overview report, reoffending is a continuing problem in Scotland that has a serious effect on communities, the economy and offenders themselves. Reconviction rates have remained relatively static in recent years: 30 per cent of people who were convicted in 2009-10 were reconvicted within a year, compared with 32 per cent of people convicted in 1997-98. The pattern is similar for people who were reconvicted within two years of their first conviction. Equally significant, in 2010-11, more than one in five people convicted—some 9,500 people—had 10 or more previous convictions.

The Scottish Prison Service, community justice authorities and the Scottish Government spent an

estimated £128 million on reducing reoffending in 2010-11, which is less than a third of the £419 million that the bodies spent on dealing with people who were convicted in court.

There is a strong body of evidence on what works in reducing reoffending. The Scottish Government has made progress by publishing a directory that pulls together information about all the services that are provided for offenders, in prison and in the community. However, we found a mismatch between the services that are provided and what we know works in tackling reoffending. We also found that access to and availability of services varies significantly across Scotland. In particular, support for people who are serving short prison sentences needs to improve.

There is a particular challenge to the effectiveness of the current arrangements in that many bodies are involved in working with offenders, including the Scottish Prison Service, community justice authorities, the police, the Crown Office, the Scottish Court Service, the national health service and more than 100 voluntary and community organisations, together with sheriffs and procurators fiscal. That makes for a complex landscape to manage.

The eight community justice authorities were set up in 2007 to improve joint working and reduce reoffending. They have been successful in bringing people together, but the way in which they were set up and inflexible funding arrangements have limited their effectiveness. The funding for community justice services is particularly inflexible and does not encourage reductions in reoffending. Only a small amount is available for local discretion and the funding is based largely on historical activity.

More generally, the criminal justice system is demand led, and demand for services to reduce reoffending is increasing, with more people in prison and more community sentences being imposed. It is therefore even more important that what is spent is used effectively.

The report makes a number of recommendations for the Scottish Government and criminal justice bodies. In particular, we recommend that there should be a fundamental review of how offenders are managed in the community. We also recommend that there should be improvements in how community justice services are funded, how performance is measured and how services for offenders are planned, designed and managed.

My colleagues and I will be happy to answer questions that the committee might have.

**The Convener:** Thank you. I told colleagues to keep their contributions brief, so I will try to do so myself.

CJAs were set up some time ago—was it 2005?—by a previous Administration, so they have been in place for some seven years. However, a key message of the report, on page 30, is that CJAs

“have had little impact on reducing reoffending.”

That is worrying. Moreover, in paragraph 118, you go on to say:

“the effectiveness of CJAs in reducing reoffending locally has never been systematically assessed.”

Whose fault is that? Who should have been assessing the CJAs? Surely Audit Scotland in its role with the Accounts Commission has a part to play in assessing the performance of local authority bodies such as CJAs. Is it Audit Scotland's fault, the Accounts Commission's fault or the Scottish Government's fault? Whose fault is it that we do not know how effective the CJAs have been?

**Caroline Gardner:** The CJAs were set up in 2007 and we think that their effectiveness has been limited by the way in which they were set up and their funding arrangements. Miranda Alcock will say more about the way in which that has had an impact.

We have provided an assessment in this report, but more generally we think that the Scottish Government has the role of putting in place, for any new policy, a clear set of arrangements for evaluating how effective the policy has been at an appropriate point in time.

**Miranda Alcock (Audit Scotland):** I should clarify that the CJAs are not local government bodies but independent bodies, accountable to ministers, so in effect it is up to the relevant minister to assess their performance. That is who CJAs are accountable to. There is quite often a misconception that, because the boards are made up of elected councillors from constituent councils, the CJAs are a type of local government body, but they are not a local authority body. Auditors appointed by Audit Scotland audit their financial accounts, but for that purpose the CJAs are very small bodies compared with the big public bodies and their big budgets. The report looks in detail at the CJAs' performance and how they have achieved what they were set up on a statutory basis to do, and what their aims and objectives were. As Caroline Gardner said, we think that CJAs have been constrained in how they could achieve the objectives that, ultimately, they were set up to fulfil.

**Tavish Scott:** The recommendation is very clear that the Government should allow the CJAs more flexibility on local funding to suit local priorities. Can you elaborate on that by explaining how much further you think that the funding balance should shift from a centralised system to

one that allows the CJAs to get on with the job in their areas and do what they think is appropriate to meet the reducing reoffending targets?

**Caroline Gardner:** As you will see in the report, the amount of money that the community justice authorities have to spend is relatively small. They spend that by allocating it to the local authorities within their area for criminal justice social work services of various sorts, but the amount of discretion over what that is spent on is further broken down by the core discretionary and non-discretionary elements that they have to spend. We think that aggregating some of that back up again, looking at the formulae by which the funding is allocated and looking, across Scotland, at the ways in which the needs of offenders can be assessed and matched to the services that we know have an impact—things such as family and relationship support or money and debt management—would be likely to have a greater impact than the current situation, in which the funding can sometimes appear to be spent in quite piecemeal ways that are driven by historical formulae rather than the needs of offenders now and where they are currently based.

**Tavish Scott:** Is Audit Scotland really saying that the system needs to be completely revisited and—as the CJAs make clear in their submission to the committee—that we need to sweep away the prescriptive system from the centre, sweep away all the controls on virements and all the rest of it and let the CJAs judge locally, in those eight areas, how they should meet the reoffending targets by coming up with local solutions to local problems?

**Caroline Gardner:** We do not recommend that we sweep away all the directions and criteria that are in place, but we recommend a fundamental review of the way in which offenders are managed in the community. That seems to us an important issue that is constrained by the funding arrangements that are in place. Again, Miranda Alcock may be able to add to that.

**Miranda Alcock:** The money is ring-fenced money that comes from the Government, and it is important to understand that there has to be some reflection of workload and demand. There has to be something additional that also recognises and encourages the successful services that will reduce reoffending among particular individuals in the local areas.

It is not just one thing that needs to change; in fact, quite a bit needs to change if we are to come to an understanding and develop services that take a holistic approach and are designed around individual offenders' needs. Although those services are being developed, the funding prescription has been quite constraining about what can be developed locally. For example, if

there is a big initiative or a particular problem with a particular type of offender in a particular area, the flexibility to meet such demand has been limited.

**Tavish Scott:** I agree, but I want to know what a better balance might be. It might be unfair to ask it to do so, but Audit Scotland makes no precise comment with regard to its recommendation that there be

“more flexibility to meet local needs and priorities”.

How does the committee judge the balance in this respect? Do we simply leave it up to the minister, if he so wishes, to come up with a new plan?

**Caroline Gardner:** As part of the recommendation about a review of the management of offenders in the community, we have tried to come up with a principles-based approach. For example, we suggest that there be clear and shared objectives for reducing reoffending; that all of those who work to reduce reoffending have the appropriate powers to provide the services that are needed to share information, which can be a challenge when dealing with individual offenders in different parts of Scotland; and that there be clear accountability and a mechanism for demonstrating progress. Instead of setting out an approach that we think will work, we have set out some principles that we think should be applied in a review. We hope that that will provide the committee with a basis for assessing the success of future Government policy changes in this area.

**Tavish Scott:** I will finish on this question, convener. Why did Audit Scotland not consider it better to set out a clear funding alternative rather than what has been set out in the report? After all, you are called Audit Scotland. One might argue that ministers are meant to deal with principles and the overarching policy spread. If I may say so, your recommendations do not state exactly what might work. Will we be any better off in three years' time?

**Caroline Gardner:** It is a fine balance. I am prohibited by law from commenting on policy and policy areas—

**Tavish Scott:** Indeed.

**Caroline Gardner:** If we recommended a system and then came back to audit it, we might be challenged on not being independent enough to come up with a clear view on its effectiveness.

**Tavish Scott:** It is a chicken-and-egg situation.

**Caroline Gardner:** That said, we have set out principles that the current system does not meet very well and under which better alternatives might be considered.

**Mary Scanlon:** As the matter will be referred to the Justice Committee, I, too, will be brief. I will say, however, that having made critical comments about others—the Registers of Scotland, for example—not reviewing services in seven years, I note that CJAs themselves have never been assessed or reviewed in seven years.

My question is supplementary to Tavish Scott's question. You say that you do not make policy recommendations, but in paragraph 74 under the comment that

“The availability of and access to appropriate services vary significantly”,

you point to

“a strong body of evidence on what is effective in reducing reoffending”

and in that respect mention “relationships with ... families” and managing lives better. However, exhibit 11 shows that the approach that you say works is least on offer. I find that incredible. The Auditor General mentioned money and debt management, but that is offered by only one of the seven services; motivation, too, is offered by only one of the services, while families and relationships is offered by only three. I know that we are looking only at Tayside, but is it fair to take from the report that what works and what is most effective in reducing reoffending is least on offer?

**Caroline Gardner:** We think that across the piece there is certainly scope for a much better match between the available services and the evidence about what we know works. You are right to point out that exhibit 11 provides only a snapshot for Tayside; however, the picture for the rest of Scotland looks similar, with the caveat that the directory of available services does not provide information on the number of places. As a result, it is difficult to carry out any fine tuning between offenders' needs and the actual level of service that is being provided. In broad terms, however, there is certainly room to do more of the right things to reduce reoffending.

**Mary Scanlon:** Are the CJAs—which, after all, allocate the money—aware of what works? If they are aware of what is effective in reducing reoffending, why are the services being funded according to the snapshot in exhibit 11?

**Caroline Gardner:** The exhibit covers provision by both the community justice authorities and the Prison Service, and I think that that question would be better directed to the following panel, on which there will be representatives of those organisations and the Scottish Government.

**Mary Scanlon:** Okay. That is fine. Thank you.

11:15

**James Dornan:** Perhaps I should declare an interest. I was on a CJA in Glasgow between 2007 and 2008. I think that Ms Alcock made the point that a CJA is not a local government body, but it felt like it was. Part of the problem is that, because the board is made up solely of councillors, it is very much driven by the local authority's policy requirements, for example. I cannot speak for everybody, but that is certainly the impression of the CJA that I got. Would boards having a different make-up be a major way to help to break down that barrier?

**Caroline Gardner:** We think that the composition of the boards is certainly not helping with the range of things that need to be done to reduce reoffending. Exhibit 13 shows the composition of one of the authorities. Councillors from four councils and a range of other participants from different statutory agencies and the third sector all try to consider what the needs are in their area and allocate relatively small amounts of resource with very small staff resources—typically, three or four people work for the authority—to deal with a significant problem and potentially prisoners in prisons throughout Scotland. That is a very challenging thing to do, and we do not think that the current arrangements are delivering the effective services that are needed. That is why we are recommending a fundamental review of the way in which offenders are managed in the community.

**James Dornan:** Can you clarify that the CJAs came into existence in 2005-06, but started running in 2007?

**Caroline Gardner:** I ask Miranda Alcock to clarify that to ensure that we keep you straight.

**Miranda Alcock:** The legislation was the Management of Offenders etc (Scotland) Act 2005, but it took a couple of years to set up the CJAs. They started on 1 April 2007.

**James Dornan:** I think that there was an advisory board meeting in 2006.

**Miranda Alcock:** Yes. There were various national things to set them up. After the act was passed, it took a while for them to come into being.

**James Dornan:** You talk about families being important. Has any work been done on people from Glasgow possibly ending up in Inverness, or a long distance away, and whether they are more likely to reoffend than people who live locally?

**Miranda Alcock:** There are two different questions there.

Exhibit 9 on page 23 shows a spread of people. We were struck by how people from different

council areas were spread out in prisons throughout Scotland. I am sure that you will ask the Scottish Prison Service about that. I know that it is moving towards more community-based prisons, but we feel that it is very difficult for criminal justice social workers to be able to build up relationships with prisoners who are miles away from their area, and there may be only one or two of them. Prisoners are distributed a long way away from where they live, so giving them the appropriate support for when they return and building up relationships is very challenging. We absolutely accept that.

**James Dornan:** Has any work been done to see whether those prisoners are more prone to reoffend?

**Miranda Alcock:** I am not aware of any such work, which would be quite difficult to do.

**Colin Beattie:** It is disappointing that CJAs have not made more of an impact in the time that they have been in place. Paragraph 111 of the report says that only nine single outcome agreements

"make reference to reducing reoffending."

I am very surprised by that.

A key message on page 30 of the report is that

"Stronger leadership is required if reoffending is to be significantly reduced."

Could you give a little more information about that? Where is that lack of leadership? Is it in the CJAs themselves, or is there a wider issue?

**Miranda Alcock:** Our conclusion is that stronger leadership is needed at the national level—some of the services are so specific that it makes more sense to look at what is needed across Scotland to be cost effective—and, in some areas, stronger leadership is needed at the regional level and the local CJA level. We think that there needs to be more of a drive in both areas. Even within local authorities and community planning partnerships, there is room for more of a drive, because the problem is a community one. There should be more leadership so that there is more of a drive at the CJA and national levels. That is why we have said that, right across the board, there needs to be more ownership of the problem and more sharing of goals by the bodies that have a contribution to make. If reducing reoffending is to be a national goal or objective for Scotland, that must be reflected in all the bodies that have a contribution to make to it.

**Colin Beattie:** Were there any obvious examples of good practice? Were there any CJAs that you could hold up and say, "If only they were all like this"?

**Miranda Alcock:** In all cases, there are bits and pieces of wonderful, fantastic service that is delivered in different parts of Scotland and is brilliant at helping offenders change their behaviour. Good practice is scattered throughout Scotland and we mentioned a few places in the report—some areas of good practice are referred to on pages 26 and 27. It is just that it is not everywhere. There are examples of really good practice in every CJA, but they are not always available to the people who need them.

**Sandra White:** Perhaps I should declare an interest in that I am a member of the Justice Committee, and some of the issues that have been raised here were raised at the Justice Committee meeting yesterday. I know that we will take the issues further, so perhaps it would be good for the Public Audit Committee to look at the *Official Report* of the Justice Committee's discussions in that regard.

I want to nail a particular point. The legislation behind CJAs was passed in 2005—the Management of Offenders etc (Scotland) Act 2005. Through 2006 there was preparation for introducing CJAs and they were introduced in 2007. Everyone has said that the reason why CJAs are not working is the inflexibility. Can you clarify whether the inflexibility to which the Audit Scotland report and members here have referred comes out of the 2005 act?

**Miranda Alcock:** I think that funding for criminal justice social work was ring fenced before the introduction of the 2005 act. However, we did not track the funding and the arrangements back; we looked at the funding since 2007. The formula was adjusted, but it predates the 2005 act.

**Sandra White:** I want to clarify where the inflexibility comes from. Is it from the 2005 act? I do not want to lay blame on anyone; I just want to know how we can go about changing things.

**Miranda Alcock:** The funding arrangements, which are the basis of the inflexibility, were in place before the 2005 act; they were not introduced by that act, but they were amended. I think that the funding arrangements were in place even before the Scottish Parliament came into being.

**Kirsty Whyte (Audit Scotland):** They have been in place since 1999.

**Miranda Alcock:** The arrangements have been modified, but there has never been a comprehensive, strategic approach to reviewing them.

**Sandra White:** It is confusing when you keep referring to 2007, given that you perhaps should have said that the inflexibility has been there since before the Scottish Parliament. However, the

CJAs were set up by statute in 2005, but they continued with the existing rules and regulations, as you said, which is where the inflexibility comes from and why it is so difficult for the CJAs to work in the way that we would want them to work.

**Miranda Alcock:** The Government distributes the funding, so that would be a good question for the Government officials who will give evidence next.

**Sandra White:** Yes. I am asking you the question because you are here and you keep mentioning 2007 in your report. It would have been helpful if we could have had a wee bit of background knowledge on that issue.

You also mentioned that £90.3 million was put into the CJAs to tackle reoffending and, in 2010-11, £99 million was put in. Was it a good thing to put extra money into the CJAs?

**Caroline Gardner:** Again, it is not our role to make a judgment on the merits of policy or funding decisions, but we say in the report that the funding for CJAs has increased in real terms by, I think, 2 per cent a year against the different trend for most other public services in Scotland. I think that that is a recognition of the priority that CJAs have in the Government's policy direction.

**Sandra White:** It is important sometimes to emphasise the positive and not always the negative.

I have one final point. You have mentioned that we want on-going partnership working to prevent reoffending. Certainly, everyone wants that. As we have heard, the reoffending rate has gone down from 32 to 30 per cent, so there has been improvement. I know from my work on the Justice Committee that the Government is considering throughcare partnerships.

Health has been mentioned. The issue is an holistic one that involves not only the Justice Committee. I think that Audit Scotland has studied the fact that responsibility for healthcare in prisons has moved from the Scottish Prison Service to the NHS. It might be helpful to consider the reports that the Justice Committee has received on that to find out about improvements that have been made. That involves working together, which is exactly what Ms Alcock has talked about. It also relates to Mary Scanlon's point about some prisoners not being able to access employment and health services. On the particular issue of the transfer, people seem to be working together. Are you considering any further work on that?

**Caroline Gardner:** You are absolutely right that responsibility for the healthcare of prisoners moved from the Scottish Prison Service to the NHS last year, during 2011-12. We have not done any work to evaluate that, but we will keep it under

review as the arrangements bed in. We will consider the impact on reoffending and the cost and effectiveness of the Scottish Prison Service and the NHS.

**Sandra White:** I will leave it there.

**The Convener:** Mr Scott has a quick supplementary question.

**Tavish Scott:** I want to pursue Sandra White's point, just to be absolutely sure about the funding formula. The funding formula is not in statute, is it?

**Miranda Alcock:** No.

**Colin Keir (Edinburgh Western) (SNP):** Like Sandra White, I am a member of the Justice Committee, although I will try not to make this sound like a subject question.

Although there are critical issues, we have had decent results, with a 37-year low in crime and, I think, a 13-year low in reoffending. The report comments on discussions with sheriffs about short-term jail sentences. My view is that such sentences lead to problems and are probably the least effective sentences. Reoffending rates among those who have had short sentences, particularly young males, are incredibly high. The report notes that sheriffs said something along the lines that they felt that they had no option but to send people to jail for such lengths of time because of their background. Will you elaborate on that?

**Miranda Alcock:** We met quite a few sheriffs, both through the Sheriffs Association and through interviews with sheriffs. The strong message that came through was that sheriffs are fully aware of the ineffectiveness of short-term prison sentences, but often feel that they are left with no option because of the number of breaches of a community sentence that an offender has committed.

As the commission on women offenders pointed out, in the drugs courts, there is a different dialogue between the sheriff and an offender who is on a drug treatment and testing order, which can be more effective, and there is a higher completion rate. That should be explored in considering what happens once an offender gets to court. For example, community payback orders could have a review system. If an offender goes back to the sheriff for a review of the CPO, that might have an impact on whether the CPO is completed. There are indications that such an approach helps. The CPOs are a different type of community sentence and were only introduced in February 2011, so we have not had time to look at their impact on reoffending. It would be interesting if CJAs were to look at how sheriffs are using CPOs, as I am sure that that use varies across the country and across different courts. The sheriffs

strongly felt that there needed to be a different approach because what is happening is not working.

11:30

**The Convener:** Thank you, Mr Keir. I apologise, Mr Coffey; I jumped over you in the queue. It is your turn now.

**Willie Coffey:** Not at all. Thank you very much.

There was some discussion about when the CJAs were established. The former Minister for Justice announced the establishment of CJAs on 3 April 2006. The work was certainly well under way and was very much appreciated when I was elected in 2007, certainly in respect of the south-west of Scotland CJA. I was able to engage in some of its early work at Bowhouse prison, just outside Kilmarnock.

Although this will put me at great risk of incurring the wrath of the Auditor General, I see some positive things in the whole message about criminal justice and reoffending. As Mr Keir said, we are looking at a 37-year low in crime rates in Scotland and the lowest reconviction rate in 13 years, which at 30 per cent—as I think it says in your report—is among the lowest compared with neighbouring countries. In that climate, I am confused as to why we would want a fundamental review of how we manage offenders in the community.

Some statistics are difficult to get out, but a few are worth noting. The reduction of reoffending in the under-21 age group has been 6 per cent, which is quite encouraging, and there has been a drop of about 16 per cent in reoffending by those who are on drug treatment and testing orders. Those are very encouraging statistics that do not automatically come out of the work of the CJAs; however, I firmly believe that because of the interventions of the CJAs and other partners those things are happening. Those are the benefits that we are reaping. I am very encouraged by the work of the CJAs and others and we are seeing the benefits in society generally in terms of reoffending. Will the Auditor General clarify why she believes that a fundamental review is required?

**Caroline Gardner:** I am happy to do that. As the Auditor General and the accountable officer for Audit Scotland, it is useful for me to put on record that we do not do wrath. We are interested in getting on the record the evidence of how public money is spent and what we get for it.

You are right that the figures on the performance of the criminal justice system are complicated. Across the past 13 years or so, although both one-year and two-year reconviction



rates have moved up and down, they have stayed pretty steady. They are a little bit down this year compared to the starting point, but they have gone up in between times, which paints an interesting picture. Crime levels are certainly down, but at the same time the number of people in prison is at a record high, I think. A complicated set of things is going on, which I am not sure that any of us fully understand. Getting better at managing reoffending and building on the good practice that you rightly say exists seems to be a critical way of tackling that.

As Miranda Alcock said, there are some very good examples of services that are making a real difference. We have the introduction of community payback orders and the possibility of much better engagement between the justice system and individual offenders, which may have an impact. That may also bring some higher costs; we do not know yet, so we need to understand how those costs and benefits work together. There is also scope to make better use of the new options for sentencing that have come into play.

The question of the fundamental review of offender management is really about the interface between the Scottish Prison Service, the community justice authorities and councils' criminal justice social work departments. We need to make sure that they are working together at national level in order that they can understand what needs exist and what services should be in place, and at local level so that they can understand the needs of offenders and how offenders can get access to the services that would make the biggest difference to them. We are not putting any particular emphasis on the dates on which the CJAs were introduced or anything else in the process. We are saying that the area has over a very long period had a significant impact on Scotland's economy, society and communities. There is scope to do better in tackling that particular bit of the problem, in ways that would benefit all of us.

**Willie Coffey:** Thank you very much for that.

Does the greatest opportunity for gain lie in short-term sentencing? There are statistics and evidence to suggest that the reconviction rate among those who are sentenced to three months or less is pretty high—58 per cent—whereas the rate for those who are given community service orders is about 24 per cent, which is significantly lower. In that regard, there has been a significant change in what has happened in Scotland over the past few years. Is that an area in which we can look for further gains as we move forward? I did not see that the impact of the focus on short-term sentencing is covered in the report.

**Caroline Gardner:** We make the point that short prison sentences are the least effective

intervention and that reoffending rates for people in that group are higher than they are for people who get longer prison sentences or those who get community sentences.

That is certainly an important focus for tackling the problem, but we do not think that it is the only one, partly because of the mismatch that exists between the evidence on what works and the variability across Scotland that we see in access to the services that are available to tackle reoffending. I am absolutely sure that it is possible to tackle the issue, but we think that the current structural and funding arrangements do not support that as well as they might.

**The Convener:** Thank you very much. I thank Mr Coffey for mentioning the drugs courts. We are obsessing about when they started; I am happy to say that I started them some time ago. Modesty forbade me from raising the issue, but I was pleased to see the courts' success registered in the report.

I thank the Auditor General and her colleagues very much. We will pause for a moment while we change panels.

11:36

*Meeting suspended.*

11:39

*On resuming—*

**The Convener:** I thank colleagues for making slightly quicker progress; we need to keep that up.

I welcome our second panel on the "Reducing reoffending in Scotland" report. Leslie Evans is director general of learning and justice at the Scottish Government. Colin McConnell is the chief executive of the Scottish Prison Service. Joe Griffin is deputy director of the Scottish Government's community justice division. We also have with us Councillor McNamara, who is the chair of the community justice authority conveners group, and Howard Llewellyn, who is the chief officer of Tayside community justice authority.

We have three different bodies with us so, when we get to questions, it will probably be helpful if colleagues say for whom their question is.

**Leslie Evans (Scottish Government):** The Audit Scotland report provides a helpful snapshot of progress to date, but rightly focuses on what still needs to be done by all partners as we strengthen joint efforts to reduce reoffending. I said "joint efforts" because success in tackling reoffending is highly dependent on the key players playing their roles individually and collectively. That means that all the partners—the eight community justice authorities, the Scottish Prison Service, other

national agencies, local authorities and many third sector bodies—will need to continue to deliver joined-up services that are tailored to individual and local need if we are to make a real step change in reoffending levels.

For our part, the Scottish Government has the unique advantage of seeing the whole system. With that comes the responsibility to challenge the status quo; to drive collective, cohesive and strategic leadership across Scotland and across policy areas other than justice; and to set the performance bar high.

We have solid foundations on which to build. Reconviction rates are at their lowest since 1997-98 and recorded crime stands at a 37-year low. However, challenges remain, and the Audit Scotland report focuses on four areas for Scottish Government action. First, it recommends that the Scottish Government improve arrangements for funding community justice. From April 2013, the community justice authorities will enjoy more flexibility in how they spend Scottish Government finance and will fund activities that evidence tells us are most likely to make the biggest difference in reducing reoffending.

Secondly, the report recommends that the Scottish Government improve the range of performance measures to assess the effectiveness of the SPS, CJAs and councils in reducing reoffending. There is undoubtedly more to be done here. We are working with stakeholders to develop a national performance framework to assess performance more effectively. We can discuss that more.

Thirdly, the report wants us to review current arrangements for managing offenders in the community. That is significant. Progress in improving aspects of community justice has been more in spite of the current structural landscape than because of it. The committee heard a bit about that in the previous evidence session. We need to redesign the community justice system in order to ensure strong and visible leadership, with transparent and robust accountability and evaluation arrangements. In the near future, the Scottish Government will seek views on the redesign of committee justice structures.

Fourthly, the report recommends that the Scottish Government work with our partners to ensure that services are designed and delivered to meet best the needs of offenders. By April, we will have established demonstration projects in several prisons to test the impact of different support packages for offenders as they leave prison. The results will inform future practice.

Finally, and crucially, research tells us that even the most successful programmes produced relatively modest reductions in reoffending. As the

Christie report emphasised, we need to invest effort and resources in prevention rather than in intervention. Compared to the general population, people who are in prison are 13 times more likely to have been in the care system and are 10 times more likely to have truanted regularly. Intervening early is vital in order to divert individuals from making the wrong choices and impairing their life chances. Investing in parenting and early years, equipping children with the skills to make a positive contribution through curriculum for excellence, and the whole-system approach to youth offending, which was piloted in Aberdeen, are all specific examples of that preventative approach.

As accountable officer for justice, and with my colleagues, including the accountable officer for the Prison Service, we stand ready to discuss the Scottish Government's role in and commitment to reducing reoffending, and the support that we are providing for others to play their roles.

**Councillor Peter McNamara (Community Justice Authority Conveners Group):** I do not have a written statement. Leslie Evans's was eloquent and well put.

I am interested in what the committee was discussing earlier and I would like to engage with you in those discussions.

11:45

As someone who has been involved in CJAs since 2007, when I became the first convener of the south-west Scotland CJA, I have to tell the committee that it was not easy to establish trust and confidence in the agencies that we are going to discuss. You can imagine what happens when you tell the Prison Service, "You need to change the way you deal with prisoners on release"; say to those in criminal justice social work, "You need to do better out in the community"; or ask the judiciary to play its part. Although I have been convener for six years now, it was only last week at our conference in Kilmarnock that we had for the first time a sheriff sharing his experience of his bench with social workers, and social workers engaging with him. He learned and we learned from the experience. The problem is that there is a learning curve. None of it happens overnight; it takes time.

Nevertheless, I and the seven other CJA conveners are prepared to make the required time commitment. I have recently been elevated to the high post that you heard about, and I am looking forward to the challenges that it will bring. Ultimately, however, we want to engage in the kind of early intervention that the Christie commission report talked about. Unless and until we start to identify and support families, especially

the young single women with children, we will only be cultivating another generation of young people who might well end up in the criminal justice system. We need to do an awful lot more. I am certainly up for the challenge and look forward to our discussion.

**The Convener:** Will you say a bit more about the redesign that you said has been undertaken. The report and the previous evidence that we received implied that there are problems with the structure—or what has been called the “institutional landscape”—that we were looking at, and you have said that the Scottish Government was looking to redesign it. Perhaps our Justice Committee colleagues know about this already, but what is the scale of that redesign? Are the CJAs to be swept away? Are you working from a blank sheet of paper?

**Leslie Evans:** Even before we heard the conversation that you had earlier in the meeting, we were acutely aware of the flaws in the current institutional landscape. Although many CJAs have done some really splendid work in addressing reoffending, their infrastructure does not work as effectively as we need it to in order to address current reoffending levels. As a result, a couple of weeks ago, Mr MacAskill announced that he was seeking a redesign of the landscape and system, the various options for which were, I think, mentioned earlier in the meeting.

I do not know about CJAs being “swept away”, but if we were to remove them we would be looking for a more localised or regional structure. It would certainly be different to the status quo, which—as I think Mr MacAskill said—is simply not tenable; indeed, there might be a national structure. We have already spoken to CJAs, the Convention of Scottish Local Authorities and other colleagues about our intention to start a formal consultation process, which will be announced in the next couple of weeks and will provide an opportunity to look at a redesign that will take account of what we have learned from our experience of working with CJAs, of knowing what works, and of knowing about some of the constraints under which we are working. Those constraints are not just financial but relate to the importance of the interdependency and interoperability of national as well as local institutions.

Given that any national, regional or local change to the structure will require legislation, no change will be made quickly. Nevertheless, we are intent on making a change. In the meantime, it will be important to continue to make progress and to address the performance and outcomes that we seek.

**Mary Scanlon:** Before I ask my substantive question, I note that paragraph 118 says:

“the effectiveness of CJAs in reducing reoffending locally has never been systematically assessed.”

You say that you have found flaws in the system, but why have you never assessed the performance of CJAs in the five years that they have been operating?

**Leslie Evans:** I question the suggestion that they have never been assessed. CJAs are responsible for reporting on their own performance; they do that.

**Mary Scanlon:** Those are not my comments. I am just quoting from the Audit Scotland report.

**Leslie Evans:** I absolutely understand that, but in response to such a comment we say that CJAs are responsible for their own performance.

In addition, I point out that CJAs have recently carried out some very good work on standardising a national performance framework, which I think came out last April. My colleagues might say a bit more about that.

The CJAs report to us every year, and we look carefully at their reports. In addition, we publish data—some of it is quite granular in its detail—on the reoffending levels in CJA areas, which are broken down at regional level. Most recently, the Angiolini commission has given a clear view on the effectiveness and collective impact of CJAs.

I challenge the view that there has not been substantial consideration, both annually and more recently, of the performance and impact of CJAs. The CJA representatives might want to say a little about how their performance regime operates at a CJA-specific level.

**Mary Scanlon:** That is fine. I just wanted clarification.

I will put another point on the table. It is worth mentioning—and important for us to consider—that the Scottish Government estimates the total economic and social costs of reoffending to be more than £3 billion. In addition, the prison population is greater than 8,000.

On page 4 of the report, the Auditor General states:

“Reconviction”

within one year remains

“relatively static ... at 30 per cent”,

which means that it has come down by 2 per cent in 13 years.

When the CJAs were set up—and more money has since been invested in them, as colleagues have said—did you expect a reduction of 2 per cent over 13 years? I know that the CJAs were not in place for all that time. That is my first question, and I do not want pitch it at one person and deny

someone the opportunity of pitching in with their wisdom.

My second question is the one that I asked earlier. Paragraph 74 of the report states:

“There is a strong body of evidence on what is effective in reducing reoffending”,

and notes that one of the main factors is the need to

“improve relationships with ... families and ... manage ... life skills”.

Exhibit 11 on page 25—which I appreciate is a snapshot—refers to

“prisons and councils where most prisoners from Tayside are located”.

However, if we look at the outcome heading “Families & relationships”, which is one of the things that we know works, we see that those services are available in only three out of seven areas. If we look at the “Money/debt management” heading, which the Auditor General mentioned earlier, we see that the service is available in only one out of seven areas, and the same applies to the “Motivation” heading services.

I make the same point that I made earlier, when some of you were in the room. We know what works, but it seems that what works is what is least available. Whoever wishes to answer that question can do so.

**Leslie Evans:** I am happy to start off, certainly on Mary Scanlon’s first question about performance and the percentage-point change over the past 13 years. It is true that the one-year offending rate is at the lowest level since collection of records began 13 years ago, and that there has been a 1.7 percentage-point reduction. That is not huge, but it is a step in the right direction.

**Mary Scanlon:** The reduction has been 2 per cent over 13 years, despite all the money.

**Leslie Evans:** Yes. However, there is another—perhaps more sensitive—piece of data, which is the frequency with which people are reconvicted. That gives us a more sensitive understanding of individuals and the way in which they are operating in the reoffending landscape.

Over the 13 years, we have reduced the frequency with which people are reconvicted by 12 per cent. Again, that is not a huge amount, but when we plot that against the £3 billion cost to the Scottish economy that Mary Scanlon quite rightly cited, it amounts to a saving of £366 million.

We are by no means complacent. We cannot afford to be, not least—as Colin McConnell will discuss later—with regard to prisons, which are bulging at the seams. That is one of the most

important policy areas—if not the most important—for the justice portfolio.

There has been some progress. In response to Mary Scanlon’s second question, she is right to say that we know what works. We have spent a lot of time working with partners, including CJAs, on analysing and collecting data and evidence—including international evidence—about what works.

The point that Mary Scanlon makes about families and relationships is very pertinent, in that—

**Mary Scanlon:** I am sorry, but it is not the point that I am making. It is the point that the Auditor General makes.

**Leslie Evans:** Yes. Sorry. It is the question that you were asking.

**Mary Scanlon:** It is made in paragraph 74.

**Leslie Evans:** Quite right.

**Mary Scanlon:** I just do not want you to think that these are my views.

**Leslie Evans:** Not at all. The point that you were making about—

**Mary Scanlon:** I quoted from the report and from a previous evidence session.

**Leslie Evans:** Absolutely. Your point is about exhibit 11 and the issue of family relationships.

One of the initiatives that we are starting—Joe Griffin might like to say a little more about it in a moment—is a programme of funding through the reducing reoffending programme to specifically address mentoring and build mentoring relationships. It will provide opportunities for people who leave prison to be offered mentoring, which we know makes a difference to the way in which they regard their post-offending lives, including their behaviours, skills and attitudes. That is one aspect. We have made real strides in trying to get a national approach, in funding terms, for local mentoring services.

As I said, Joe Griffin might like to say a little bit more—

**Mary Scanlon:** I am sorry, but with respect, you did not answer my question. I welcome the mentoring, which is fabulous, but my question was about the fact that what works, such as the work on families and relationships, appears from the snapshot to be what is least available. Why is there a mismatch, as the Auditor General says, between what is available and what works and makes a difference in reducing reoffending? That was my question.

**Leslie Evans:** Of course. I suppose that I was answering, perhaps rather clumsily, by talking

about one of the initiatives that we are now funding, which is to develop a mentoring service that will enable offenders to regard their relationships, the way in which they operate and their lifestyle with greater clarity. That should help with their relationships with the wider community and indeed with their families.

I do not know whether my community justice authority colleagues want to give their response to the question as well.

**Councillor McNamara:** I will try to answer the question. We recognise that the audit report criticises what we do and we know that we have to do an awful lot more. Local decisions are being taken about what the priorities are in local areas. In my area, we set up a programme called women in focus—Mr Coffey will know about it—to target particularly vulnerable families. We got £100,000 for that. By the time the programme was set up, we were six months in. Six months later, the £100,000 was finished and only eight young women had been affected, but the programme was working. We then had to go and argue for extra resources to tackle this serious problem, and we are still doing that.

We should be participating in what works. It is important to get the political input that is required. We talked earlier about having four local councillors, and that is another difficulty. I have four councillors—one each from the SNP, Labour and the Liberal Democrats and an independent—and they all have different priorities and different areas of work. Getting them to work together was yet another coup, I think, in our area. The position is similar throughout Scotland. Ultimately, we want to reduce the reoffending that affects our communities. Unless and until we all buy into that, including all of us round the table, there will be a difficulty. It is not just about what happens out there. It is about what happens with all of us and how we engage.

In certain areas, the priorities that have been set are about families, but there are other priorities. In other areas, work on drugs and alcohol might well have been set as priorities.

**Howard Llewellyn (Tayside Community Justice Authority):** Mary Scanlon's question demonstrates the complexity of the landscape that the CJAs have had to deal with. The eight CJAs have had to deal with 32 local authorities. They were previously autonomous, and they remain autonomous in a governance sense. The projects, initiatives and programmes that they have delivered have grown up historically, perhaps for the reason that has already been addressed, namely that they had a specific need for the offenders in the area. Until now, there has never been a coherent and co-ordinated drawing together of what works.

It has been difficult for us, having received the research document that shows what works, to then filter that down to the local authorities, because they have become, for many good reasons, entrenched and settled in the work that they are delivering. Their practitioners are trained in whatever their programme is. Any programme, whether it focuses on money management, families, resources or mentoring, requires an intensive delivery of training to practitioners before they can deliver the services that will produce an outcome.

In some areas, CJAs have managed to draw that together and produce some very good work. Perth and Kinross Council's right track programme mentored people, but it operated only in Perth and Kinross. It was rolled into other areas of Tayside under different names and made to fit the services that were already in place there. The problem that the CJAs have is that they are accountable for monitoring and reporting on those works, but they have no authority to direct. On an assessment that is agreed nationally, I would love to be able to say that when a programme works it will be used in each of the areas. At the moment, I cannot do that.

I do not know whether that has answered the question.

12:00

**Mary Scanlon:** If we look at families, relationships, money and debt management, can you not allocate the money on the condition that the services that you want to be provided are provided? Do you just allocate the money and hope for the best? It is slightly worrying if you know what works but there is no direction.

**Councillor McNamara:** The authority for the direction is not there. That is the difficulty. As Howard Llewellyn has said, I would love to be able to go to a local authority and say, "By the way, this has worked in Tayside and we want to roll it out across Scotland", but I would be told that I do not have the authority to do that.

Ultimately, I am responsible to the Government so I could snitch to the Government, but the elements of confidence and trust would go out of the window and people would not want to work with me. It is all about working together. I would love to have the power to instruct and say what we are going to do, but I do not have it.

In the coming months, I hope to engage in the consultation exercise. It should not be about sweeping anything away but about recognising what works and putting it into practice. That is the most important thing. I am more about outcomes than structure.

**Mark Griffin (Central Scotland) (Lab):** I have a supplementary question on the effectiveness of spend. Paragraph 100 of the Audit Scotland report mentions a £7.5 million change fund, and says:

“The Scottish Government has stated that all the interventions receiving funding from the Change Fund will be subject to rigorous evaluations to ensure that they are based on what works and achieving their specific objectives.”

That is a pretty clear statement of a £7.5 million fund. Why does the Audit Scotland report then talk about a much larger fund of £128 million? Audit Scotland says that

“There is a strong body of evidence on what is effective”

and that there is a mismatch on what is being delivered.

**Leslie Evans:** We are talking about two separate funds, and you have differentiated between them correctly. We set up one fund as part of the reducing reoffending programme and, as I said earlier, it will be open for people to bid into. In particular, partnerships between strategy functions and third sector functions will be encouraged to bid and to agree what they will produce as part of that for grant aid while specifically addressing mentoring. That is the £7.5 million preventing reoffending fund. In fact, we have heard today that the Robertson Trust has just agreed to supplement that fund to nearer £9.5 million. That is very good news.

The other funding that we are talking about is that which goes directly to CJAs. It is ring fenced, and the committee discussed that earlier this morning. The money is ring fenced, but there are also stipulations about what it can be spent on. The ring fencing will remain, so the money and how it will be spent is secure. As accountable officer, it is important for me to know that it will be spent on reducing reoffending and that CJAs get that money specifically for that purpose.

From next April, we will remove the inflexibility within the funds and the way in which they are handed out. Instead of having to spend the money in one part of that allocation on only one kind of service, CJAs will be able to spend it on what they think is fit for purpose and required, and on what will be most beneficial according to the evidence base that Peter McNamara talked about. From next April, the constraints on that funding will be removed, which will allow CJAs to enjoy better and more flexible funding.

**Mark Griffin:** I want to link back to the consultation about changes to the structure that you mentioned. Why will that be necessary? If you have removed the limitations on the funding to allow CJAs to direct it to where it will be most effective, why does there need to be a change in structure?

**Leslie Evans:** We do not take decisions on such structural changes quickly or easily. As members around the table will know, changes in structures can lead to all sorts of difficulties and uncertainties, but it has become clear to us—as indeed it will have become clear to the committee, having read the report and heard the evidence in the previous session—that the structure that was put in place as a result of the 2005 act is flawed. Given certain accountabilities and in view of some of the opportunities that we have to direct instead of simply encouraging services to take account of the evidence base on reoffending that we show them—or indeed supporting them in that, or just hoping that they do so—we feel that this is not an easy landscape or a landscape in which we can have full confidence in the transparency, accountability and robustness of the services that we need to direct. The system is flawed, and the Angiolini commission, which I mentioned earlier, was very categorical that the current system did not serve the best interests of our pressing need to address reoffending.

We have not reached the decision lightly. After all, as Peter McNamara quite rightly pointed out, changing structures is not the answer to addressing outcomes. In this case, however, having spoken to our colleagues on the ground who are, as Mr McNamara has made clear, facing real challenges in encouraging local authorities to direct their resources where they need to go to address reoffending, we are convinced that a structural solution will help with some of the difficulties. Our response will draw on the experience of what we know has not worked, and we will return to the question whether the structure will be national, regional or local following the consultation process.

**James Dornan:** I welcome many of your comments about looking at the landscape and, in particular, the removal of funding constraints. As I said earlier, I was a member of a CJA between 2007 and 2008. At the time I complained that the board was made up only of councillors—and did so particularly because I was the only opposition member—and I still think that that is why we need such a substantial change. It is not enough simply to remove the funding constraints; we need to make other changes to ensure that we are not blocked at a local level by the kind of party politics that we touched on earlier and which happens across the country in different councils with different political make-ups. As a result, I think that there needs to be a review of and change in structure, and I really welcome the moves in that respect.

My question is probably for Howard Llewellyn and Peter McNamara. Do you agree that the configuration of the board should be changed or

do you think that it is still a good idea for it to consist solely of councillors?

**Councillor McNamara:** I believe that there should be change. I am certainly not against change, but I do not want change for change's sake or people creating yet another structure. We need to look at accountability, spend and so on, but as far as I am concerned the question whether we need to create yet another structure, either with or without councillors, is up for grabs.

However, any structure needs democratic accountability. After all, we are spending a lot of money. When people say to me, "There's £128 million going through CJAs", I say to myself, "Well, that's what's being spent on section 27 grants." The money gets filtered. I do not hold £127 million or £128 million; instead, it goes to the criminal justice social work department.

In my area, and other areas, we had agreements on how the funding would be distributed, particularly with regard to need. That was another difficult discussion involving four local authorities, all of which had an opinion on the need in their areas. Changing that fundamental mechanism required very difficult political manoeuvring; you could not, for example, say, "South Ayrshire's got a real drugs problem, so let's shift all the money from East Ayrshire to South Ayrshire", because all the East Ayrshire councillors would be up in arms. Instead, we argued that a specific proportion of the money should be shifted to areas of greatest need, and we managed to be successful in that approach. Yes, there needs to be political input and yes, there needs to be democratic accountability but I am not enthused by structural change. A national CJA, for example, does not excite me. After all, I believe in the Christie commission report's conclusions about what happens locally and the sort of local impact that can be made.

This is no criticism, but I note that Howard Llewellyn is described in the agenda for this meeting as representing "Tayside Criminal Justice Authority". He is actually representing Tayside community justice authority. Five or six years on, I am still trying to convince people that CJAs are community justice authorities and that reflecting our communities is the most important aspect of what we are trying to do.

**Howard Llewellyn:** Speaking for the officer wing of the CJAs, I would say that the people who are involved in the delivery of the CJ service endorse what Councillor McNamara has said about the enthusiasm for change and the recognition of the need for change—it is absolutely essential. I echo his thoughts and expressions about our not supporting change for change's sake; it must be effective and produce effective outcomes that are about reducing reoffending. The

difficulty that the CJAs have had—forgive me for repeating what I said a little earlier—is that they have not been accountable for that which they have had authority over. The points about moving, sharing and, dare I say it, transferring resources from one area to another have been a real element of sand in the machine for the local authorities—you will all understand why.

Whatever the new structure is, unless we are in a position to engage in a directive sense—to say what works and to identify a shared need, which may be not in our local authority but in a neighbouring authority or in an authority with which we are in a partnership—we will not be able to reduce reoffending as effectively as the report says that we should. The issues are accountability, authority and the ability to direct resources where they are needed when we have identified what the best resource is.

**James Dornan:** I do not imagine that any of you wants to throw the baby out with the bathwater. I am sure that everybody is aiming for the same thing, which is to reduce reoffending.

Paragraphs 100 and 101 talk about the relationship between CJAs, the CPPs and the alcohol and drug partnerships not being all that it should be. Is there anything that you can do within the existing model to change that, or do you need a change in structure to make it better?

**Howard Llewellyn:** I can speak only for Tayside, although I have some knowledge of other areas. There is very good engagement on the ground with practitioners who work with each other every day. They work in real time with real offenders who have real issues, and they are doing very good work on that front. However, there is still evidence of silo working with ADPs and CPPs. I will give you an example of that. In Tayside, the CJA is a full member of two of the three CPPs in Tayside but not the other, despite our continually knocking on the door, begging and pleading—however you want to put it. We have even occasionally put up a good argument for our being there, but it has not been received or responded to in a positive way.

The work on the ground is very good. I do not think that we can deny that, even though it may not be producing the outcomes at the level that we would like. However, there is an issue with the structures of working with the other organisations, the ADPs and CPPs, which I think will be addressed in the work that the Government is doing on CPPs. I suspect that part of that will be identifying what it is crucial for a CPP to consider for an area. A safe environment and community must be important to those organisations, and we engage with producing that.

**Leslie Evans:** I will supplement what Howard Llewellyn has just said. We have done quite a lot of work with community planning partnerships in looking at the role of community planning partnerships as a whole, not just within this portfolio. We have also made significant progress by looking at what goes into the single outcome agreement, which represents the Government's expectations and the agreement with community planning partnerships. Very recently, we have added the reduction of reoffending as a key area that we expect community planning partnerships to address and focus their efforts on. It is the first time that that has been added as a key responsibility and point in single outcome agreements for community planning partnerships, and they have been perfectly happy to accept that.

There has also been some movement in the fact that NHS Scotland has been working with the alcohol and drug partnerships—I think that they met last week—to look at how the integration takes place across that bit of the infrastructure. However, the fact that we are talking about different parts of the infrastructure with different governance and accountability, different responsibilities and different funding streams shows the complexity of what we are working with and the importance of our having a fresh look at what will really work, based on our five years' experience of CJAs.

12:15

**Councillor McNamara:** We can well imagine that the committee wants the movers and shakers in health boards, the Scottish Prison Service and social work to play a part in all this, but in my area there are four local authorities and four community planning partnerships, so people would have to attend four meetings. I suggest that there would be a lack of enthusiasm for that. What we need is one focal point and one decision maker. Let us get round the table and get to business.

**Sandra White:** Many questions that I was going to ask have been answered, but I wanted to pick up on what Mary Scanlon said. In the Auditor General's report, "Skills/learning—employability" comes first. I am not saying that work on skills and employability is any better than work on families and debt management, but that issue certainly comes first in the report. As Peter McNamara said, much depends on the local authority's priority. We should not be insular and pick one or two issues out of the report in that respect.

I was interested in what Leslie Evans said. We have knocked on the head the structure of CJAs. The structure must change. It is great that things are moving ahead—Mr McConnell knows about that, in the context of the prison service's work with the NHS. There is a huge task; we wish you

well in it and we are hugely supportive, because without change we will not stop reoffending and help people in society who need help.

When Leslie Evans talked about consultation on changing the structure, she said that legislation would be needed. Can you say more about that?

**Leslie Evans:** Whichever structure we choose will require legislative change—I have given three options: national, regional and local arrangements, but we might come up with something much more imaginative; the main thing is that it works. We would need to build legislative change into the programme. Hence my comments about wanting to reduce uncertainty, work on the matter quickly and effectively and progress the consultation as quickly as possible. That is why we are launching the consultation in December.

It is important that we continue to make the current system work as well as it can do, not least for audit purposes but also because we cannot afford to take our foot off the pedal.

**Howard Llewellyn:** I agree with Leslie Evans. Significant changes will require legislative action. However, less significant changes are possible under the current legislation. The Government can make changes by statutory instrument. I do not suggest that any such change would necessarily be sufficient, but in the interim period changes could be consulted on and made more quickly.

**Sandra White:** The issue will go out to consultation in December. It is November. If a statutory instrument were made it might not come into force until about February or March, by which time the consultation would be well under way and opinion might be against the change that the statutory instrument was going to make. I make that point because it is important that everyone has a say in the consultation. Peter McNamara said that he does not want a national strategy; is the consultation the best way to change the habits of CJAs?

**Councillor McNamara:** I like the idea of "habits of CJAs"—please do not minute that. They are good habits, I have to say.

I have been trying not to get into the discussion about structure in a public forum, because we will continue to exist for the next 18 months to two years and everything that we have been talking about creates uncertainty, insecurity and a lack of ambition. People think, "This is going down the tubes. I'm off to get a job somewhere else." We have to contend with that uncertainty.

From my perspective as a political leader, I will do my utmost to continue to keep our foot on the pedal and to ensure that CJAs perform and indeed outperform, compared with how they have done in the past. We can do that only if there is certainty,



security, trust and all the other things that I talked about. Talk about structure is meaningless until we—and that means all the different bodies—sit down round the table and say what we are trying to achieve.

I look on the arrangements as being a wheel that is made up of the Prison Service, the police, health boards and the voluntary sector. They are all around the edge, but we are the bit that makes the wheel start to turn. If that bit was taken away, the others would revert back to their own disciplines. I have not talked to the new Prison Service chief executive, but I believe that he is a big fan of community engagement. That is a plus and that is what we need across the board.

**Colin Beattie:** In view of the time, I will ask just one question. What stands out is the paragraphs from 84 onwards, which discuss short-term sentences and the need for better support. I realise that quite a few changes are being proposed to CJAs and so on, but will anything be done to address the needs of short-term prisoners? They are not getting support when they leave prison, which appears to be resulting in a higher reoffending level.

**Leslie Evans:** I ask Colin McConnell or Joe Griffin to say a little about what we have just begun to undertake on throughcare, which I mentioned in my opening remarks. That initiative is aimed at offenders who are serving sentences of four years or less, because offenders with sentences of more than four years are entitled under statute to such services.

Colin McConnell might like to say a little about a big programme of work that is just beginning in prisons, which is looking at points of vulnerability when offenders leave the prison estate and at the opportunities to provide continuity of service and support for individuals.

**Colin McConnell (Scottish Prison Service):** The points are well made. We have known for some time about the situation with short-term offenders. There is no ducking and diving; we cannot pretend that it has just come round the corner and hit us.

The fact is that for many years we have concentrated on the more serious offences that attract sentences of four years plus, and our jurisdiction is no different. The bulk of our focus has been on the statutory provision. In some ways, that is understandable, but the volume stuff is at the short end of sentences.

It has taken us time to get there, but we recognise that we really need to achieve a much better balance. We have—rightly—focused on addressing the serious end of offending, but doing so has meant a lack of attention on those who are spiralling through the revolving gate, not just year

on year, but sometimes month on month. Now that the position has been recognised, the Scottish Government is driving a number of initiatives, which Joe Griffin might wish to touch on.

A couple of weeks back, I had the great opportunity of delivering the Sacro lecture, in the Signet library. I signalled clearly that the Scottish Prison Service must operate beyond the walls of prisons. The committee has heard that the Scottish Prison Service is moving to join up with its community partners to deliver the wider reducing reoffending strategy.

The Audit Scotland report has been a bucket of cold water for us. It demonstrated clearly for us that our focus has been primarily—and historically—on running prisons safely, decently and securely, and our performance at that has been impressive. Towards 80 per cent of resources are used on restriction, which is about public safety and confidence, which is understandable, and, within that, 71 per cent of our staff pay bill is for prison officers. Again, that is understandable, because that involves being safe, decent and secure.

However, our clear direction of travel is towards giving prison officers—who are well trained and highly skilled—the wider opportunity to take their skills out into the community, working with offenders on a throughcare pathway. We need to go on that journey with our community partners, to make an impact with short-term prisoners and reduce their likelihood of reoffending.

**Joe Griffin (Scottish Government):** I just want to mention a couple of changes that we are making in respect of throughcare. One of the important things that we have done recently is stimulate the voice of people who have been through the system. We are now financially supporting a group called Positive Prison? Positive Futures, which is looking to establish a series of regional fora of ex-offenders who have been through the system and which can advise us, at the national level, on the development of policy, and colleagues who are commissioning regionally and locally on what really works, based on their experience of having been through prison or a community order. That needs to happen much more across the system and we are happy to support and stimulate that.

My second point comes back to mentoring and the change fund of almost £10 million that we will invest during the next three years to expand the range and type of mentoring services that are available. That is about providing support for someone's motivation and psychological state when they are released from prison, and it is also a practical way of ensuring that they can access services to which they are entitled as citizens. They might leave prison, sometimes needing

specific services as an ex-offender, and sometimes as a citizen who is entitled to housing and help with their drug problem or whatever their problem might be. A mentor can make appointments for them and cut through quite a lot of the bureaucracy, ensuring that the person who needs the services is brought to them. They can disentangle what can be a very complex landscape for ex-offenders, and we are optimistic that that can help us to improve how throughcare works.

**Willie Coffey:** Colin McConnell talked about the report being a “bucket of cold water”. Ms Evans made comments about service design, shall we call it. Perhaps if we did not have CJAs we would end up inventing them anyway. I have witnessed at first hand some of the really great work that has been going on and we should pay tribute to Councillor McNamara and Mr Llewellyn, whom I do not know, for some of the work that has been done and the achievements that have been made over many years. I am fairly confident that the work that you are doing will continue in some shape or form. The work that you have been doing is contributing to some of the positive statistics that we have shared today.

I have one point to raise, which is about the message that I picked up during my first meeting with the south-west Scotland CJA at Bowhouse prison. It was about the importance to everyone of prisoners being located relatively close to their families. Page 23 of the Auditor General’s report has a map that shows Tayside and how prisoners can be scattered all over Scotland. I am pretty sure that the picture is similar elsewhere. Ms Evans, might there be a view to making some inroads into that situation and trying to locate prisoners, as far as possible and as best we can, close to their families? It seemed to everyone including Councillor McNamara, that an important factor in tackling reoffending is giving families more direct access to family members who are serving sentences.

**Leslie Evans:** I am sure that Colin McConnell will want to say something about that. There are two issues there. Some national and specialist facilities are only located at specific sites. That is not an overriding factor but it is significant for some offenders.

The Angiolini commission was also specific about the importance of that for women, but the great thing about the report was that a lot of what it said could be transferred to other vulnerable people who might be going through the Prison Service or the justice system. The commission said that regional units are probably the answer, although there could be a national unit for women who have complex needs or are high risk. We are

looking at that report and acting on a majority of the recommendations, including that one.

Colin McConnell will testify that we have recently done quite a lot to move women out of Cornton Vale and into other prison areas.

12:30

**Colin McConnell:** Willie Coffey is right that exhibit 9 is fairly representative of what happens more generally. I am not defending it, but it is a fairly typical position across most jurisdictions. The sad reality is that prisoners are not a homogeneous group, and neither are prisons. Some prisoners require specialist interventions, and some prisoners who are serving very long sentences do not necessarily fit best in a local environment. The service is set up as a national one so that we can make the best use, for the most people, of the flexibility of the accommodation and services that we have.

That said, when HMP Grampian comes on stream towards the end of next year, it will be Scotland’s first community-facing prison. The emphasis in that approach—the ethos—is on trying where possible to keep offenders as close as possible to their local communities. That will be for most offender groups—men, women and young offenders. However, that is a really big ask for us and there will be a set of competing and complex needs. One real challenge for us as a community and as a criminal justice system—and, I suppose, as a social justice system—is to ensure that, as we bring the prison on stream, the whole-system approach is applied to ensure that all the services are balanced, connected and targeted to meet the needs of the offenders who, ultimately, will live and stay there for a short or a longer period of time.

That direction of travel is well understood. The Angiolini report re-emphasised the benefits of it. It also ties in to the report on social exclusion from 2002, which has been touched on. However, in truth, it would be beyond us to keep every offender in the local environment and, in some ways, doing so would militate against reducing reoffending, as it might prevent access to specialist services.

**Leslie Evans:** I have one more quick point on that. Community integration units, for which the Scottish Prison Service deserves real credit, are another approach to the issue. I have been to the unit in Aberdeen, which is particularly impressive. Women who are in the last stages of their sentence at Cornton Vale are moved to the unit, where they have much more freedom and have access to the outside world to make appointments for things such as accommodation in the run-up to their release. That approach at least supports the intention of integrating people back into their

community, given that we are not able, or it is not appropriate, to provide every prisoner with a place in their local community or family area.

**Willie Coffey:** I would be obliged if we could have a quick response from the CJA representatives on the issue of family connection.

**Councillor McNamara:** Your point is well made. If a person is disenfranchised and separated from his family, of course that person's circumstances will deteriorate, so they must have that support. On community-facing prisons, when I first started in my post, we advocated such prisons, but at that time the Scottish Prison Service had every reason why they could not happen. Having community-facing prisons, as Colin McConnell has just outlined, is essential. Where possible, we should try to house male and female prisoners as close as possible to family support. It is a big step forward that that principle has been accepted.

**Howard Llewellyn:** Colin McConnell referred to social justice. We tend to focus on criminal justice and forensic issues, but the issue is of course a social justice one. We cannot expect offenders or those who have not been integrated into society and who have acted accordingly to rehabilitate themselves if they are not given the opportunity to do so in the way that they need rather than in ways that others think are appropriate for them. Much of the work that prisons are now doing, and the work that will come on stream, will facilitate that, on the assumption that the community, through criminal justice social work, can engage with that. At present, the community cannot always engage, because of the issues that the committee heard about earlier to do with funding, accountability and authority.

We need to move to a time when every prisoner has a throughcare plan that starts from the moment the court report is written and does not finish until the person has shown, over a period, that they have integrated, rehabilitated and reduced their reoffending—they might not have stopped, as that can be difficult for those with chaotic lifestyles or with drug and other dependency issues. I think that we can achieve that but, until it occurs, we will be floundering a bit. As far as I am concerned, the object is to have a throughcare plan for every prisoner—man or woman—throughout their time in prison and into and after their time with community justice.

**The Convener:** Thanks very much. Mr Keir is next.

**Colin Keir:** I will pass, as my question has been answered.

**The Convener:** Does anyone else have a question?

**Mark Griffin:** I have one on short sentences. Mention has been made of advances in throughcare and mentoring, which I have no doubt will improve services. When I visited Barlinnie, prisoners' big concerns were about financial advice and housing when they left prison. A concern that short-term prisoners had about their time in prison was that they did not have access to programmes to increase their employability or to gain extra skills. How can we address the issue of short-term prisoners not having the same access to courses as others?

**Colin McConnell:** That is another of those rifle-shot questions. It is an extraordinarily difficult issue. There are a number of factors. We talk about the what works agenda. I am concerned about the view that exists that we are dealing with a series of jigsaw pieces and that if we just put them all together, somehow the magic picture will appear and an individual will not move on to reoffending. Sadly, it is not quite like that. I would much rather think about what helps than try to find something that works on every occasion.

Short-term offenders are not a homogeneous group. All that we are saying is that a short-term sentence is one that is less than four years, but some people receive extraordinarily short sentences—people are sometimes sentenced to days or weeks in custody. Regardless of how well intentioned or resourced the Scottish Prison Service is, our ability to engage positively with such prisoners and to encourage them to make positive choices about their future is seriously impaired—it might not even exist in the first place—by the fact that, in many cases, by the time we introduce someone to custody and do their basic screening, they are already about to pass back into the community.

That goes back to our previous discussion about the revolving door. The reality is that there is little positive action that we can take with offenders who do not spend a significant number of months in custody if we are trying to change attitudes and to encourage positive decision making through positive role modelling, in particular. As a professional jailer, I understand that, for many people, custody is absolutely necessary. It is not for me to chide the judiciary and say what is right and what is wrong, but we must be realistic about the capability and the capacity of custody. We can do many positive things, but we need time to do them.

**The Convener:** Thank you very much. I thank all our witnesses this morning for—

**Councillor McNamara:** I have an early Christmas gift that will be sent to you. All members of the committee will receive a video about desisting from criminality that was made by Allan Weaver, who is an ex-offender. It is a fantastic

watch. I ask members to have a look at it and to give me their feedback. Have a nice Christmas.

12:38

**The Convener:** We look forward to receiving it. Thank you very much indeed.

*Meeting continued in private until 12:45.*

I will allow the witnesses, the press and the public to leave before we move into private session.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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