



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 26 February 2013

Session 4

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JUSTICE COMMITTEE
6th Meeting 2013, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Jenny Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (Ind)

*Colin Keir (Edinburgh Western) (SNP)

*Alison McInnes (North East Scotland) (LD)

David McLetchie (Lothian) (Con)

*Graeme Pearson (South Scotland) (Lab)

*Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Joe Griffin (Scottish Government)

Kenny MacAskill (Cabinet Secretary for Justice)

Colin McConnell (Scottish Prison Service)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 2

Scottish Parliament

Justice Committee

Tuesday 26 February 2013

[The Convener *opened the meeting at 10:02*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the Justice Committee's sixth meeting in 2013. I ask everyone to switch off mobile phones and other electronic devices completely, as they interfere with the broadcasting system even when switched to silent. Apologies have been received from David McLetchie.

Agenda item 1 is a decision on whether to take agenda item 5 in private. Is the committee agreed to take that item in private?

Jenny Marra (North East Scotland) (Lab): No.

The Convener: One member disagrees, so I suggest that we park the matter until we get to item 5, to allow the Cabinet Secretary for Justice and Mr McConnell, who are here for agenda item 2, to proceed with their evidence.

Jenny Marra: So we will leave agenda item 1 until before item 5.

The Convener: Yes. We will put item 1 before item 5 if that is all right.

Purposeful Activity in Prisons Inquiry

10:02

The Convener: Agenda item 2 is our final evidence session as part of our inquiry into purposeful activity in prisons. I welcome the Cabinet Secretary for Justice, who is supported by Joe Griffin, deputy director for community justice in the Scottish Government, and Colin McConnell, chief executive of the Scottish Prison Service, who is before us for another time. You smiled at me this time, Mr McConnell, so I am improving, but do not relax too much.

I know that Mr McConnell does not wish to make an opening statement, but I invite the cabinet secretary to do so.

The Cabinet Secretary for Justice (Kenny MacAskill): The Scottish Government believes that offenders should be sent to prison as punishment, but that our prisons should also be about the rehabilitation and reintegration of offenders back into society as contributing citizens. The Scottish Government's justice strategy describes how justice agencies should contribute to a range of outcomes by providing better life chances for offenders and their families through rehabilitation.

We have a good understanding of what works. Often, for certain types of offenders, prison is not the best place for people to change their lives. The picture is complex and each individual is different, but most of the evidence suggests that short-term sentences are not an effective deterrent to offending and that community sentences are more effective than short-term prison sentences at reducing reoffending. However, in Scotland, we still have too many short-term prisoners. In Scotland, a higher proportion of offenders—15 per cent—are sent to prison than in England and Wales.

I applaud the good work that is being done to implement the community payback order, as the flagship community sentence. Of course, that order has purposeful activity hardwired into its DNA. Last year, community sentences with a total of 1.75 million hours of unpaid work were imposed by Scottish courts.

Through such unpaid work, offenders will repair fallen gravestones, clean graffiti off streets and stairwells, renovate elderly care homes and help to improve sports facilities for the benefit of communities across Scotland. I remain optimistic that the judiciary will have more and more confidence in CPOs as a credible alternative to ineffective and expensive short-term prison

sentences, especially now that reconviction rates are at their lowest for 13 years.

We also appreciate and encourage the Scottish Prison Service's good work in respect of those who are sent to prison. I recognise the challenges in trying to provide opportunities across the various classifications and segments of our prisoner population and to meet a diverse range of needs, many of which would undoubtedly be better met by services on the other side of the prison wall.

I agree with the chief inspector of prisons and the chief executive of the SPS that purposeful activity is an important part of rehabilitation. It can give the day a structure, instil a work ethic, give people the chance to learn skills, and prepare them for rejoining society in a way that gives them the best chance of staying away from crime in future. Of course, purpose and meaning are important in anyone's life, but they are particularly important in shaping new choices for people in prison.

Colin McConnell has made very clear his commitment to integrating the SPS approach to rehabilitation even more with the justice strategy and our Scottish approach to reducing reoffending. His positive response to the criticism in the chief inspector's "Report on HMYOI Polmont" demonstrates that he recognises how essential partnership working is to the successful reintegration of offenders back into the community. I welcome that recognition; indeed, my officials are participating fully with the SPS's organisational review, which will complement our reducing reoffending programme. I look forward to seeing the review's outputs in due course.

To conclude, governor—[*Laughter.*] I am sorry—I mean "convener", convener.

The Convener: Is there something in the post that I do not know about, cabinet secretary?

Kenny MacAskill: I apologise—it was my prison mindset.

The Convener: Don't tell that to my committee!

Kenny MacAskill: To conclude, convener, I want to give some examples of our work to improve access to purposeful activity and options to promote rehabilitation and reintegration.

We are reviewing community justice structures to ensure that the right services are available at the right time to promote rehabilitation; further developing our first national directory of services, which catalogues for governors and community practitioners what is provided, both in and out of prison, to reduce reoffending; and working with the SPS as it tests the impact of its staff's continuing to work with offenders who have been released from prison and using the relationship of trust that

they have built up to help prisoners build their new life on the outside. That pilot is under way at Her Majesty's prison Greenock.

We are also working with the SPS in Edinburgh, Perth and Cornton Vale to improve the identification of prisoners' short-term needs, their access to appropriate activities and their release into the community to ensure consistency and continuity of treatment and support; using the £10 million reducing reoffending change fund to expand significantly the number of mentors, some of whom will be ex-offenders, available to meet prisoners at the gate on their release and support them through their reintegration into society; and reviewing voluntary throughcare for short-term prisoners to deliver the improvements that we know are necessary to help people to turn their lives around.

I am grateful for this opportunity to give evidence to the committee and look forward to taking members' questions. I am also grateful that the committee is seeking an insight into activities that form a vital part of what we do with those who have offended but require to return to our communities.

The Convener: I do not mean to be pejorative, cabinet secretary, but I have to say that we did not find the situation to be so rosy on our various prison visits. I do not think that anyone went to HMP Greenock, but perhaps we should have done so. I know that we were only dipping our toe in the water, but we got a sense of the temperature.

I seek questions from members.

Colin Keir (Edinburgh Western) (SNP): Good morning, cabinet secretary. I am interested in hearing a bit more about the mentoring process that you mentioned, which I think sounds promising. What exactly is happening in that respect?

Kenny MacAskill: I will ask Colin McConnell and Joe Griffin to comment in a moment but I can tell you that a variety of things are happening. John Swinney and I have allocated £7.5 million from our budgets over the spending review period to create the reducing reoffending change fund, which will provide for mentors to support ex-offenders as they work to sort out their lives, to stay away from crime and to start contributing positively to their communities.

I am pleased to say that our £7.5 million has been increased to £10 million by contributions of £2 million from the Robertson Trust, which we are very grateful to work with, and £500,000 from the Scottish Prison Service. I have been to see Sacro's mentoring project in Leith, which involves ex-offenders. I am grateful for the work that is ongoing. Colin McConnell might wish to comment in greater detail.

Colin McConnell (Scottish Prison Service):

This is a continuation of our previous discussions, convener, but I am grateful for the opportunity to expand on what has already been said. We recognise that, despite our best efforts while offenders are in custody, as they pass back into the community, the risk of reoffending is quite substantial, particularly for short-term and high-turnaround offenders. Support for those who are most at risk as they cross the threshold back into the community is absolutely crucial. I am sure that Joe Griffin will want to comment on the strategic aspect of this, but I want to give you some real, hard evidence of what we are doing now to address the issue.

The Convener: That is what we like.

Colin McConnell: Let us focus on Greenock, which the committee might wish to review. The SPS is doing work there without any additional funding, using the skills and resources that are already in the business. We have both men and women in custody in Greenock. The governor there is pursuing an initiative, with the support of the SPS and community-based statutory and voluntary organisations, to help women in particular as they transition from custody back to the community. The initiative is a pilot at this stage, but it provides really good evidence of what we are doing and where we might go in the future. The pilot will expand to involve men as well as women in custody. It gives offenders 12 weeks of focused support: six weeks leading up to release, and six weeks after release. That might not seem a lot at this stage, but the research tells us that the three weeks after leaving custody are when individuals are most at risk of reoffending.

We have effectively established a new role for prison officers to carry out, which is to provide what we call throughcare support. Dedicated staff work intensively with offenders for six weeks as they prepare for release and they support those offenders for the six weeks following their release by making sure that they get to their appointments and that the referrals that are arranged actually take place. Crucially, they also provide an urgent or immediate point of contact for offenders should they perceive themselves to be at risk of reoffending or recognise that faulty thinking is taking place. Offenders can make contact with the throughcare support officers in the period immediately following their release, which we know is absolutely vital.

That is not to replace the services that already exist. As we have discussed previously, it is about joining up the system and making sure that it works to its best so that the professionals in the community are best able to use their expertise and specialism in the areas that have most impact.

The throughcare support officers provide continuity of connectivity.

That is hard evidence from the pilot that is ongoing at Greenock. Our intention, after evaluating the pilot, is to see that work as a journey that we have to get on with, particularly with short-term offenders as they pass through custody.

The Convener: Surely that must require extra staff from the SPS.

Colin McConnell: As I have said before, the Scottish Government has made sure that the SPS is properly resourced for the work that it is doing. Governors have been able to work efficiently and effectively to make sure that resources become available to pilot such initiatives without having to go to the Government or other bodies for additional resources. It is an efficiency gain, if you like, and I think that there is a real opportunity for an effectiveness gain to be made in due course as well.

10:15

Joe Griffin (Scottish Government): As the cabinet secretary and Colin McConnell have said, as policy makers we have been struck by the work that certain groups have done, particularly third sector groups such as the routes out of prison project, Sacro and the Youth Community Support Agency—which is a small organisation that works with young ethnic minority men in particular—to mentor people after they have left the prison gates. Mentoring is a response to what we know from service user feedback about the lived experience and how being released can be difficult, particularly if it is a Friday afternoon, when few services are available and there are few people around to support someone on their release. A mentor can make appointments for someone, and then give them a reminder by text and go round to their house and get them out of bed to get to the appointments. A mentor can help that person through that difficult process.

To complement the work with prison officers that Colin McConnell described, we are making £10 million available through the reducing reoffending change fund so that the third sector can expand the range of services that it provides along those lines. That is really important because quite often third sector representatives can go that extra mile. They are not authority figures in a way that could put off or intimidate people—they can form longer-term relationships. The point is that the approach is person centred. For some people, it will involve their personal officer and the relationship that they have had inside the jail; for others, it will be somebody entirely different.

We are in the process of examining the applications to the change fund. We will be able to

announce the recipients next month and say how we intend to ensure that that third sector funding is sustained over a number of years rather than going to short, one-off pilots of the kind that are all too common in the sector.

Colin Keir: I am intrigued by the use of ex-offenders in the process. I assume that they are taken on through third sector organisations. Roughly how many are doing that job nationally? Can you narrow down the detail to places where such projects are set up? How effective have the ex-offenders been?

Joe Griffin: I do not know whether Colin McConnell has the figures for the schemes that are running at the moment. I think that they are confined to a relatively small number of institutions, including, from memory, Barlinnie, Polmont and Cornton Vale. We want to use the £10 million to expand the approach and ensure that it is followed consistently across the piece. Ex-offenders are recruited by third sector organisations into their schemes. I do not have information about the number of ex-offenders involved.

Colin Keir: Do you have an idea of how effective they are?

Joe Griffin: Yes. We have interim evaluations for schemes such as the routes out of prison project, which has shown quite promising potential, and the YCSA. The individual schemes have decent evaluations for the work that they are doing.

We know from the wider picture in the review of the international evidence that the Government published about 18 months ago that there is great potential in such schemes, which often involve one-to-one peer support and mentoring. That potential is there precisely because the schemes work with the grain of the idea of desistance and the things that promote positive choices away from crime, particularly through the re-establishment of relationships that really matter to people.

The Convener: Are those interim evaluations publicly available?

Joe Griffin: I do not know. I am sure that we could share them with the committee.

The Convener: That would be useful.

Alison McInnes (North East Scotland) (LD): Mr Griffin, you said that you were about to make a decision on the change fund allocations. When we went round the prisons, it was clear that although the piecemeal interventions that were happening were probably all quite good, there was no sense of an overarching strategy. Could the decision making on the change fund fit alongside the review timescale so that we would start to see a

strategy coming forward and things being funded in that way? Will you comment on that?

Joe Griffin: Sure. I suppose that we are a little bit constrained in that we have the money for the next financial year and the year after, and it is quite important to get that money out of the door and get people up and running to a decent timescale so that they can sustain things. The Prison Service is part of the panel that is making the decisions, so it has that input and involvement. However, it is a good point that when the schemes are chosen and are up and running, we need to help people through that process, and we need to mentor the mentors so that they are able to deal with the strategic landscape. We also need to learn from them and feed that into the organisational review.

To answer your question, it is difficult to wait because we need to get on and get things rolling. However, we absolutely need to feed into that bigger picture.

Sandra White (Glasgow Kelvin) (SNP): Mentoring is a fantastic idea, particularly for short-term prisoners. We were told that prison governors are the ones who say what projects will happen in their prisons. Obviously, the project in Greenock prison is a one-off. Is it your intention to see the programme run throughout all prisons in the long term?

Joe Griffin: Yes. That would be wonderful to do if we were convinced that scaling-up the programme showed as much potential as international and local evidence suggests it should. We set up the change fund on the basis that the funding can be sustained and that the positive outcomes that we believe can happen will be demonstrated. We need to see how that scaling up would work.

Colin McConnell may wish to say a little bit about consistency. With the SPS and colleagues in the community setting, we have developed a directory so, for the first time, we have a comprehensive understanding of the different services that are being provided inside prison and in the community. Mentoring can join up the two, and it would be great to see mentoring provided consistently across the country.

The Convener: What is the timescale for evaluating the pilot?

Joe Griffin: Funding for evaluation is built into the scheme. The projects will be up and running over the course of this financial year and the next financial year. There will certainly be an evaluation at the end of that, which will take some time. Off the top of my head, I guess that there will be a comprehensive evaluation three years from now. Sometimes the timescales are a little bit too long, so I think that we will build in interim evaluations

too, to get a quick and dirty understanding of how the projects are progressing. However, I do not have a specific timescale for that work at the moment.

The Convener: I appreciate that the announcement has been made at the committee. It would be useful if you could let the committee know the timescales once you have an idea of the staging posts, as it were. We all had anxieties about the piecemeal approach, but we know that not every prisoner leaving prison can be mentored. Although it is a good approach, not all prisoners will be mentored.

Graeme Pearson (South Scotland) (Lab): I welcome the announcement that has been made today, which follows through on a great deal of the evidence that certainly I, as a member of the committee, have gathered over the past couple of years.

We have already welcomed Mr McConnell's new approach to the Prison Service although, as with all new entrants to the scene, we are getting to the stage of gathering evidence on the worth of declarations.

Cabinet secretary, what targets have you set to allow you to judge whether what you have announced has been successful? What are you looking for in the next couple of years to show that the investment—the money—has been worth while?

Kenny MacAskill: Obviously, we want to see a continued reduction in reoffending, which is why we welcome the fact that we are down to a 13-year low in reoffending rates.

On reducing reoffending, the point made by the convener—indeed, it is the point that I think that you are making, too—is that we in the public sector must check against delivery. That is why reducing reoffending is one of the five strategic priorities for the new round of single outcome agreements that we are developing with each of the community planning partnerships.

A lot of work must be done in prison as a prelude to a prisoner leaving prison. There is a clearly a desire—as mentioned by Joe Griffin and Colin McConnell—that prisoners leaving prison are met and mentored. They must survive thereafter in the community, and I hope that they will get through the critical three-week period. Beyond that period, other agencies and organisations, such as those relating to housing and health, are involved, which is why it is important that we liaise with local authorities. There are other partners, too. I have met and interacted with faith in throughcare, which has not been mentioned yet. It is a Christian-based organisation that provides peer mentoring and is based in Possilpark.

In summary, reducing reoffending is one of our five strategic priorities and we are developing SOAs so that we can provide that check against delivery that Graeme Pearson correctly raises. We should be encouraging mentoring as much as possible, whether it is done by the SPS, Sacro or faith in throughcare. I have been approached by the Church of Scotland about a similar scheme based round Saughton prison. I am more than happy to support that; if good people are prepared to step forward, we will work with them.

Graeme Pearson: Do you have a percentage figure by which you would like reoffending to fall, such as 5 per cent, 10 per cent or 50 per cent? Have you set such a target?

Kenny MacAskill: No.

We will consider working with local authorities and other partners. Such matters are multifaceted. There is no single key indicator that tells us what will stop somebody reoffending, although we know that three things are critical. The first is a home for an ex-prisoner to go to—a roof over their head. The second is somebody with whom they have maintained contact and who provides some support, whether that is a mentor, their auntie or their granny. The third is some purposeful structure during the day, whether that is work or, as I saw with faith in throughcare, somewhere where they can go so that they do not begin to climb the walls or consider doing inappropriate things.

Graeme Pearson: I have two practical questions. At a previous committee meeting, Mr McConnell indicated that, in his view—as I understood it—prisoners should be able to access television as they wished, 24 hours a day. He also rehearsed a notion about access to telephones in cells.

On page 7 of the latest inspection report for Polmont, Her Majesty's chief inspector of prisons makes a particular comment about young offenders lying in beds in their cells right through to the afternoon and connects that with their having watched television overnight.

Given the notion of trying to engage offenders in productive activities during their time in prison, does Mr McConnell want to reflect on those comments? Will the cabinet secretary say anything about Government policy in that regard?

Kenny MacAskill: Those are fundamentally operational matters, and I will let Colin McConnell comment if he wishes.

Televisions in cells are not a new issue. They have been in most cells since 1999, and prisoners are expected to abide by the rules.

I noted Colin McConnell's comments to the committee. He was clear that there were pros and

cons to setting a curfew, but it is common sense that, if somebody stays up all night watching television, they will not be able to participate purposefully in activities. That is why changes have been made as new prisons have been constructed, such as the new prison at Low Moss.

Those decisions are best dealt with by the common sense of governors and prison officers. However, it is also common sense that, wherever you are and whatever you are doing, there comes a time when the lights need to go off and you need to go to your bed.

Graeme Pearson: What about telephones? Do you have any comments about those?

Kenny MacAskill: Telephones challenge us all. I had a trilateral meeting with the Minister of Justice from Northern Ireland and officials from the Department of Justice and Equality in the Republic of Ireland, as Alan Shatter was not able to attend because of illness. We face similar problems.

We are aware that mobile phones are contraband. The Government has taken significant steps on that. We changed the law with the Criminal Justice and Licensing (Scotland) Act 2010 to give governors and prison officers more armoury with which to crack down on the illegal use of mobile phones, which we know are often used for nefarious purposes.

The Prisons (Interference with Wireless Telegraphy) Act 2012 confers powers on ministers to authorise governors and directors of relevant institutions to interfere with wireless telegraphy. That was one of the matters that we discussed with our Irish counterparts. There is a great deal of cost and complexity in some of those matters.

Graeme Pearson: To cut to the chase, the question was more about the hardwiring of phones into cells so that prisoners could get direct access to them.

Kenny MacAskill: I would require some persuasion on that. Technology changes and develops. I am currently struggling to master an iPhone. There was a time when prisoners did not have access to phones at all. However, at present, we face significant challenges with mobile phones. We work with colleagues south of the border on that. We also look to work with colleagues across the other Celtic countries to determine whether we can achieve some economies of scale, given the cost and complexity involved.

I think that, in his response, Colin McConnell was correctly making clear the point that, as has been said, one of the factors that helps people to stop reoffending is maintenance of some contact with somebody outside—not just some mentor who is appointed for the prisoner, but an auntie, and uncle or somebody who comes in from a faith

organisation. That contact is of benefit. There may come a time when things could be done differently with technology. However, at present, we fully support the efforts that Colin McConnell and his staff are making to encourage such contact to ensure that we reduce reoffending.

I know the challenges that your former colleagues in the police service—never mind those who serve under Colin McConnell in the Scottish Prison Service—face in dealing with mobile phones. Therefore, the position will stay as it is. The laws have been tightened, and we will not vary from that position at present.

The Convener: Mr McConnell, you took a bit of flak for what you said last time. I thought that you put forward a reasonable point but that you were misrepresented, but—hey—is that new for the press?

Would you care to answer the point about contact?

10:30

Colin McConnell: You cannot see them, convener, but the bandages are still on after the previous conversation.

In some ways I am grateful to Mr Pearson for raising the point. It is a really important issue that somehow was taken down a cul-de-sac and sensationalised, which was unfortunate.

Taking the cabinet secretary's point and broadening it out, I think that there is an issue for us that is in a sense bifurcated. The first thing is that we know the research well, and it shows that a crucial factor in helping a person get to a point at which they are prepared to think more deeply about their circumstances and the harm that they cause to themselves and others is that they have stable, quality contact with friends, relations and others on the outside—helpful contact, we take on trust.

The phones issue was almost a metaphor for that. There are no plans to put telephones in cells—we know that. However, how we keep offenders more qualitatively in contact with families, wives, husbands, sons and daughters—particularly, young children—is an issue that we must tease out, because it is a fundamental factor that we know helps to reduce reoffending. That matter is still for discussion and it is useful for the committee to think deeply about it.

The other angle is the future development of imprisonment and custody in the context of the offender journey, which we touched on previously. We are reviewing how SPS operates and we have a compelling justice strategy in Scotland. It is important that SPS looks not just at issues in isolation, but at what it does and how it performs in

the context of the wider justice system and of local government and the priorities that it sets.

Graeme Pearson: I have a question for the cabinet secretary.

The Convener: Is it on a separate issue?

Graeme Pearson: It is connected; it is about how one encourages prisoners to engage positively.

The Convener: That is fine.

Graeme Pearson: When he gave evidence previously, I raised with Mr McConnell the notion of encouraging prisoners to engage, because there seems to be some difficulty—particularly with short-term prisoners. I asked Mr McConnell about the feasibility of making available internal prison reports to court appearances to assess a prisoner for involvement in programmes and so on. The notion is that if a prisoner knows that their engagement in prisons will be reported positively or negatively at a future court appearance, that will have some influence. What do you think of that? Is it worth taking forward?

Kenny MacAskill: There is merit in that and we would want to liaise with the judicial studies people on it. I am sure that Sheriff Welsh would be happy to take that on board. We would need to ensure that the judiciary would wish to engage, and consider in what format and in what instances we would like it.

I would be more than happy to pass that on to judicial studies, or the convener could do that directly. Following on from what Colin McConnell said, I remember that the clear evidence in the McLeish report was that the areas in which things were operating best were those areas in which there was a good relationship between the judiciary and those who worked in the community—whether in social work or in dealing with offenders on other matters.

Anything that gives the judiciary more information can only be welcome, especially as we change our court structures towards case management and problem solving. It would be for the Lord President and the judicial studies team to comment on that, but they probably think that the more information, the better.

The Convener: A member wishes to ask a supplementary on the phone issue. I ask whether any member is planning to raise the issue of family centres. If not, I will ask about that next.

Jenny Marra: I have a brief point of clarification, cabinet secretary. On your work with colleagues in England and Northern Ireland on the Scottish Government's policy on phones in prisons, will you clarify how that works?

Kenny MacAskill: I was at a trilateral meeting. We meet at least once a year, although the next one will probably be in six months, because Mr Shatter was ill. We had a variety of matters on the agenda, including human trafficking, the border issue at Cairnryan, the European Union presidency and the concern that all three jurisdictions have regarding the European arrest warrant. One of the Irish—I cannot remember whether it was Northern Ireland or the Republic of Ireland—asked to put on the agenda matters relating to phones in prisons. Blocking involves a great deal of complexity. We have discussed that with the Home Office. It can result in wiping out the mobile phone signal for people who live in houses proximate to prisons, and we do not want to do that. There is also a security issue for those who work in prisons and who need to have access to electronics. Blocking is also very expensive—it would be remiss of me not to say that that is an issue.

However, the Irish raised the issue with us and we face the same challenges. We agreed that officials from the Northern Ireland Department of Justice, the Republic of Ireland and Scotland would get their heads together to see where we can find common cause. Nothing is ruled in and nothing is ruled out, but if we could do things together to make life easier for the security of those in prison, including those who are serving a sentence, and prevent criminal activities from taking place, that will be of benefit. So there is a blank page, but if the three jurisdictions put their heads together, that might be better and more cost-efficient than one jurisdiction working alone. Equally, we are happy to work with colleagues south of the border.

Jenny Marra: Is that an argument for the union, cabinet secretary?

Kenny MacAskill: I do not think that the Republic of Ireland was arguing for that. Indeed, the officials from the Republic of Ireland took a different view, as they welcomed having the current presidency of the European Union. I say with envy that this is apparently the eighth time that Ireland has had the presidency of the European Union. If only that were the situation for Scotland.

The Convener: Let us return to the point in hand. We have considered a legislative consent motion that related to mobile phones and we have discussed the issues and the difficulties with blocking.

Mr McConnell has talked about normality and treating people in a certain way in the anticipation and hope that they will change their attitude to life. One way of doing that is through family centres, which were mentioned in several of the committee's prison visits. My colleague Alison

McInnes and I went to Polmont, where staff are doing their best, but it was pretty grim. About 25 per cent of the young men in Polmont are fathers, but parenting is difficult, particularly because it is a national prison, which means that their families have to travel from all over Scotland. This is a terribly important issue, which was raised with us on many occasions. I know that there is a proposal for Cornton Vale, but what other proposals do you have to ensure that we provide proper family contact? Let us take Polmont as one example.

Colin McConnell: Thanks very much for the opportunity to expand on that. In some ways, we are beginning to explore a new future for the SPS, in the context of the wider community and what we have to do to reduce reoffending. I am grateful that you use the term “family centres”, although we are sort of calling them “family help hubs”, because that better describes what the approach is about. We have something of a visitor or family centre at Perth, Cornton Vale and Polmont, and we have a visitor centre operating at Edinburgh. I do not want to be demeaning but, for the most part, they are like stop-off points. It would be churlish to call them bus shelters, but members will get the idea.

The journey that we are on involves recognising that we need to work in partnership with communities and voluntary agencies, because that is where the real traction will be if we are to make a difference and support those who can have a positive influence on people who have offended. Let us take a step back and look at what we are doing now at Cornton Vale, where there has long been disagreement or concern about the lack of a family centre.

As we speak, the new family help hub at Cornton Vale, which has been specifically designed with families’ needs in mind, is now being built—or, I should say, reconstructed—and will be run not by SPS itself but as a joint venture with the local community and the voluntary agencies. Moreover, fantastic proposals for the new prison at Inverclyde and the new unit at Edinburgh are beginning to emerge not just from SPS but as a collegiate response from SPS, the wider justice system and local communities. In Grampian prison, which will open next year, the local authority and community have taken real ownership of the running of its family help hub and the services that it will provide to those who pass through the prison. The point is that really dynamic provision is being developed.

The ambition is for every custodial facility in Scotland to have a family help hub, but it will take us some time to get there. For the most part, I want SPS to look at delivering efficiency gains in order to self-fund; however, as we have discussed previously, it cannot and should not be expected to do all of this on its own. We are a willing and

open partner and my impression is that that is being recognised more and more and that local communities and voluntary organisations are coming to work with us to make this vision a reality.

The Convener: But you did not mention Polmont, Mr McConnell. The governor’s one plea to us was for the establishment of a proper family centre, which was felt to be key—particularly for young men who might be caught in a certain cycle in a family because of their inability to establish relationships. I was astonished to discover that a quarter of the young men at Polmont were fathers, and I have to say that I am very concerned that you did not mention it.

Colin McConnell: I was hoping that the issue of Polmont would be raised separately, convener, but I will deal with it directly.

As the committee knows, the chief inspector recently published his report on Polmont and it has given us the impetus and opportunity to fundamentally rethink our approach to the under-21s and under-18s in custody in Scotland in the same way that we rethought our approach to women in custody. In that fundamental rethink of how we deal with, relate to and provide services for those offenders, the family unit will play a key role. Polmont has a visitors centre, but I think that all of us sitting around the table will agree that it is not necessarily providing the services that we want it to provide. I have cited Cornton Vale, Grampian and the future design of Inverclyde as examples of the model that is developing, and those will impact on the facilities that will be grown at Polmont.

The Convener: I will leave the matter there for the moment.

Roderick Campbell (North East Fife) (SNP): I have a number of questions on unrelated matters but first of all I note that the HMIP report on Polmont says:

“HMYOI Polmont has lots of ‘systems’ and ‘processes’ but there is little evidence of managers supervising these systems or evaluating them. Much of this is due to the poor training of managers within the SPS for a number of years and also of the supervision of managers by more senior ones.”

Do you have any comment on that fairly damning critique, Mr McConnell?

Colin McConnell: The chief inspector is absolutely spot on. I suppose that it is seen as fashionable and often necessary to look down on smaller business units—in this case, Polmont—and to find fault locally. Although I wholly welcome the chief inspector’s views on the lack of training, the lack of a particular management approach and so on, I see the problem more widely and as being

more connected with how the service itself moves forward as an organisation.

The chief inspector himself has turned the discussion towards the SPS's strategic direction vis-à-vis the young in custody. I have had discussions with the chief inspector that have led us to conclude that, for too long, as an organisation we have been viewing the young in custody as just young adults when they are actually rather different. I talked to the convener there about the need to fundamentally review how we treat young people who pass in and out of our care, in the same way as we are doing with women in custody. As the chief inspector has highlighted, that means that we need to look at how we train our staff and the skills that we give them, and we need to look afresh at the management imperative.

Above that, we also need to look in context at the strategic direction that we need to take to looking after the young in custody. Ultimately, in that phase of their lives, they are still malleable and can still be influenced. As the chief inspector says in the report, it is almost the last-chance saloon for some of them, and I do not think that the SPS has necessarily responded strategically in that way. That is the challenge that we now face.

10:45

Roderick Campbell: Moving on to other matters, it is clear to all members on the committee that there is a variation in purposeful activity in the places that we visited, and elsewhere, and we touched on that during our first evidence session. What can you do to level the playing field for purposeful activity across the estate, and what can the Scottish Government do to assist that?

Colin McConnell: My perspective on that goes back to the earlier discussion that we had. I am concerned that the measurement of purposeful activity is too blunt. It is a big number that we celebrate and if we have a bigger number year on year, that is somehow better. I am not actually sure that it is. It gives the sense of a sheep-dip type of approach rather than an approach like the one for children, getting it right for every child.

We need to step back from trying to provide everything for everybody and ending up delivering not much to a few. We need to look at the individual trees in the wood and target individual and specific services to meet people's needs rather than chucking everything at everyone. SPS is now clearly on that journey.

Roderick Campbell: How would you compare and contrast purposeful activity in prisons and alternatives to prison such as community payback

orders and the activities that might be undertaken in such schemes?

Kenny MacAskill: Joe Griffin or Colin McConnell might want to comment on that. It seems to me that such activities can be more flexible outwith prison. Prisons do an outstanding job in dealing with health, education and purposeful activity for prisoners, but we should remember that prisons are built to keep people in and keep them secure. They are not built to be hospitals or care homes, colleges or schools. The prison staff do an outstanding job in an environment that has to be able to cope with keeping people secure, but as well as punishment, we have a duty to rehabilitate, although we must be realistic about what we can do. It is easier to give prisoners more purposeful activity in the community, which is why the community payback order offers so much more by tying the punishment to the hours of unpaid labour that the offender is required to provide. It also gives us the ability to focus on how offenders might come to be able to be treated at a proper college, care centre or whatever as opposed to an institution that is built primarily for security.

Joe Griffin: Purposeful activity is at the heart of the community payback order. If we look at the numbers of community payback orders for 2011-12, we see that 76 per cent of them had an unpaid work element, and the committee will know about examples of good practice all over the country that is varied in its nature. If someone remains in the community, it gives them the opportunity to maintain relationships and access to services and trusted individuals that they might have in their lives. At certain times, prison is an inescapable option for the judiciary, but the Government's policy is to have far more people serving their sentence in the community, with purposeful activity at the heart of their sentence, instead of having short-term prison sentences for which the evidence is much more dubious.

The Convener: But purposeful activity is not just work. The cabinet secretary mentioned health. One concern is that, for some prisoners, purposeful activity involves applying themselves to get rid of their drug, alcohol or drug and alcohol addiction but, on the prison visits, we heard that many of them do not have a general practitioner—they are not on GPs' lists, perhaps for very good reasons—so all the good work that is done with them to address their problems in prison is completely lost when they leave it.

I do not want to see purposeful activity as being only work. Will the mentoring programme deal in any way with the particular practical issue of continuing all the good work that has gone into a person's alcohol and drug addiction once they step outside the prison if they do not have a GP?

They may well go straight back to what they did before.

Kenny MacAskill: Colin McConnell may wish to comment on specifics, but on the wider policy matter, that is why we agreed that the national health service should become responsible for prison healthcare. When I first came into office, there was a separate and distinct prison health department and organisation. We recognise what you are quite correctly driving at. There must be a clear link: things have to continue when people leave prison. That is why we took that direction under Dr Andrew Fraser when he was in charge of prison health and social care, and that is what we require to do.

I go back to a point that Graeme Pearson alluded to at the outset. Some issues are about linking in with other matters. During my tenure, I have had to deal with, for example, training in the treatment and assessment of dyslexia. Partly, that is about persuading local authorities that they should be partner agencies in the process. A particular local authority, which I will not name, perceived that prisoners were in a prison in a different local authority area, so the problem was not its problem. We had to point out to it that many of the prisoners would be released shortly and would go back to its jurisdiction. We wanted to ensure that the good work on assessment, ably assisted by Dyslexia Scotland and Jackie Stewart, as an individual, continued. I am not just talking about medical matters, prescriptions and treatment. When people who have a dyslexia issue leave prison—the lack of educational attainment is a fundamental and major issue for many people in prisons—the question is how assistance can continue back in the community. That is work in progress, not simply with health workers, but with local authorities. It goes across the board, into education and social care.

A comment was made about children. At the end of the day, as well as a person having access to their child at a family centre in Polmont, for example, one would hope that they would have some relationship with that child, even if the person was not residing with their partner. That takes us to other organisations, such as family mediation organisations. If a mother or partner brings a son to see a prisoner in Polmont, but the partner or mother does not wish to communicate, how can we maintain the contact?

We have to work together because of those things. The Prison Service can do only so much. It must be the hub around which everything orbits, but there must be other partners, because there is a limit to what the Prison Service can deal with for people who are leaving prison. It has obligations within the prison walls, and we must get seamless transitions.

The Convener: I accept all of that, but I want to get back to the particular issue of so many people not having a GP, which is a simple thing. We know about prisoners being released on Fridays, there being nobody to see them then, their inability to get housing and all of that. The issue is a practical one as well. What is being done to address it? There are no simple answers, but what is being done to address the fact that a lot of good work is being done in prisons, but prisoners come out of them and have no contact whatever with the NHS, in any shape or form?

Joe Griffin: Part of the problem is that the onus and the responsibility are on the person who is leaving prison to—

The Convener: I know that.

Joe Griffin: I was going to explain how I hope we can help with that.

I do not want to sound too misty-eyed about mentoring, but a mentor will understand the complex landscape much better than the person leaving prison, who may have a chaotic lifestyle. The mentor can assist the person by making appointments for them in advance of their leaving prison. We hope that mentors can help.

We are improving how prisoners are assessed when they first go into prison through a pilot on community integration, which will improve the core screening process and provide a named individual in criminal justice social work for the person who is leaving prison. That person will be able to help them to join up.

The third aspect is more of a structural and strategic issue to do with how criminal justice and health intersect. As the committee may know, we are currently consulting on the best model for the provision of criminal justice social work services; whether they should remain at the local level; whether a regional tier is needed; and whether a national service might provide more options. We are keen to see much better integration at the structural level, but there are a couple of practical things that we are trying to do.

The Convener: I want to cut to the chase, because we know that it is up to the individual. The meat of the matter, though, is how we turn the situation around.

Graeme Pearson: The Polmont report was circulated to us this morning. I have been a number of times to Polmont, where many staff do terrific work. Many of the offenders in Polmont are supported, which we need to acknowledge for fear that we write everybody off as having failed.

All three panellists have used language, concepts, ideas and so forth tremendously, but we get to the nub of the matter on page 35 of the report:

“too many young offenders ... do not participate sufficiently in education because they remain in their cells for long periods during the day.”

We acknowledge that intervening early in children’s lives is key; we want to do it at pre-school age, never mind when they get to a young offenders’ institute. It does not take the brain of Britain to realise where the work needs to be done at a basic level. Can we be assured that you will focus on, and make a priority that you will measure, productive work that is about doing things not only for communities but for offenders? That kind of work can give them a purpose in life and turn them away from offending. We hope that that is what the supplementary work of prison will do.

Colin McConnell: Absolutely. The point that I made earlier to Mr Campbell—I am grateful that Mr Pearson has touched on it—is that I am not at all associating myself with criticism of prison officers or the governor. They use the tools that we corporately give them, and they work on the priorities that corporately we ask them to work on. I welcome both the plaudits and the criticisms in the chief inspector’s report. Mr Pearson’s point was well made; if the SPS and other partners cannot be effective at the stage at which individuals are still forming their views and can still be influenced, then we are failing in our duty to contribute more productively to reducing reoffending.

It is because of that—the chief inspector commented on this—that we want to dedicate ourselves to turning Polmont into what we call a secure college. We are a bit concerned that the term has been pinched from us and published down south, but I would say that, wouldn’t I? The concept probably has its genesis in Scotland. I can tell the committee what we will do to make the concept happen, because it is not just grand words. I can understand if the committee is concerned about that, but I will give members some assurance in that regard.

I start with the commitments that I gave to the committee and to the cabinet secretary following publication of the Angiolini report on Cornton Vale. I said that the SPS would turn that situation around. The early evidence is that we have absolutely set out to do that. Solid foundations have been put in place—both in the short term to improve Cornton Vale, and in the longer term more strategically to deliver the wider Angiolini agenda. I therefore think that there is some reason for the committee to have confidence in a commitment that is being backed up by some hard evidence.

I think that absolutely the same approach is required in Polmont as in Cornton Vale, and I think that it will happen, which is why I am in the

process of setting up a national guidance panel. It will include health professionals and representatives from the local communities and the third sector—as we have done for the women’s issues—to ensure that we get to the fundamental change issues that are associated with young people who pass through custody.

11:00

I can give examples of how that has been proceeding. We recognise that education is at the core. I have already agreed with Bill Maxwell, the head of Education Scotland, to work jointly on the project and we are going to meet the governor of Polmont next month to describe how we might do some early work in support of the governor’s effective improvement of things as they are—much as we are doing at Cornton Vale—to ensure that we are not just waiting on the long-term strategy to fall into place. We are doing fundamental things now.

As the chief inspector mentions in his report, we cannot—regrettably—simply flick a switch; the work will take time. It partly involves better training and equipping staff for working with young offenders in demanding and challenging circumstances. More generally, we are engaging with the SCCJR to review the research and to understand how better to educate and train our staff—

The Convener: What is the SCCJR?

Colin McConnell: I am sorry. The SCCJR is the Scottish centre for crime and justice research. It is a conglomerate from Scotland’s leading universities. We are engaging with the SCCJR so that we better understand the research, and it will support us in developing a revised education and training programme for all staff in Scotland, and in considering the issues that we need to focus on, particularly regarding women and young offenders.

Ultimately, we will produce a training and education programme that will take Scotland’s prison staff to the leading edge, certainly in Europe—if not worldwide. All of that is coming, and I give the same commitment about Polmont as I did about the women at Cornton Vale. I hope that the committee has some confidence in that.

The Convener: I wish to say—I am sure that Alison McInnes will want to associate herself with this—that we have huge regard for the prison staff, officers and, indeed, the governor at Polmont. There has been a huge churn in governors there, which must be part of the issues around staff morale, training and so on. I want that on the record. The comments that I and others have made about Polmont are not a reflection of the staff or of the current and previous governors.

However, points were raised that people there wished us to put to the panel.

Roderick Campbell: We have heard a lot of evidence about failings in literacy and numeracy. The spokesman from the Prison Reform Trust spoke about the need for education and communication skills. The representative from the Association of Visiting Committees for Scottish Penal Establishments said that there are many retired teachers who could usefully be brought into the system to improve numeracy and literacy, particularly among remand and short-term prisoners. What steps can we take that would make a major impact in that regard?

Colin McConnell: I will talk about the Prison Service. Joe Griffin might wish to speak more about the justice strategy. I reiterate some points that I made in response to Mr Pearson. We are setting about a fundamental review of how we can effectively turn Polmont into a training and education college that is secure. HMI has made good points and serious criticisms about that. We should, of course, reflect carefully on the issues that you have raised, but that review will also take on board the views of colleagues and partners in the wider community and the local community, and the views of specialists in education and health. They might all raise issues that we should consider.

Roderick Campbell: I want to broaden out the discussion from Polmont to discuss short-term and remand prisoners, who are doing very little at the moment. If they could improve their literacy and communication skills, that would be a big step forward for them in the wider world.

Colin McConnell: We must carefully reflect on the question: what is a short-term offender? That takes us into a number of other discussions. We spoke earlier about a comparison with GIRFEC. In general, we need to become more able to consider the specific needs of individual offenders, rather than just trying to sheep-dip everybody.

The Convener: John Finnie is next. You have been very patient, John.

John Finnie (Highlands and Islands) (Ind): Thank you, convener. My question is for Colin McConnell, who talked about individual needs. I found fascinating the community integration plan for a prisoner that was sent to us. I do not know how typical that prisoner is—the plan is certainly for a long-term prisoner with a challenging background. The convener and Mr Griffin talked about the on-going consultation on Dame Elish Angiolini's report. Who is the plan shared with and when is it shared?

Colin McConnell: For a statutory offender—generally speaking, that is the only commitment that we have, although we try to do more—the

plan will be shared with the individual and the nominated criminal justice social worker who takes on the case. I am not aware that it is shared much more widely than that.

John Finnie: I appreciate that the plan that we were sent relates to a long-term prisoner and that it begins with information from a number of years ago. What is the expectation of the criminal justice social worker with regard to their receipt of this report?

Colin McConnell: I am afraid that I am not really sure what you are asking. I did not follow the question.

John Finnie: The report starts in 2007. The information was shared in 2007 with the criminal justice social worker who was allocated to the individual, but with what expectation?

Colin McConnell: I do not know what their expectation would be; I cannot answer for that worker. My expectation would be that the integration plan would be followed through and that the necessary support, engagement and resources would be made available to manage the person as they migrated back into the community.

The Convener: I think that the problem for the witnesses is that the paper that we were sent was not made public, because there were concerns that it might be possible to identify individuals from it. It was sent to us as an example.

John Finnie: I will take a slightly different tack. The avoidance of reoffending is not entirely within your gift; it requires the engagement of other agencies including housing, employment and addiction services. By and large, you know when someone is going to get out. Is timely receipt of information part of the plan? I am trying to understand whether the plan just sits in a filing cabinet somewhere or is a meaningful document that is acted upon outwith the prison walls.

Colin McConnell: Joe Griffin might also want to comment, but I will first top and tail that. The plan is not something that just happens the day before an offender is released. We try to get as many key workers involved as possible and we even try to get families involved. In a sense, what you have in your hand is a summary of what has been discussed, what has been considered to be necessary, what services need to be put in place and what resources need to be lined up as the individual passes out from custody. If the impression has been given that somehow the planning is done on the last day before somebody goes out, I can tell you that it is not like that at all; there is a process that builds up to that point.

John Finnie: So, quite the reverse is the case; it is apparent that planning has been done years in advance of a prisoner's release, but I am

wondering to what end, when the person is given £67, or whatever it is, at the prison door. There are issues around continuity of healthcare and there are significant issues with housing. It seems to me that the plan is an interesting record—I have to say that the one that we were sent is extremely interesting—of the individual and the challenges that staff have faced along the way. I do not know quite where to go with the questioning now.

The Convener: Mr Griffin is going to come to your aid.

Joe Griffin: The jargon, or the technical term, is “throughcare”—what happens to someone after they leave prison.

At the moment, with statutory throughcare there is an obligation on the service providers and there is an obligation on the individual who is leaving prison to continue to access services and to obey the other conditions of their release while they are on licence. In that situation, the community integration plan would inform how the criminal justice social worker manages the entirety of that period after release, when the offender is still on licence and has obligations of some kind.

For prisoners who serve four years or less, we have a system of what is known as voluntary throughcare, in which it is up to the individual prisoner whether to avail themselves of the services in the community. We are running pilots in three prisons at the moment to see how we can improve the community integration processes for those people, which will—among other things—ensure that the information that is gathered by the criminal justice social worker as part of the court process before the individual even comes to prison travels with them to the prison and forms part of the core screening activity, and that anything that happens on release is supervised by a named individual. That is similar to the statutory process.

Information is there all through the cycle. The aspiration is to ensure that it is shared at the different points on the journey. The pilots in the three prisons that I mentioned are due to finish in April, and we are hopeful that they will provide lots of learning about how we can get better at screening short-term prisoners and supporting them on release, which is where I think the real problem lies.

John Finnie: None of that would remove the statutory obligation—[*Interruption.*]

Joe Griffin: Could you repeat the question? There was some interference behind me.

The Convener: The microphone is not on.

John Finnie: None of that would alter the statutory obligations of the local authority to provide housing or of the health board to provide

healthcare. There are significant failings in the present system, are not there?

Joe Griffin: Yes there are. One of the reasons why we are reviewing voluntary throughcare is that there is evidence from service users that that connection is not there. As we discussed in relation to GPs, part of the problem is that the obligation lies on the released prisoner to access those services. We are doing things to try to bridge those gaps and we can, of course, improve the current situation. The people who leave prison are entitled to those services as citizens, as much as they are as ex-prisoners.

John Finnie: Having made a negative comment, I commend the situation as I found it at the prison in Inverness, where there has been a welcome improvement in addiction services as a result of the transfer of the health obligations from the SPS to the local authority. The provision of those services is felt to be a lot more integrated.

To go back to Mr McConnell's initial remarks about an intense programme, it is clear that something similar is in place at Inverness prison. I hope that I have got the figures right, but I think that of the 24 women who had gone through that process in the very small unit there, only three had reoffended. If we get it right, there is a good hit all round for everyone.

The Convener: Sandra White was making faces at me. Do you want to ask a supplementary?

Sandra White: No, convener. I would like to come in after Alison McInnes.

The Convener: Sometimes I have to be a bit of a face reader.

Alison McInnes: I have a few discrete questions, but first I must comment on the inspection report on Polmont, because it is highly significant. We need to invest our greatest efforts in turning round the situation at Polmont.

I welcome the commitment and leadership that Mr McConnell has shown and what he has said this morning. However, he said that the report on Cornton Vale and the report on Polmont had both allowed the SPS to consider what was wrong. It seems to me that such serious shortcomings need not be flagged up by the chief inspector of prisons. There should in the SPS be self-awareness that enables such shortcomings to be identified.

I realise that the Polmont situation predates Mr McConnell's involvement in the SPS, so my question is for the justice secretary. What was wrong in the oversight process that allowed such complacency to roll forward until very damning reports from the chief inspector of prisons picked it up? What processes are you putting in place to provide the leadership that is needed to ensure

that we never again find ourselves in the same position?

Kenny MacAskill: I do not disagree that, in some cases, Brigadier Monro's comments on Polmont were pointed and harsh. Equally, we must consider his report in the round. He also pointed to some aspects of good practice and good policy, as he has done in previous reports. I take from his report that work is in progress.

Brigadier Monro is the third chief inspector of prisons whom I have known during my time in the Opposition and in office. Each of them has had a function to carry out in holding to account the Scottish Prison Service, the chief executive and those who work under him. Some chief inspectors are more challenging than others, but I believe that previous chief executives and previous governors—as the convener indicated—have done good work at Polmont. It is a significantly better institution than it was before. The number of inmates at Polmont is down significantly—I think that we have not seen such low numbers since 2000. Therefore, progress has been made.

I accept that there are issues that we must learn from and address. However, one of the reasons why we have an HM inspector of prisons is to ensure that I, as the justice secretary, and the chief executive are held to account. It is why I appear before this committee and am questioned in Parliament. There are points that we will learn from and act upon; we have heard that from the chief executive today, too. We should take the report in the round, though. Significant steps have been made, which we welcome, and some outstanding work is going on, which I greatly appreciate.

11:15

Alison McInnes: Do you agree that if you want to turn round reoffending in the way that you have spoken about this morning, your active leadership, as well as the leadership of the SPS, is important?

Kenny MacAskill: Absolutely.

Alison McInnes: I turn to the evidence that we received in writing. We had a useful and thoughtful representation from the College of Occupational Therapists, which pointed out the lack of involvement of OTs in the prison system in Scotland. It sees it as a failure that we are not drawing on that important professional experience. I would be interested to know why, historically, we have not involved OTs and what opportunities there are to do so in the future, particularly in relation to the design of services at the new HM Prison Grampian.

Much of the discussion that we have had on measuring the success of purposeful activity has

floundered on the fact that we are not sure how to measure its qualitative aspects. OTs will tell us that they are very well placed to do that. Could the panel comment on the role of occupational therapists?

Colin McConnell: That is a point well made. I am not an expert on what occupational therapists can do, but from my limited knowledge, I think that there is some potential for them to make an impact in helping people along that change journey.

I go back to the point that I made a few minutes ago. We are picking up the challenge that Hugh Monro has set for us and we will fundamentally rethink our approach. That will involve considering which of the other skills or expertise that could be brought to bear have the potential to make a positive impact. I had not thought specifically of occupational therapy, but given that we will be consulting widely—as I say, we will be setting up the national panel to do that—that issue might come up.

On that, I reiterate the important point that the cabinet secretary made about Hugh Monro's report. I have already mentioned it; it is not a report filled with negatives. Many positive aspects have been generated by governors and staff in the past. It is a rounded report, although we must respond to the things that need to be addressed.

Kenny MacAskill: I have had discussions with occupational therapists. The problem that they perceive is one of articulation and an inability to be clear in respect of vocabulary. That is an on-going issue. John Carnochan of the violence reduction unit made the point to me that if young men in particular are unable to express what they think, sometimes they do it with their fists. It is about getting people to count to 10 and enabling them to say what they mean without resorting to violence. Some of that is on-going tangentially, through violence reduction classes in Polmont and other institutions. It is an issue that we are happy to look at.

As I said, that is being dealt with through other organisations, as well as having been discussed with me by those who represent OTs. It has been taken on board by the violence reduction unit. The skills in the violence reduction unit are taken out into the wider world in its work within institutions. There are probably many examples because of the propensity for some people to go straight to violence without being prepared to articulate what it is that they think or mean.

Alison McInnes: I suggest to Mr McConnell that he talk to the governor in Aberdeen. Robert Gordon University's occupational therapy department has been working with the prison on some interesting processes. You might be able to draw on that work. I would urge that the guidance

panel that you are setting up draw on that worthwhile professional experience.

Another representation that the committee received came from—I believe—an ex-prisoner who talks about the value of art, and you will be aware of the Koestler Trust's work in developing people's sense of self-worth. This is perhaps a small query, but why does there seem to be a slight difference between the ability of prisoners in Scotland and those in England and Wales to sell their art for modest amounts?

Kenny MacAskill: I do not think that I can necessarily explain that. I am a supporter of art therapy and the outstanding work that organisations such as the Koestler Trust do in prisons. Indeed, I have seen what is going on at several institutions and have visited many exhibitions; I believe that there was one at the Tramway in Glasgow just last year. I recall—

The Convener: I should point out that we are running short of time, cabinet secretary. Is selling art not subject to prison rules?

Colin McConnell: I was not aware of any inconsistency in that respect, but those are certainly the current rules.

The Convener: I think that it is a matter of prison rules, Alison.

Alison McInnes: Finally, there seems to be something of an office-hours culture with regard to purposeful activity, which tends to be provided 9 to 5, Monday to Friday with very little happening at the weekends. Are you going to look at that in your comprehensive review?

Colin McConnell: Absolutely, but it all comes back to how we measure these things and how we have structured what we have decided is or is not purposeful. We certainly need to take a fresh view on the matter.

The Convener: I call Sandra White to ask a short question.

Sandra White: I do not know how I can possibly make this short, convener—

The Convener: We can have a short question and a long answer.

Sandra White: I will try to make it short, convener.

Although Mr McConnell has suggested that the ability of remand and short-term prisoners to access meaningful activity or anything else on offer is a separate issue, I think that it is the nub of the problem. Will you be looking at those prisoners separately from the issues that you have said you will be examining? Although I know that we are looking at long-term prisoners and although I am really very proud of what the SPS has done on

rehabilitation, I think that there is a particular problem with short-term prisoners, and want to know whether you will be looking at that issue.

The Convener: We are not actually looking at long-term prisoners—

Sandra White: I am talking about short-term prisoners, convener.

The Convener: You said:

“we are looking at long-term prisoners”,

but we are actually looking at purposeful activity across the piece.

Sandra White: A lot of concern has been expressed about the ability of short-term prisoners to access meaningful activity. Will you be looking specifically at that?

Colin McConnell: Sandra White is absolutely right. The traditional focus—not just in this jurisdiction, but in a number of others—has been on longer-term offenders, by which I mean those who serve four years or more. We recognise that peaks in reoffending occur with shorter-term offenders and that we not only need to ensure a better balance of provision for long-term prisoners, short-term prisoners and those in custody awaiting the court process, but must be more specific about the services that we are providing to meet the individual needs that have been identified. I doubt that we will ever provide a Rolls-Royce service to every offender who passes through our care, but that is our ambition.

The Convener: I do not want to curtail the questioning, but I think that we have had quite a whack at this. I should also say that I have let things run on a bit longer to allow us to bring in the additional information that was provided in the separate report on Polmont.

I thank the witnesses for their time. Members will be delighted to know that I am going to suspend the meeting until 11:30 for a little break.

11:24

Meeting suspended.

11:30

On resuming—

The Convener: We are back in business. Item 3 is also on our inquiry into purposeful activity in prisons. Following our evidence sessions as part of our short inquiry, we will now consider how we want to take the issue forward. For example, do we want to formally report our findings to the Parliament through a committee report, which is an option, or do we feel that a letter to the cabinet secretary to highlight the key issues that arose in the inquiry would be more appropriate? A

committee report would give our views higher status than a letter, but we would receive a response from the Government under either option. If we publish a report, we will have the option of asking to have a debate in the chamber. That would extend consideration of the issue, which would be useful.

In addition, if members would like to pursue issues that were identified during the inquiry through more detailed scrutiny, we can see whether there is scope to do that later in the year. If members would like to pursue the topic, perhaps we could have an indicative discussion and agree one or two potential areas for further work. The clerks will then bring back a paper that fleshes out the suggestions and look at possible dates on which consideration could be scheduled.

First, we should discuss what format we want our findings to take. Having decided that, we should decide what points we want to raise, and then we should consider whether we want to pursue the issues further, depending on what we do next, and subject to our having the space to do that.

I open it up for discussion.

Alison McInnes: There would be benefit in our writing a report. We have unearthed quite a lot of information, and it is clear to me that cracking the business of purposeful activity is key to cracking reoffending, which is of wide significance to what the Parliament is doing. It would be worth while for us to write a report.

Graeme Pearson: I am conscious that we have a new chief executive, and a number of commitments have been offered to us over the past couple of evidence sessions. It would be worth while asking for a report back in nine months' time on what the developments have been, and perhaps we should bring witnesses back in a year's time to go through the evidence of any changes that have been delivered.

It would be handy to publish a report as a way of putting down a benchmark that shows where we are now, because in a year's time we would have something to measure progress against.

The Convener: That is certainly my feeling. Does anyone dissent from that?

Roderick Campbell: I agree with Graeme Pearson.

Sandra White: I also agree.

The Convener: I think that it would be extremely useful to publish a report. As I said, it will perhaps allow us to have a debate on the issues in the chamber. It would almost be like an interim report, in that we could go back to it.

Having decided that, we need to give a steer to the clerks, who will draft the report. Do members want to suggest any issues, perhaps just as bullet points, that we want to raise? The clerks will want that information.

John Finnie: I see that the formal definition of purposeful activity includes

"counselling and other rehabilitative programmes".

I hope that we will mention that in the report, along with the cleaning and the rest.

The Convener: Yes. We have to make it clear that it is not just work that we are talking about.

Sandra White: We were told that we would get an update on what is happening at Greenock with the 12-week mentoring. I would like to see that looked at and mentioned in the report. I asked whether that programme will be rolled out.

Graeme Pearson: We should include something about a secure college and something about a national guidance panel.

Alison McInnes: We should mention the need for strategic—

The Convener: Can I take you one at a time, so that it is not all muddled, as we are discussing this on the record? Alison, you want to mention—

Alison McInnes: The need for strategic direction from the SPS across prisons.

The Convener: I would like to include something that focuses on young offenders. We should also address the need to humanise—that is an awful word to use—or normalise people in prison, particularly young offenders, through contact. One of the witnesses said that the walls of a prison should be porous. That was a lovely metaphor. The idea of continuing contact beyond family centres is extremely important, and that was certainly raised with us.

Colin Keir: We should include the issue about the number of hours for which meaningful activity is taking place and at what time of the day. During our visit to Edinburgh, a lot of comment was made that, after a certain time, the prisoners are just in their cells and they are bored.

The Convener: Unfortunately, I do not think that we asked about measuring and what is meant by meaningful activity. It should not just be about ticking a box and doing the hours. We did not challenge that. The measuring should not just say that the prisoners sat for five hours in a classroom, for example.

Alison McInnes: We took evidence on that from earlier panels. It would be worth exploring that.

The Convener: Is there anything else? I am sure that the clerks can come up with other issues.

Roderick Campbell: We should flag up the position of remand and short-term prisoners.

The Convener: Yes. There is a separate issue about remand prisoners. I seem to remember that there was some inhibition to remand prisoners taking part in activities in case that in some way prejudiced the court. There are other inhibitors for remand prisoners.

Colin Keir: To add to that, we should include something about the encouragement of people who do not want to take part in meaningful activity. That is important, particularly among short-term and remand prisoners.

The Convener: There was also the issue that, although a plethora of good work is being done, it does not seem to be co-ordinated. Lots of third sector organisations are involved, but the work is not co-ordinated.

Roderick Campbell: We will probably want to deal with community engagement and things such as communication with local employers.

The Convener: Yes. We heard about that in evidence.

What else is there?

Graeme Pearson: On encouragement, there was the notion of using prison reports at future court appearances. We should see whether there is any progress on that in the next year.

The Convener: That is a good point. I will need to look at the *Official Report*, but I seem to remember that, in passing, there was mention that the committee could write to the judicial studies people to seek their response on that additional information going to the courts.

I would also like us to include something on continuity of health provision beyond the prison walls, particularly in relation to drug and alcohol addiction.

Alison McInnes: We should include something on the problems that the regime has with studies, and the fact that the management is more concerned with security movements than with getting people to classes.

The Convener: Yes.

There are quite a lot of issues. The discussion has just been to give a basis for a draft report, but there will be other things that we can discuss and put in. In any event, do we want to welcome the piloting of mentoring, which has been raised with us and on which we await developments?

Members *indicated agreement.*

Crown Office and Procurator Fiscal Service (Correspondence)

11:37

The Convener: Item 4 is correspondence from the Crown Office and Procurator Fiscal Service, as part of the inquiry that we are progressing with the Crown Agent about people making a complaint against the Lord Advocate when acting as head of the prosecution service. We now have a response. John Finnie has rightly been following up the issue. Do you want to make any initial comments, John?

John Finnie: I thank the staff for acquiring the letter and the Crown Agent for the information. The letter lays out a process, but a few things jump out at me. The second paragraph of the letter talks about

“an individual or organisation”

that

“is unhappy with the way in which a case, in which they have an interest, has been dealt with.”

I do not know to what extent that would temper any organisation’s or individual’s ability to challenge. It is helpful to know that a subsequent complaint would go to the Scottish Public Services Ombudsman.

The third paragraph on the second page states:

“If any complaint alleged criminality by a current Lord Advocate in the exercise of their role as head of the system of criminal prosecution in Scotland then this would be investigated by the Police as it would in any ordinary case. It would only be formally reported by the Police to the Crown Agent if it appeared that there was a sufficiency of evidence to allow consideration of criminal proceedings. The Crown Agent would allocate the consideration of such a case to an appropriately independent person.”

There are a few points about that. It could be read as presupposing that the recipient of the complaint would be the police rather than the Crown Office, which is unlikely to be the case.

There could be a debate around the point that the complaint

“would only be formally reported by the Police to the Crown Agent if it appeared that there was a sufficiency of evidence”.

In ordinary cases, it is for the procurator fiscal to decide whether there is sufficient evidence and whether it is in the public interest to proceed. Further, it is not clear who the “appropriately independent person” would be, although the final paragraph talks about the Crown Agent arranging for

“Independent Counsel to take the decision on action.”

It is helpful that we have information in the public domain. Some questions can still be asked, but at least there is a response for the petitioners who raised the issue. I will cease there.

The Convener: Does anyone else want to comment?

I am advised that the “appropriately independent person” is most likely to be a member of the Faculty of Advocates and I imagine that a Queen’s counsel would deal with it.

The issue is very difficult. In particular, when a report is made regarding a former Lord Advocate there is a different procedure and, if appropriate, the current Lord Advocate could “recuse himself”. I have not come across that word before. I am not being smart; I have found out what it means: to excuse oneself because there is a conflict of interest. I must use it sometime in the chamber, now that I have found it. I will race members to that.

The current Lord Advocate could

“recuse himself or herself of any involvement in consideration of the case and arrangements would be made by the Crown Agent for Independent Counsel to take the decision on action.”

It would be interesting to find out how often that has happened and what process was followed.

Do you want to test that, John?

John Finnie: I was going to stray into that area, but I did not know whether you would think it appropriate. To my mind, it would be interesting to know whether the system has been tested. From the information that the committee has received, it seems that indeed a formal complaint has been made. It would be interesting to know whether that process has been followed.

The Convener: I am advised that it is rare, although I cannot tell you the number. I would be interested to know which of the processes have been used, how often they have been used and how they functioned. It has taken quite a bit of effort to tease this issue out into the various strands of when reports are done.

It is a difficult area: you do not want the Crown investigating the Crown. There are issues of sufficiency of evidence, to some extent. I am guided by two former police gentlemen at either side of me. To some extent, when the police are gathering evidence they must take a view as to whether they have enough to put to the PF, but at the end of the day it is the PF’s decision whether there is sufficient evidence for a prosecution. There is a grey area.

Graeme Pearson: An interesting question is how it is reported and recorded. In a police system, if someone presents themselves and says

that they have been the victim of crime, it is recorded. If subsequent investigation discovers that for some reason it is not a crime, a subsequent report de-records it, but the number is still there. It would be interesting to know how the Crown goes about the recording process.

John Finnie: Graeme Pearson makes a valid point. It should also be a function of the committee to reassure the public that there is a mechanism and that, if they have concerns, they present themselves at their local police station and tender a complaint.

The Convener: We are going to look at what processes were there before, what examples there have been, and how the complaints are recorded when they are received—complaints not about bad service but about alleged criminality—and how they might be de-recorded. Is that okay?

Members *indicated agreement.*

Decision on Taking Business in Private

11:43

The Convener: We now move to item 1, which is a decision on whether to take item 5 in private. Do members agree to that?

Jenny Marra: No.

The Convener: We have one disagreement. I do not want to rehearse the arguments that we had last time, unless there is something different.

Jenny Marra: I will make two brief points. I want to put on public record that the pre-briefing meeting today—

The Convener: I am not prepared to discuss what was an informal meeting to which all members were invited and at which nothing whatsoever on today's agenda was discussed. That is ruled out. What is your next point?

Jenny Marra: My next point is about the discussion of the Scottish Campaign against Irresponsible Driving and the paper that we have on it. My understanding of the paper that went to the pre-briefing is that we do not take work—

The Convener: No, no. You cannot understand anything about a meeting that you did not have the courtesy to attend. I ruled that out of order. I only want to know why you want this particular item to be held in public.

11:45

Jenny Marra: Because the paper that we are considering does not name potential witnesses; it names only organisations. It would be useful for the people who are campaigning on fatal road accidents to have the committee's logic on the record about whether it is a priority for us to consider their evidence or not.

The Convener: I want to correct an issue from last week's meeting at which reference was made to changed procedures. I do not want to politicise the discussion but, because there was a suggestion that the Scottish National Party has changed what agenda items are held in private and in public, in fairness to the committee—

Jenny Marra: You said that we were not discussing the pre-meeting.

The Convener: This does not relate to the pre-meeting; it relates to what was said on the record at last week's meeting. You said that the SNP has come into a culture of holding business in private.

Jenny Marra: That is right.

The Convener: I have been here for 12 years. I want Jenny Marra to clarify the situation. We had a Labour-Liberal majority Government for eight years and a minority Government for four years. What has changed in the processes that this committee uses from those used in the previous 12 years? That is all that I ask, because I am not aware of any changes.

Jenny Marra: I thought that you said that you did not want to politicise the discussion. Eighty per cent of last week's agenda was proposed to be taken in private. Several people, including among the press and the public, commented to me that they did not think that that was appropriate. That was last week—

The Convener: I asked a specific question, Ms Marra. What has changed in the processes used by this committee compared with those used in the previous 12 years?

Jenny Marra: I have read the paper that the committee considered at the pre-meeting. You have made a direct reference to the pre-meeting briefing that you said you did not want to discuss in public—

The Convener: No, no, no. I am sorry, but you have not answered—

Jenny Marra: If you want me to answer the question, I am happy to answer it.

The Convener: Then answer it.

Jenny Marra: The paper that you considered earlier laid out—

The Convener: No. I—

Jenny Marra: The paper laid out the precedent—

The Convener: Of the past 12 years?

Jenny Marra: It laid out the precedent and made the point that things had not changed. At last week's meeting, it was proposed that 80 per cent of the business should be taken in private.

The Convener: I am sorry, but that is not an answer.

Jenny Marra: It is.

The Convener: It is not an answer to my question. I want an answer because I feel that this is very disruptive to the committee. I want an answer to my question about what has changed from the previous 12 years. What has changed this year in the general criteria used by the committee to decide whether to hold business in private? If you can point me to the change, I will gladly accept it, but I cannot see it.

Jenny Marra: Convener, I think that you have convened the committee for the past five years.

Whatever is proposed to be in private or public on the agenda is your responsibility. I have not been in Parliament for the past 12 years; you have. I am saying that, under item 5, on the work programme, no witnesses are named. It is incumbent on us to set out—[*Interruption.*] Can I finish my point? It is incumbent on us to set out to the public why we would want to consider the report or not.

The Convener: You have not answered my question, but that is not relevant to your point. I asked a specific question; it has not been answered.

I am going to move on, because I do not want to go through this every week. There are far more important things to do than to have an entirely unnecessary tussle and, frankly, I am losing my temper over it, which I do not want to do.

I will tell you why item 5 is down to be held in private. It relates to the committee's work programme and it contains a recommendation of action from the clerks. Taking the item in private will allow the clerks—I am weary of saying this—to clarify any queries members may have on the recommendation made in the paper. However—I stress this point—it is a matter for the committee to decide whether to agree to take the item in private. Do members agree to take item 5 in private?

Jenny Marra: I have already stated my objection.

Graeme Pearson: I go along with Jenny.

The Convener: There will be a division.

For

Campbell, Roderick (North East Fife) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 White, Sandra (Glasgow Kelvin) (SNP)

Against

Marra, Jenny (North East Scotland) (Lab)
 Pearson, Graeme (South Scotland) (Lab)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

We have agreed to take item 5 in private, with two dissenting members.

11:48

Meeting continued in private until 12:10.

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