



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 4 November 2014

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JUSTICE COMMITTEE

27th Meeting 2014, Session 4

CONVENER

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

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)
*Roderick Campbell (North East Fife) (SNP)
*John Finnie (Highlands and Islands) (Ind)
*Alison McInnes (North East Scotland) (LD)
*Margaret Mitchell (Central Scotland) (Con)
*John Pentland (Motherwell and Wishaw) (Lab)
*Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stevie Diamond (Unison)
Patrick Down (Scottish Government)
Kenny MacAskill (Cabinet Secretary for Justice)
Derek Penman (HM Inspector of Constabulary in Scotland)
Chief Superintendent Niven Rennie (Association of Scottish Police Superintendents)
Neil Watt (Scottish Government)
Tina Yule (HM Inspectorate of Constabulary in Scotland)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Justice Committee

Tuesday 4 November 2014

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning. I welcome everyone to the Justice Committee's 27th meeting in 2014 and ask everyone to switch off mobile phones and electronic devices. No apologies have been received.

Item 1 is a decision on taking business in private. I invite the committee to agree to consider in private our approach to a legislative consent memorandum on the Serious Crime Bill, which is United Kingdom legislation, under item 10. Are we agreed?

Members indicated agreement.

Subordinate Legislation

Road Traffic Act 1988 (Prescribed Limit) (Scotland) Regulations 2014 [Draft]

09:30

The Convener: Item 2 is consideration of an instrument that is subject to affirmative procedure—the draft Road Traffic Act 1988 (Prescribed Limit) (Scotland) Regulations 2014. The instrument will introduce a reduction in the drink-driving limit. Last week, we heard evidence on the issue from Police Scotland, Scottish Health Action on Alcohol Problems and Scotland's Campaign against Irresponsible Drivers. I welcome Kenny MacAskill, the Cabinet Secretary for Justice, and Patrick Down, a policy officer at the criminal law and licensing division of the Scottish Government. The cabinet secretary will make a short opening statement, after which we will move to questions from the committee.

The Cabinet Secretary for Justice (Kenny MacAskill): Committee members will be aware that the Scottish Government has long argued that the Scottish Parliament should have powers to legislate on matters relating to drink driving in Scotland, and that the Scotland Act 2012 devolved the power to set the drink-drive limit. Although we consider that very limited transfer of power to have been a missed opportunity and believe that the Scottish Parliament should have the power to set the penalties for drink driving and to consider differential drink-driving limits—for example, for young and novice drivers—we welcome the fact that we now have that power to make Scotland's roads safer through the setting of a lower limit.

In March 2013, following our late-2012 consultation in which the majority of respondents offered support for a lower limit, we confirmed our plans to lower the drink-drive limit in Scotland from 80mg to 50mg of alcohol per 100ml of blood. Some considerable time has elapsed since we announced our policy and we have had to engage with the UK Government to provide what is called type approval of the evidential breath-testing devices that are used by Police Scotland, so that those devices are suitably recognised as being able to operate at the proposed lower limit.

Members will be aware that the current drink-drive limit has been in force since the mid-1960s. Although social attitudes towards drink drivers have hardened over the years, the sad truth is that there remains a persistent minority who put their own lives and the lives of other road users at risk by getting behind the wheel after drinking alcohol. Figures show that about one in 10 deaths on Scotland's roads each year involves a driver who is over the legal limit. That is 20 deaths each year,

and 20 families devastated by the loss of a loved one.

Some people have said that our efforts should concentrate on enforcing the existing limit more strictly and that there is no need to reduce the drink-drive limit, but that ignores the scientific evidence that the risks of driving under the influence of alcohol start to increase at well below the current legal limit. Evidence from the British Medical Association shows that the risk of drivers with a reading of 80mg of alcohol per 100ml of blood being involved in a road traffic crash is 10 times higher than the risk for drivers with a zero blood-alcohol reading. The crash risk for drivers with a reading of 50mg of alcohol per 100ml of blood is more than twice the risk for drivers with a zero blood-alcohol reading. The independent review of drink-driving and drug-driving law, which was conducted by Sir Peter North in 2010, concluded that reducing the drink-driving limit from 80mg to 50mg will save lives. Applying his estimate to the Scottish population suggested that between three and 17 lives could be saved each year.

We consider that the current drink-driving limit has had its day. Reducing the limit to the lower level of 50mg to bring Scotland into line with most other European countries is the right approach, and will make Scotland's roads safer.

To ensure that drivers are aware that the lower limit is coming into effect, the Scottish Government will run a public information campaign from 17 November. The campaign is aimed at informing all adults of driving age and will comprise advertising on television, video on demand and radio, and will include partnership and stakeholder engagement, field marketing, website updates, and use of social media and public relations. Television advertisements also will be aired on ITV Borders, which broadcasts to the south of Scotland and the north of England, to help to raise the awareness of drivers who live close to the border and who might travel into Scotland each working day.

Finally, I add that whatever the limit is, it should not be forgotten that alcohol at any level impairs driving. Our central message remains: "Don't drink and drive."

I am happy to take questions.

The Convener: Thank you very much, cabinet secretary. As this is an evidence-taking session, I seek questions from members.

First of all, though, I should say that I am delighted that ads will be aired on ITV Borders, because some of my constituents and, I think, some of Elaine Murray's constituents do not get STV. At last our constituents are getting information from the Scottish Government and

Scottish Parliament. I think that Elaine will agree that Dumfries is in the same position.

Elaine Murray (Dumfriesshire) (Lab): Absolutely.

Christian Allard (North East Scotland) (SNP): Good morning. You have described the process through which you reached your decision, and you said that it took time because you had to go back to Westminster and look at what was devolved and what was reserved. Is there more that you think the Scottish Government and the Scottish Parliament should do to tackle drink driving and, if so, would it be good to consider what is reserved and what is devolved beforehand? Which reserved matters would you like to be devolved before we go any further with drink driving?

Kenny MacAskill: Obviously I would like all the powers to be devolved, but that is a matter for others. We have already been through the referendum.

We as a Government can simply do what we can. Only the power to lower the limit has been devolved; I do not think that it is a secret that the police hoped that powers to reduce the limit would tie in with powers to introduce random breath testing. Last week, Chief Superintendent Murray said that the police have specific powers, and they pull over—I think—20,000 drivers a month. I make it clear that the police themselves have sought the other powers, and although we as a Government would be happy to consult on the matter, we do not have the powers and cannot even go there.

As I have also mentioned, the limit in other jurisdictions is lower than 50mg, but we think that such a move would be problematic with regard to penalties and disqualifications. It has been argued that we should look at what is done in Scandinavia, where a blood alcohol level of between 20mg and 50mg does not result in automatic disqualification. Again, we do not have the powers in that respect.

We are happy to consider and seek the views of the committee and consultees on issues such as there being different limits for young drivers, people in specialist occupations and so on. People who fly planes or drive trains are subject to a lower limit than the incoming 50mg limit. We are open to such approaches, but the only powers that we have are those to lower the limit. The move will save lives, which is why we have done it. We will take any additional powers, and we will work with the police, other stakeholders and especially this committee to find out what we can do to make Scotland even safer.

If you are asking me to tell you off the top of my head what else we can do, what springs to mind are random testing, which I think the police would welcome; an opportunity to vary the penalties,

which might allow us to lower the limit even further and make our roads even safer; and targeting specific age groups and occupations. The Government does not have a view on such matters and would consult on them, but we know that people including the Institute of Advanced Motoring and the police think that step changes can be made.

Christian Allard: Could we get a bit more detail on random testing. We heard last week that 15 per cent of French people have had their breath tested. Do we know what the percentage in Scotland is?

Kenny MacAskill: I do not have those figures to hand. I will find out what information we have. However, given that 20,000 drivers a month are pulled over, I imagine that the amount will be significant and that they will not all be repeats. After all, come Christmas time, the police carry out various campaigns in which they pull over vehicles, and even if the driver is not tested, the police will clearly smell for alcohol. Moreover, people who are pulled over as a result of routine traffic incidents will likely have their breath tested. As a result, the percentage will be quite high, and I have to say that I am not aware of any considerable complaints. Indeed, I am not aware of any complaints either at constituency or at ministerial level from people saying that they have been inconvenienced.

The Convener: It would be interesting to know the figures, notwithstanding that. It would be quite useful to know how many of the 20,000 drivers who are pulled over test positive.

Roderick Campbell (North East Fife) (SNP): Good morning. Perhaps it is worth recording that, in the European Union, only the United Kingdom and Malta currently have a limit of 80mg. The reduction in the limit will certainly move us more into the mainstream in the European Union.

My question is about the timetable for the public information campaign. You indicated that it will commence on 17 November. I believe that the new limit is to take effect from 5 December. Is there sufficient time to educate the public?

Kenny MacAskill: I believe so. There is already a fair bit of awareness because of the investigations that the committee is carrying out and the efforts that the police and others are making. We would have carried out a Christmas anti-drink-driving campaign anyway. We have the opportunity to piggy-back on that to some extent and to make it clear that this Christmas is perhaps not a Christmas like any other and that changes are coming through.

It is reckoned that the TV and radio adverts will reach 88 per cent of the adult population. As I recall, it is not simply ITV Borders that is involved;

Channel 4 in Scotland and STV are also involved. Social media, which we all know are so much more important, will help to disseminate the message, and we are liaising with VisitScotland, which will inform potential visitors of the law change via its channels. Our own internationally facing channels will also carry out that work.

We are also working with commercial organisations; for example, Tesco has agreed to take posters and collateral at 60 of its petrol stations across Scotland, and I understand that Asda is doing likewise. Farmer Autocare is keen to support the dissemination of marketing materials, and local authority communications teams have been contacted. Obviously, there are other organisations involved, such as the Institute of Advanced Motorists, the Royal Society for the Prevention of Accidents and Police Scotland. We are looking at working with others. Transport Scotland will make information available on its overhead gantries on main roads.

Every possible avenue and communication medium is being considered. Internally in Scotland, for those who are coming in from whatever direction—whether they come into an airport, a ferry port or a station—there will be information.

Major retailers are involved. As I said, Tesco and Asda are involved, and I hope that others will follow suit in their petrol stations and elsewhere.

Significant steps are being taken, so I do not think that anybody will be unaware that the change will come in on 5 December, subject to the approval of the committee and Parliament.

I do not know whether Patrick Down wants to add anything to that.

Patrick Down (Scottish Government): There is one other thing that I will mention that did not come up in that quite long list. A 10-day field marketing road show is being planned that is intended to inform drivers and the wider public. It will cover key locations across Scotland, including Edinburgh, Glasgow, Dumfries, Galashiels, Dundee, Aberdeen, Inverness and Livingston and will give members of the public in places with high footfall, such as shopping centres, a chance to find out about what is happening if they have not been watching television or have not seen the campaign through social media or in the newspapers.

Roderick Campbell: Okay. Thank you.

The Convener: I have a feeling that you did not mention the Highlands and Islands. We are very alert here about that. Is the Highlands and Islands included in any way?

John Finnie (Highlands and Islands) (Ind): Inverness is in the Highlands.

Patrick Down: Yes.

The Convener: Of course. Inverness is not an island—the last time I looked, anyway.

Elaine Murray: Is there anything in the education programme that is specifically aimed at the day after people have been out drinking? We are going into the Christmas and new year period, in which people go out with friends in the evening and probably drink a bit more heavily than they normally do. They may get the message not to take their car, but will we get the message out to people that they may not be safe to drive the following day?

Kenny MacAskill: We have started to try to get across that message during my tenure as Cabinet Secretary for Justice. If we look back many years ago, it was all about what state the person was in when they left the pub or the event that they were at. Over recent years, there has been a realisation about the number of people who are positively breathalysed the following morning, which statistics show. In recent campaigns, considerable emphasis has certainly been put on not only people not taking the car if they are going to a Christmas party or another function, but on ensuring that, if they are going to drive the following day, they have acted responsibly.

I know that many people who work in bus companies—for example, in the city of Edinburgh—where random testing applies not only to drivers but to all who work for the company, consider taking the day off following what they see as having been a really good night, but whether to follow that example is a matter for the individual.

09:45

I think that we have raised awareness. Our emphasis is on individuals taking responsibility for their actions. People have to be aware that alcohol remains in the bloodstream. I saw the evidence in the *Official Report* of last week's meeting from Chief Superintendent Murray and Dr Rice. People have to think carefully and act accordingly.

The change that we are making is not from a limit of 150mg or 280mg but from a limit of 80mg to one of 50mg. We should remember that if somebody gets out of their bed half an hour earlier, it will be the 50mg limit and not the 80mg limit that will cause them problems. Such people should reflect that if they are going to have a good time—as we all want—then perhaps it is not just about not taking the car to a function: perhaps they should think about how they will get to work the following day.

Elaine Murray: I was also thinking about people who might be going Christmas shopping and so on. Perhaps they need to be aware that when they

go out in the morning they might still be over the 50mg limit, so they should not take the car to go Christmas shopping the morning after.

Kenny MacAskill: The police will be out on the roads. We are all aware from our own experience that police stops now take place not only on peripheral routes or arterial routes going out of Edinburgh but within the city. It is recognised that people who are over the limit think that they can drive about in the city with impunity and will get stopped only if they go out of the city, but that has all changed. Equally, police stops take place not simply at 11 o'clock, 12 o'clock or 1 o'clock in the morning but as people are going into work. That is how it must be done because we must keep people safe. Other people who are going Christmas shopping want to be able to celebrate Christmas and not suffer.

Alison McInnes (North East Scotland) (LD): We had some discussion at last week's meeting about whether there should be variation in the penalty for people who are perhaps just over the new limit. Chief Superintendent Iain Murray was very clear that he felt that the penalty should still remain quite firm and that he does not support any variation. Can you explain why the Crown Office is looking at the possibility of what it describes as some less serious drink-driving cases being heard in lay magistrates' courts. Does that send a mixed message?

Kenny MacAskill: I do not believe so. I accept and support what Iain Murray said on the subject and I think that he is quite right. Whether the limit is 80mg or 50mg, the limit exists and that is what people know, and it has been set for particular reasons. We have not changed the drink-driving limit since the 1960s, but cars are much more powerful and roads are much busier. We also know that alcoholic drinks have probably increased in strength; whether it is a pint of beer or a glass of wine, the alcohol by volume has crept up since the 60s. We need to make this long overdue change. We would not support any variation in the mandatory disqualification for one year and for three or more years for a second disqualification within a particular period. That is appropriate for sending out our message.

I alluded in response to your colleague Christian Allard to whether there should be an additional limit requirement between, for example, 20mg and 50mg, whereby there might not be a desire for disqualification but a clear desire to show that such levels are unacceptable. For example, a driver could be given a yellow card with the message "Two strikes and you're out", or they could be given penalty points. That is a matter for consideration and we would be open to that. We do not have a view as a Government on that, but such a system operates well in Sweden. We would

go along with that applying to young drivers, whom Mr Allard mentioned, or people in specialist occupations.

With the changes that we made through the Scottish Court Service, justices of the peace have appropriate powers and they should be used. There are fewer courts but not fewer JPs. They serve Scottish justice with distinction and I think that it will be quite clear that they will be able to deal with matters. They have the powers to disqualify, which will be mandatory except in the rare and complex cases in which there can be challenges to disqualification, which are very few and far between in Scotland.

Alison McInnes: Are you content, in that case, that it does not send a mixed message that as soon as we have introduced the lower limit we will start to change which court people will appear in? Do you not think that we should maintain the same courts?

Kenny MacAskill: No. That is a matter for the Crown and the courts, because we have the appropriate disqualification.

We have also brought in forfeiture of the vehicle in recent years. People should be under no illusion: this is not simply about the loss of a licence and being off the road for a year. The consequences can include loss of employment, economic damage, including what might happen to one's home, and the loss of the vehicle, whether it is new or old. Vehicles can be forfeited, depending on the criteria. We fully support the Crown on that. Equally, irrespective of whether the sanctions are imposed by a sheriff or a JP, they will be severe. The matter will be in public court and the opprobrium of the public will be equally significant.

John Finnie: Enforcement is not exclusively down to road policing. However, when Chief Superintendent Murray was here last week I asked him to confirm that

"Police Scotland is more than up for this change."

He replied:

"We are. We support the change fully and we will be ready to implement it on the proposed date."—[*Official Report, Justice Committee, 28 October 2014; c 50.*]

This is a somewhat sensitive matter in that it will definitely be flagged up as "operational". If reports that I have received are accurate—I have no reason to doubt them—that a centrally taken decision will mean that from the early hours of the morning there will be no road policing presence whatever in the Highlands and Islands, and that there may well be no such presence outwith Glasgow, Edinburgh and Motherwell, that will not only present challenges in enforcement of the legislation but might open up the trunk road

network to travelling criminals. Do you agree that it is important that the police have the wherewithal to deploy resources in a manner that can enforce the legislation?

Kenny MacAskill: I certainly do. Those are obviously operational matters. You will find that, although road policing might be hubbed at some of the areas that you mentioned, the spokes that those officers travel down are extensive and significant. Equally, there will be local area command.

However, I think that the biggest change in drink driving is not simply about enforcement by the police, although that is vital to driving home the message. It is also about the attitude of the public, which is that drink driving is entirely unacceptable and they will report it. I expect the police to act appropriately to ensure that the law is enforced and that there is a visible police presence.

John Finnie: Thank you very much.

The Convener: I know that you will be on the case if that does not happen, John.

Margaret Mitchell (Central Scotland) (Con): My question is really just an extension of the previous one. When Chief Superintendent Murray was here he said that although data is hard to come by, it is likely that a third more drink drivers will be caught in the initial phase. That is obviously a burden on resources for other policing as well. I suppose that my question is much the same as John Finnie's: has some thought been given to how all that will be managed?

Kenny MacAskill: Yes, we have thought about that. The figures are the current statistics—I saw Chief Superintendent Murray's evidence.

We looked at what happened in the Republic of Ireland, which made the same change in 2011—as, I think, Rod Campbell mentioned earlier. Only the UK and Malta still have the 80mg limit. Ireland used to have a limit of 80mg, but in 2011 it was reduced to 50mg, as we are now proposing. In Ireland, the number of convictions for drink driving went down. The received wisdom from Ireland is that the new limit provided greater clarity. Rather than the number of convictions going up—as statistics show they are doing here in Scotland—the opposite happened. The numbers went down and, as I understand it, they have continued to go down. The campaign in Ireland drove home the message, "If you're going out, don't drink and drive." It stopped the people who would have said, "Maybe I can have a couple. Maybe I can have one more if I have a cup of coffee." All that ended.

The raw stats that Chief Superintendent Murray provided are correct. Equally, the proof of the pudding will be in the practical delivery of the measure, which we have heard about from

Ireland. In Ireland, where in many ways the culture and the demography tie in with those of Scotland, the number of convictions went down. The change drove home the message. Did everybody heed the warning? No. People who flouted the law were dealt with, but fewer did because more took on board the message not to drink and drive.

Margaret Mitchell: The point is that that happened over time. Chief Superintendent Murray was saying that in the initial phase the numbers are likely to be high until the message really percolates down and people realise what has changed. It is about resourcing for that initial period, when there are likely to be more drink drivers.

Kenny MacAskill: The statistics are from 2011 through to 2014. In Ireland, the effect was immediate. As soon as they brought in the change, convictions started to go down, not because the garda were not enforcing it but because people were heeding the warnings.

Practical delivery in Ireland meant that people took the message on board. Once the limit went down, people stopped taking the risk and thinking that they would be within the margin of error when they were not. That is why the figures started to decline in 2011 and have continued to decline. Margaret Mitchell's worry about the initial rise in the number of arrests did not materialise in Ireland. The message went out—I presume in the same way as we are sending it out—that the limit was going down and people should not drink and drive. More people paid heed to that.

I have the raw statistics and we are prepared and able to deal with an increase, but the message from Ireland is that if we make the change, most people will take it on board. The minority of people who do not take it on board will not listen whether the limit is 80mg or 50mg, and they will face the consequences of their actions. Perhaps more people who have, through stupidity, not taken it on board should have thought a bit more deeply and either not taken the car or that drink, or, as Elaine Murray said, given more consideration to what they would do the following morning.

Margaret Mitchell: So, are you really dismissing the third more arrests that were mentioned in evidence last week as not being an issue?

Kenny MacAskill: I am not dismissing it. I am referring to the clear statistical parallel from the Republic of Ireland. It made exactly the same change that we propose to make. The received wisdom was that more people would be caught because more people would be between 50mg and beyond the upper limit before the body cannot take any more, than would be between 80mg and

that upper limit. In reality, what happened was that fewer people were caught because more people adhered to the law and did not risk it.

Margaret Mitchell: Even so, I hope that it would be thought of as a possibility that the message might not get through immediately and that there might be more arrests, and that policing duties and resources will be looked at to make sure that nothing is overlooked.

Kenny MacAskill: I can give you an assurance that the Crown Office, the police and the Scottish Court Service feel capable of dealing with the circumstances that will arise.

Margaret Mitchell: Okay. Thank you.

John Pentland (Motherwell and Wishaw) (Lab): I am not sure that I picked you up correctly. If Chief Superintendent Murray is saying that perhaps a third more people could be caught by the reduction in the limit, is that because the police are going to put additional resources into catching people who might be over the limit or will they still be working with the same resources?

Kenny MacAskill: No. Chief Superintendent Murray has simply tried to work out the number of people whose level is between 50mg and 80mg and are therefore more likely to be caught. He extrapolated from the raw statistics.

I will give you the information about Ireland. In 2007, the figure for convictions was 19,848 and in 2010 it was 12,602. The lower limit was enforced from 28 October 2011 and the figure went down to 10,575. For the year to 27 October 2012, the number of convictions fell to 9,771. The figures were down almost 5,000 from the year before the limit was reduced, and there was also a reduction after the limit was reduced in October 2011.

I take cognisance of everything that Chief Superintendent Murray said. We have spoken to the Crown Office, the police and the courts. We are able to deal with circumstances. He extrapolated from the raw data. The example in practice shows what happened when Ireland went the same way. We are doing what Ireland did. People will take the message on board. The figures are clear; convictions fell.

I have a further note. Although there was a decline in the number of arrests in all but one age group—women aged 50 to 67—a significant number of cases involved male drivers driving late at night or early in the morning, particularly at the weekend. In Ireland, they got the message across. We do not want more people to be convicted; we want lives to be saved and safer roads. What Ireland and the rest of Europe, other than the UK and Malta, have done is made the situation clearer. You cannot go out and have two pints, then say you will have another because you have

had a meal, then stay for a bit of a dance and have a glass of wine but think you will be all right because you have done some calculations in your head. Just do not do it. That seems to have been the message in the Republic of Ireland.

The Convener: Are there any other late requests to ask a question? Every time I try to move on, someone puts their hand up. If no one else wants to speak, that is the end of the evidence-taking session.

Item 3 on the agenda is the formal debate on the motion to approve the instrument. I invite the cabinet secretary to move motion S4M-11277.

Motion moved,

That the Justice Committee recommends that the Road Traffic Act 1988 (Prescribed Limit) (Scotland) Regulations 2014 [draft] be approved.—[*Kenny MacAskill.*]

Motion agreed to.

The Convener: As members are aware, we are required to report on all affirmative instruments. We have the opportunity to sign off our report next week.

We will suspend to let officials change places.

10:00

Meeting suspended.

10:00

On resuming—

Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) (No 1) Order 2014 [Draft]

The Convener: The next item is consideration of another instrument that is subject to affirmative procedure. The cabinet secretary stays with us for this item. Joining us from the Scottish Government are Neil Watt, who is the head of the European Union implementation team in the criminal justice division, and Neil Robertson, who is the EU policy manager in the same team. Do you have to be called Neil to be in the criminal justice division? It seems to be the case. What happens? Do you call each other Neil 1 and Neil 2? Who would know who has been asked anything? Do not answer that.

The cabinet secretary will, again, give evidence on the instrument. I understand that he wishes to make a short opening statement.

Kenny MacAskill: The statutory instrument will improve the original transposition of the mutual recognition of financial penalties framework decision. The purpose of the 2005 framework

decision was to ensure consistency in how financial penalties operate across the EU. It enables Scottish fines and fixed penalties—for example, for road traffic offences—of €70 or over to be enforced elsewhere in the EU, and vice versa. The aim is to ensure that Scotland is not seen as an attractive destination for criminals who are confident that fines will not follow them here.

Members might ask why we are amending the original transposition from 2009. There are two reasons. First, as with all new measures, there is always an element of seeing how things work in practice. Since the original transposition, we have identified a few minor problems with the existing implementation, such as delays that have been caused by incomplete or unsigned requests by other member states. By making minor practical adjustments to the original provisions, we can address those problems. Secondly, one of the measures that the United Kingdom expects to opt back into on 1 December—the trials in absentia framework decision—amends the original 2005 mutual recognition of financial penalties framework decision.

We have taken the opportunity to improve the original transposition before we implement the new requirements on 1 December. Despite the uncertainty around the opt-in, my officials and I have updated the committee as much as we can on all the measures in which we are participating.

I am happy to answer any questions.

The Convener: How often is the provision used? Do we have statistics? I have caught out one of the Neils. He is having to rustle through his papers.

Neil Watt (Scottish Government): We are talking about 100 financial penalties in the past five years.

The Convener: Were the penalties on people from abroad coming here or on people from Scotland going elsewhere?

Neil Watt: Both. The majority were for road traffic offences by commercial lorries and tourist drivers.

The Convener: I thought I would ask because I wanted to make sure that you knew.

Sandra White (Glasgow Kelvin) (SNP): There are various areas in relation to which Westminster is deliberating about whether to opt in or opt out. Have you had any confirmation that we will definitely be opting into this part of the framework?

Kenny MacAskill: We have not had formal confirmation, as such. From the jungle drums that are beating and the runes that have been read, there is some suggestion that everything seems to be being sorted. However, whether we are talking

about this particular aspect or the European arrest warrant, we remain concerned.

The Convener: I think that you have a question in this afternoon's question time about that.

Sandra White: Thank you, convener. I was not pre-empting that question. The committee is concerned about the EU opt-ins and opt-outs, and this is just another one of them.

The Convener: Under item 5 on the agenda, I invite the cabinet secretary to move motion S4M-11278.

Motion moved,

That the Justice Committee recommends that the Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) (No. 1) Order 2014 [draft] be approved.—
[Kenny MacAskill.]

Motion agreed to.

The Convener: Again, as members are aware, we are required to report on all affirmative instruments. Are members content to delegate to me responsibility for signing off the report?

Members indicated agreement.

10:05

Meeting suspended.

10:06

On resuming—

Draft Budget Scrutiny 2015-16

The Convener: Item 6 is draft budget scrutiny. We are examining the police budget, as we decided to do, and we have two panels of witnesses.

I welcome our first panel of witnesses: Derek Penman, Her Majesty's inspector of constabulary for Scotland; and Tina Yule, lead inspector at HM inspectorate of constabulary for Scotland. We will go straight to questions from members.

John Finnie: Good morning, panel.

I do not know whether you heard what I asked earlier, Mr Penman. I understand that the chief constable does a drawdown of finance rather than there being a drawer full of money at Police Scotland. To what extent is there any devolution of budgetary decisions within the Police Service of Scotland at the moment?

Derek Penman (HM Inspector of Constabulary in Scotland): My understanding is that limited budget accountability is passed to divisional commanders for some general running of their divisions. The main budgets, which are mainly staff budgets, are held centrally and are not devolved. An overtime budget would be devolved to local commanders, but the majority of the budgets are held centrally.

John Finnie: Would an overtime budget be devolved to the divisional commander for a central resource, if I can call it that, such as road policing or dogs?

Derek Penman: My understanding is that overtime is devolved and that an allocation of overtime is given to each divisional commander. I expect that the budgets for the national functions that are carried out regionally or centrally, such as road policing, are held by the divisional commanders who have a national portfolio. In effect, if there are regional assets that belong to the operational support division, the chief superintendent for the area would hold the budget. If they were divisional resources that worked within the division, they would be held by the divisional commander.

John Finnie: I asked the Cabinet Secretary for Justice about road policing. My understanding is that there is an intention to rein back on the hours of road policing coverage at the beginning of next year and that only Glasgow, Edinburgh and Motherwell—the motorway network—will be covered on a 24-hour basis. If that is correct, does it have any financial implications at divisional level?

Derek Penman: My understanding is that divisional road policing is attached to the division, but I also understand that those resources are managed centrally. Therefore, the head of road policing—the chief superintendent of national road policing—would have control of those budgets. To be honest, I am not entirely sighted on how it chunks down into the divisional budgets.

John Finnie: So is there road policing and divisional road policing?

Derek Penman: There is divisional road policing, which is attached to a division, and there is trunk road policing, which is a regional and national resource. Road policing is delivered in two ways. Each of the divisions has its own road policing officers, but they are professionally managed by Police Scotland at the centre. Am I explaining this well? Although the divisional road policing officers are attached to a division, they are professionally managed nationally. They are directed by the division and deal with divisional priorities but are managed from the centre, in effect.

John Finnie: If there were to be no road policing officers in the Highlands and Islands and perhaps north of Perth after the early hours of the morning, as I understand might be the case, would that be a good use of resources to your mind? Would that not open the door for travelling criminals and allow them to take advantage of the situation outwith the central belt?

Derek Penman: I am not sighted on the proposals or any withdrawal as you describe. My understanding is that we would require to have an element of road policing coverage across the country all the time, but I am not sighted on what the balance would be. Obviously, road police also work with and support other units and local police officers, and they too will be available in cities to contribute towards policing. However, as I said, I am not sighted on the proposals, so it is difficult for me to comment on them.

The Convener: John, you might not be able to tell us about the information that somebody has obviously given you on those proposals, but is it public information?

John Finnie: It is now.

The Convener: Ah! I think I worked that one out. Even I can work that out. However, the information is not available anywhere but is something that you have been alerted to.

John Finnie: It was raised with me as a subject that is of great concern.

The Convener: I appreciate that.

John Finnie: It is about the relationship between divisional autonomy and central decision

making, which of course has also surfaced on other issues.

I have a general question for Mr Penman on the scope for devolved resource management. When we were looking at the formation of Police Scotland, I asked questions about devolved resource management and of course key to that is money. Is there any sign of devolved resource management happening? Is there scope for it? I appreciate that a huge percentage of costs is for staff costs and that they are held centrally.

Derek Penman: Given the financial challenges that exist for Police Scotland to meet the savings that must come through and the fact that 91 per cent of the current budget is for staff costs, my personal view is that at a time of transition it is reasonable for those costs to be controlled from the centre. I would like to think that once things become more stable and there is a clear direction in terms of the policing model, there should be some scope to have more resource management at the divisional level. However, I understand and absolutely support the need to have that control from the centre at the moment.

John Finnie: Thank you.

Margaret Mitchell: The miscellaneous budget has been reduced and apparently that is because the money available for transition in the Scottish Fire and Rescue Service has been withdrawn because all the transition has been done. Is it the same for the police?

Derek Penman: My understanding of the budget settlement is that there is still police reform money in the police central Government budget for next year. As far as I am aware, there is still money in the police budget for reform.

Margaret Mitchell: There is still a commitment for 1,000 additional police officers and police numbers have been retained, but clearly the number of police support staff has fallen dramatically. The peak period for that number seems to have been 2009, and it has fallen by about 2,000 since then, which is a huge drop. Do you think that the workforce balance is correct?

Derek Penman: My professional view is that Police Scotland needs to have a balanced workforce, which should be the correct number of police officers and the correct number of police support staff working together in the right way in the right places. Police Scotland is going through a transformational change at the moment in which it is developing new structures. Police Scotland is going through a transition just now, but my view is that it needs to reach a state where it has a balanced workforce.

Margaret Mitchell: I have a specific example for you. We know that licensing officers have been downgraded. They had an expert job that reflected their experience, but they have been downgraded at a time when the consumption and sale of alcohol and the new drink-driving limit are very much to the forefront of police policy. What effect will that situation have?

Derek Penman: We have not inspected the licensing aspect, so I am not well sighted on the detail of the proposals that you refer to. Again, for me it would be a high-level issue involving Police Scotland identifying what its requirements are in terms of licensing and new structures for that. For example, if it had eight licensing departments before, what do they look like now moving forward into the new structure? Police Scotland must ensure that it has the appropriate work balance for them. Unfortunately, I cannot comment specifically on the issue because I am not sighted on and have not inspected the licensing function.

Margaret Mitchell: Does that come within your remit?

Derek Penman: It does. We set upon our scrutiny programme in all the areas, and we would be sighted in the work that we do through the transformational change that comes through from Police Scotland to the Scottish Police Authority. However, we have not specifically looked at that area in any detail, so I could not offer a comment in any detail.

10:15

Margaret Mitchell: That is a bit disappointing, as the issue is germane. The police do a very important front-line job, of course, but if they do not have the support staff to support them in doing that job, their effectiveness will potentially be eroded. Licensing—the licensing of various clubs and the renewal of licences—is particularly important in that respect. I imagine that the drink-driving legislation that is going through will potentially have an effect on backroom staff.

Derek Penman: I am aware that Police Scotland has established new regional alcohol and violence reduction units. It centralised its licensing function policy, but I am not sighted on the detail of the mix that you are speaking about. I am not aware of any issues that have been escalated to us through staff associations, Police Scotland or the Scottish Police Authority that suggest that there are any problems or any capacity issues that relate to licensing in Police Scotland. That is why we have not seen it as necessary to inspect that function.

We are sighted on any national changes that Police Scotland pulls together through our processes. If they involve the workforce, it will

produce a business case for that, which will go through internal consultation and then move into the Scottish Police Authority and its human resources committee. We will have some sight of those reports going through.

I am not aware of any issues that have been raised to do with licensing capacity, but I am aware that changes to do with alcohol and violence reduction have been made, and they have had quite an impact.

Margaret Mitchell: Would there have to be an issue before you, as inspector of policing, looked at the matter? Should there not be a broad-brush approach in which a torch is shone into every aspect of Police Scotland?

Derek Penman: That is probably what I am saying, but not very well. We would look across the piece at all Police Scotland's changes. Tina Yule is our lead inspector. Her role is to watch what is happening in Police Scotland on its transformational change and in the Scottish Police Authority. If Police Scotland is developing new licensing proposals, they would be generated by a paper with a business case. If the staff and the mix were being changed, that would generate a paper that would be marshalled through the process. We would pick out anything that we thought was particularly risky, and we could look at that as part of our inspection process.

We also have good links with the staff associations and the unions. My expectation is that any particular areas that caused concern would be flagged up to us. Because of our new inspection programme, we have opportunities throughout the year to look at those things specifically. However, I am not sighted on any issues relating to alcohol and licensing that would have caused us to look more deeply at them.

Margaret Mitchell: I want to move on to campaigns. What budget do the campaigns relating to doorstep sellers, 101 numbers and keeping safe online come from?

Derek Penman: Generally speaking, Police Scotland's budgets are mainly around the resources that are used—the staff costs, in the main. I am not sighted on the level of detail on the budgets. Some budgets will be held divisionally. Overtime budgets might support some of the campaigns. Some money might be released from the centre. Again, I do not have the level of detail about individual campaigns. My take on that is that the budgets would vary. Most of those campaigns involve redeploying existing resources to do the work that is required. Some of that work would require overtime. Perhaps the money should be released from overtime budgets that Police Scotland bids for.

Perhaps the question on the detail of that would be better directed to Police Scotland.

Margaret Mitchell: I am looking more generally at campaigns, public relations, advertising and anything else that might come under that budget. Where is that spending monitored? Where do we see what is spent on protecting Police Scotland's image and promoting that?

Derek Penman: I will ask Tina Yule to talk through the budget controls and processes. In the main, each budget will have a departmental budget for which each of the directors will be responsible, in effect. My take on the matter is that they will be broken down functionally. There is scrutiny of the budget internally in Police Scotland and external scrutiny by the SPA.

The Convener: I do not want you to surmise—forgive me for using that word. Perhaps we could ask Police Scotland where it puts various budgets. Those things might be under miscellaneous, for example—we do not know. I do not know, so let us not expect the chief inspector to know.

Margaret Mitchell: So those budgets would not be looked at to see how much was being spent, whether the amount that was being spent was appropriate, and exactly what it was being spent on.

Derek Penman: The budgets that will come to the Police Authority will effectively be rolled-up higher-level budgets. The level of detail in those budgets will show exactly what the spend is in each department. The communications department will have a salary budget, a media budget and advertising budget, and so on. As I say, I do not have that level of detail here with me at the moment. Police Scotland has internal processes to monitor that and that information will be available.

Margaret Mitchell: So you have not cast your eye over even the headline figure to see whether you think that it is proportionate.

Derek Penman: That has not, up to now, been flagged up as an area that might be of concern to us that we should look at. We do know that the information will be accessible to us through the existing budget lines, so we could find that information if required. I just do not have that detail with me at the moment.

Sandra White: The Audit Scotland report "Police reform: Progress update 2013", which came out in November 2013—not that long ago—recommended that the Scottish Police Authority and Police Scotland should work together to agree strategies for achieving savings. Have you seen any progress in that area?

Derek Penman: Yes, we have. We also have meetings with Audit Scotland to identify areas of

common risk that we would want to scrutinise. I will ask Tina Yule to give some detail around that because she works in that area. We have been quite keen to identify where the transformational changes are coming through from that and we have been looking to do some work on the corporate strategy in particular. We are looking at where the information and communications technology budget has been spent and what changes are being done in the human resources function. I will pass it over to Tina for an overview of the transformational change.

Tina Yule (HM Inspectorate of Constabulary in Scotland): Thank you for the question. Audit Scotland's report looked at financial strategy specifically, identified some gaps and asked for more joint working in future.

We have seen a much improved governance process around finance. Police Scotland's corporate strategy, which was published in March, sets out a fairly detailed financial plan. I do not think that we could call it a financial strategy because it is fairly short to medium term. One of the areas of interest for us and Audit Scotland is the forward financial planning that the SPA and Police Scotland are now engaged in, which is about looking towards the publication of a new strategic policing plan from which the budgetary requirements will flow. They are starting that process of strategic planning now and will be supporting it with some more detailed financial planning. We are aware that plans are in place and a good deal of savings have been identified for 2015-16. They are still looking at a gap and working up proposals for 2015-16, but a good deal of savings have already been identified.

Audit Scotland will make its own assurances through its annual accounts process which will be published imminently, but we can give assurance that planning into next year is taking place and there are early signs of medium to longer-term strategic planning taking place. The SPA and Police Scotland are well organised to do that. They have made the right financial assumptions going forward. They have done quite a lot of scenario planning on different public pay awards, inflation levels and other potentially unknown statutory or legislative pressures that might come along. They have done as much as they can within the resources that they have just now and we will be keenly watching how their medium to longer-term financial sustainability process goes from now on.

Sandra White: Thank you for the detail of your answer. It would be helpful if we could get an update from you and not just from Audit Scotland. I know that it is about savings, but it is also about working together and making better changes in the whole justice service.

I just wanted to flag up a couple of points that I have picked up and ask you whether they are part of working together with regard to the budget and how the money is transferred. There is a £3.2 million transfer to the SPA budget from the police central Government budget that relates to specialised crime divisions in Police Scotland. Do you have any thoughts on that? The other transfer, which all members of the committee welcomed, was the transfer of custody healthcare and forensic medical services to the NHS. That is a real improvement. Would the transfer of money between budgets come under your scrutiny?

Derek Penman: Yes, at a high level. We have just completed our custody inspection. I mentioned custody healthcare; the £7.6 million from there was basically the cost to Police Scotland of providing those services, which was transferred to NHS partners. That is a good example of working together, rather than just shunting things across: the cost had been absorbed by Police Scotland and, when the service moved to the NHS, the money went with it.

We link in with the Police Authority, Police Scotland and the Government on those budget headings. We have sight of where the money is being spent.

Christian Allard: In its written submission, the Scottish Police Federation suggests that local authorities could engage with Police Scotland and dedicate funding to specialist support staff roles in their communities rather than to additional police officers. What is your thinking on that? I know that the police are in a transition period, so it is difficult to answer but, in the future, do you see the possibility of having a shared budget or letting other partners, such as the third sector—and why not the private sector too—get more involved in the kind of thing that Margaret Mitchell talked about?

Derek Penman: Police Scotland has a set budget, which controls the level of resource available. In principle, however, the ability for other partners to come alongside and fund services—such as local authorities funding additional officers—is healthy. Localism is one of the key aspects of police reform. If local authorities want to contribute and have officers doing specific tasks, that is worth discussing.

We need to think about how people work together with the police and communities. I welcome in principle the ability for other agencies to work together with the police, in relation to funding and sharing staff, for the benefit of communities.

Christian Allard: My next question is on the same point—I know that it is difficult to answer because this is a transition period and you need to

be clear about where the money goes. The money that is spent on policing our football grounds has been highlighted and, to the public, it seems that the budget is being overspent or perhaps that the bills are not being paid. Have you thought about how you can ensure that whatever money is spent can be recovered in the future?

Derek Penman: That question is probably better asked of Police Scotland. We scrutinise Police Scotland's spend.

I can reassure you that Police Scotland has pulled together a national policy on recharging. As for football grounds, it has worked hard to establish the number of officers required for football matches. Some football matches up in Aberdeen have gone ahead with no policing, and there is a move towards stewarding. There is definitely something there.

Police Scotland must ensure that it can support community events and recharge as appropriate. It has a charging policy, which the Scottish Police Authority scrutinises. There is a framework that allows for recharging and that is scrutinised to ensure that recharging is done appropriately.

Elaine Murray: Given the reduction in the number of support staff, concerns have been expressed that police officers might be involved in backfilling—stepping in to take on the functions that support staff had. Have you seen any evidence of backfilling in your inspections?

Derek Penman: Not to a great extent. We have checked with Police Scotland and the policy in relation to backfilling is that there is no policy. There is occasional backfilling if it is required to support the operational need. We will be keen to monitor that through our inspection process. We are keen to link in with the unions and staff associations to see to what extent, if any, backfilling takes place.

At our most recent inspection, which was in Fife, the only evidence of backfilling that we saw was officers providing cover for station counters. When a member of support staff was temporarily unavailable, a police officer provided that cover.

10:30

The Convener: Was that an unannounced inspection?

Derek Penman: No. We give three months' notice that we will visit an area. However, we do not say where we will be in that area.

There was flexibility for a staff officer to go out and pop in. In fairness, Police Scotland has given a commitment that offices will be open, and it is meeting that commitment by backfilling with police officers, to some extent.

Another area in which we have seen backfilling is custody. I ask Tina Yule to comment on that.

Tina Yule: We published our custody report in August. It looked extensively at the backfilling process. There is a balance of civilian police custody and security officers and police officers working in custody, and part of the resourcing model is to backfill from local policing with police officers. However, that is not aimed specifically at backfilling for civilian staff; that backfill is for any custody officer, whether civilian or police, to maintain the staffing levels that are required to provide suitable care and welfare for detainees. There is a balance to be struck, and the pressure that we saw was on local policing to provide the resources to backfill for custody.

The pressures are not necessarily attached only to civilian staff and can exist across the piece. Another issue is finding suitable backfill. Backfill is not an automatic process; the right skills and training must be available for some roles. In custody, an untrained officer would not be suitable to backfill. The officers go through fairly extensive training in order to undertake that role.

Backfill can have a few aims, including cover for leave or sickness and meeting the need to balance the numbers of male and female officers. We found that there was not enough female cover for the number of female detainees who were being held, and backfill was required for that. We have seen an interdependence on backfill across the piece.

Derek Penman: We are alert to the issue. Police Scotland has now moved to a single human resources system, and we hope that it will be better able to monitor the extent to which backfilling is taking place. We are about to embark on our inspection in Ayrshire, where we will look specifically at backfilling.

Elaine Murray: So it is not correct to say that there is no backfilling policy. There is a policy on backfilling when it is required.

Tina Yule: In custody, we do not call the approach backfilling. The report talks about a cover arrangement that is part of the core resourcing model. It is a cover arrangement rather than a backfill arrangement, and there is a standing arrangement in local policing. If custody was resourced to cover permanently for all the sick leave and annual leave, it would be overresourced. Police Scotland is using a flexible resourcing model, which is a degree of sophistication that we commend, but that places pressure on both sides of the arrangement to manage the situation within their resource set.

Elaine Murray: We have had a programme of control room closures and the attempted introduction of a common information technology

system. In your inspection role, do you believe that those things are working satisfactorily or do you have concerns about the resources that are available or the effectiveness of the new control rooms?

Derek Penman: Control rooms are an example of a planned project. There is an IT part and an HR part, and the project has been well consulted on. We have taken an interest in whether service levels are being maintained effectively and whether calls are still being managed within the specified time. From what we have seen so far, we think that that is the case.

Tina Yule will speak about how the project is being managed, as she has seen that through the work that she is doing.

Tina Yule: A report to the Scottish Police Authority board on Thursday gave a full update on the progress that has been made on C3. Very good progress is being made. The most recent milestone was the interconnectivity of the Glasgow and Edinburgh control rooms, whereby calls can be transferred automatically between the two to allow plenty of resource.

The impact is being monitored carefully, particularly in places such as Dumfries and Galloway. The SPA scrutinised quite intensively the impact on staff who were displaced by that move and the maintenance of our service levels for 101 and 999 calls in the Dumfries and Galloway area now that the service centre has moved. It is carefully monitoring the benefits, the cost savings and the impact on individual staff as part of C3, and it is actively engaging with the staff associations to manage that.

The technology process is also going well. The interconnectivity between the two main centres in the central belt was a major ICT project. We are impressed that that has been achieved exactly on time and as predicted. There is good assurance that the process will continue apace as planned and be managed effectively.

Elaine Murray: One concern was that, if staff were not local, they might not know the name of the place where an incident had happened. It might have an unusual name or be in a remote, rural location that staff are not familiar with. The police might not be able to attend quickly if there was uncertainty about where an incident had taken place. Will you monitor whether there have been problems such as that?

Tina Yule: Although we are not monitoring that, we picked up in the reporting and scrutiny process the fact that there is intensive scrutiny of the number of complaints about people not picking up and that call-backs are being done to verify whether the resolution at first point of contact worked effectively. If a call has to be referred to

someone else, it is either a specialist call or it could not be resolved because of a lack of knowledge. The situation is being monitored carefully.

Elaine Murray: That has a resource implication.

Tina Yule: Yes. Police Scotland and the SPA could probably answer in more detail.

The Convener: I am glad that you keep mentioning resources. Obviously, there is a direct interaction between service levels and resourcing. We need to keep the focus on resourcing.

Roderick Campbell: I am interested in your comments in your “Local Policing + Pilot Inspection of Fife Division” report about the working hours of senior staff. I note that you record

“concerns over resilience within the senior team, with all superintending ranks reporting that they routinely worked between 50 and 60 hours per week.”

You then refer to a survey by the Association of Scottish Police Superintendents. We have an ASPS representative in the next panel. Is what you describe a pattern throughout Scotland? What impact, if any, has a reduction in funding had on the situation?

Derek Penman: I am not sure whether the situation is to do with the reduction in funding or is the inevitable consequence of new structures. The number of superintending ranks and chief officer ranks has dropped across the country. By definition, some of that responsibility gets pushed down, particularly to divisional staff. We are 18 months into reform and we have new structures and new people undertaking new roles. People are working hard to develop and maintain the new structures.

The comment in our report was very much about sustainability. We had concerns that long working hours should not become part of the culture—either expected or needed. Police Scotland needs to ensure that its senior managers have an appropriate work balance and are not being constrained to work long hours because of unrealistic expectations on them.

Roderick Campbell: You also referred to morale issues. I noticed that there is a paragraph describing the previous Fife Constabulary as having a “family feel” about it in the view of officers and police staff. Those staff had felt

“a loss of identity within the division.”

While I think that I can understand that, does that have any kind of financial aspect?

Derek Penman: We took the first opportunity that we could to look at morale, which arose in the local policing inspection in Fife. We were keen to understand staff morale. We link into staff

associations as well. As we said in the report, there are inevitable consequences when something—in this case Fife Constabulary—becomes something else. There is uncertainty about change, which has an impact on people and is unsettling for them.

We also picked up on police pensions issues that were causing angst among staff. New structures and approaches are being rolled out so, when all that is mixed together, it is inevitable that so much change will have an impact on people who were in a steady state before.

The recommendation for Police Scotland was about the need to speak to staff, engage with them and make them part of the change process. Improving engagement with staff will have a positive impact on morale. We were also keen for Police Scotland to look at its staff engagement survey and bring it forward for the whole of Scotland, so that the organisation and the authority have some indication of what staff think and how they feel. We are aware that Police Scotland and the authority will be doing joint work on that in the spring of next year.

The extent to which the situation is tied to resources or a lack of resources is difficult to pinpoint, because some of it might just be about new structures that have not yet been put in place or messages that have not been communicated as well as they could be. We are about to do work in Ayrshire, so we shall see what morale issues there are there. That could be interesting, because the set-up that exists in Ayrshire is a legacy of the Strathclyde force, so we can find out whether it is in a steadier state than some of the legacy forces might have been.

Roderick Campbell: On a separate issue, the committee recommended last year that budgets be devolved to local or even ward level to coincide with local and ward police plans. Have you seen any evidence in your investigations to date of the devolution of budgets to that local level?

Derek Penman: No. As I said earlier, the only things that are devolved meaningfully are overtime budgets. Given the time for which Police Scotland has been in operation, the constraints on finances and the need to control staffing levels centrally and maintain minimum numbers of police officers, it would be difficult to devolve some budgets. I hope that, once we are in a steadier state, there will be opportunities to devolve budgets further.

We need to align resources with priorities and to have flexibility for commanders to devolve resources to local priorities. At the moment, they can do that by directing officers to go and do the work, but tracking the money back to what gets spent against certain priorities is quite difficult to do just now.

Alison McInnes: Returning to your answer about staff morale, we know that morale continues to be low in the new force and that the numbers leaving are higher than we would like. What risks face the force in the forthcoming year as it strives to make the additional savings that need to be made? Would you support calls for a review of the timetable for reform to allow the new service to take a more cautious, co-operative and perhaps inclusive approach to the change?

Derek Penman: Police Scotland has done remarkably well in balancing the budget in the first year, and all the indications are that the current year will come in on budget as predicted. However, in year 3—the budget that you are considering now—it becomes altogether more challenging. When 91 per cent of the police budget relates to staff, there is limited flexibility. That is my take on it.

As well as the savings that we inherited from reform, there are additional cost pressures, and adding them together makes things much more challenging. I am sure that Police Scotland will speak for itself in evidence, but the view of the chief constable seems to be that it is becoming more challenging as we move forward. From our perspective, the current challenge is getting sustainable changes and deciding how to make the budget balance in 2015-16. That is a level of detail that we have not yet seen, either, so it is difficult to comment in general terms on how challenging it will be for the police and what they intend to do.

Alison McInnes: Can I press you on the risks that you think there are on that? At what point might you raise a flag and say, “We just need to slow down here.”?

10:45

Derek Penman: The obvious risks are about the extent to which, in order to make more savings, the police might have to lose more staff, if that is where the savings would come from. Alternatively, they might start to cut inappropriately into the other 10 per cent of the budget, which would start to have an impact on operational effectiveness. That is what we would be interested in. The most obvious example of how that would manifest is around police performance. That might be shown through falling service and public satisfaction levels.

We are keen to work with Police Scotland to see where it intends to make changes and where the savings will come from. It is incumbent on the Scottish Police Authority to hold the chief constable to account on the impact of the budget; it would also be helpful to have some of the issues discussed publicly.

Alison McInnes: Are you aware of the sickness absence levels? Are the levels being monitored?

Derek Penman: The sickness absence levels are monitored closely by Police Scotland internally and by the Scottish Police Authority. I do not have the exact absence management figures to hand, but my understanding is that the levels are increasing modestly.

Alison McInnes: Absence levels are sometimes a useful litmus test of an organisation's health.

I will explore another issue in which I am interested. We know that the closure of public counters in police stations and emergency control rooms caused a lot of anger, and that there was only retrospective consultation. Will the budget pressures lead to further centralisation and change in the estate? Have you seen any evidence that Police Scotland has learned the lesson that it needs to talk to people in advance of making decisions?

Derek Penman: There are a couple of points to cover in relation to that. One area where significant savings are to be made is estates. The estates strategy is being worked on and will go to the Police Authority. Part of that might be about where local offices should continue to exist. Another part might be about Police Scotland being creative and, rather than close offices, co-locate police officers in other areas in order to save property costs while ensuring that they are still available to local communities. I am sure that Police Scotland will explore such issues as it looks to develop savings.

Inevitably, there will be difficult budget choices. It is key that, as you alluded to, when the savings are proposed, Police Scotland consults meaningfully and engages local authorities in advance. I know that there has been a lot of discussion between the chief constable and the Police Authority on the consultation process and on the role that the Police Authority will take.

Last week, I listened to the chief constable speak at the Police Authority meeting. He identified issues on which he could have consulted more and on which he intends to consult more in future.

Alison McInnes: Thank you.

John Pentland: I want to follow up on the dialogue between the local area commander and the local authority. As you are probably aware, the burden of policing is falling more and more on local authorities. The removal of traffic wardens is a good example of that, with local authorities being asked to pick up the role.

The Scottish Police Federation has requested in its written submission that, rather than local

authorities putting any additional funding towards police officers, they should put it towards support staff. Is it right to do that?

Derek Penman: A conversation needs to be had between local authorities and Police Scotland about how they can best protect their communities. I do not want to be drawn into what gets funding where. We are keen on local policing and empowerment of local commanders. It is probably worth having a dialogue between a local authority and the local commander about how the authority might support policing financially and in a way that is appropriate for that authority. I am not sure that I would want to generalise about what local authorities would look to fund or not fund.

John Pentland: Surely, you would agree that local authorities are under the same financial constraints as Police Scotland. You must have a view on why the local authority should take up the burden of Police Scotland's efficiency cuts.

Derek Penman: My take is that local authorities should not take up that burden. I gave an example on health. Healthcare was a cost to policing, but it was transferred to the NHS and the funding went with it, so there was no cost shunting. There is a principle in that. The traffic warden issue has an aspect about responsibility and the legislation that is in place on that.

The overarching issue is that there must be meaningful engagement between Police Scotland and local authorities. Rather than bodies trying to shunt on costs, there must be proper and effective dialogue on what needs to be provided and who is best to provide it.

John Pentland: As you all probably know, the Scottish Government has a commitment to 1,000 additional police officers. Given what Audit Scotland said in its report about the need for the Scottish Government to be more focused in its approach, do you think that that figure is sustainable?

The Convener: That is more of a political question. Perhaps it could be answered with regard to how it impacts on the budget.

John Pentland: I think that it is a relevant question.

The Convener: It concerns a political decision rather than—

John Pentland: That may be your take, but it is not mine.

The Convener: Well, it is a political decision.

John Pentland: I am asking whether the provision of 1,000 extra police officers is sustainable. Obviously, there has been a significant impact on the backroom staff. Given the

present climate, do you think that maintaining that level of extra police officers is sustainable?

Derek Penman: My take is that it will be challenging. As I said, 91 per cent of the budget is for staff costs, and there is flexibility within that. The provision of 1,000 extra police officers is a good thing, in as much as there are additional officers on the street. It continues to be a good thing, provided that those officers are being used for policing purposes. If those officers are being used to perform other roles and are having less of an impact, that is the point at which it becomes less sustainable.

John Finnie: I have a question about information technology systems. There is a role for the authority, but there are implications for the police. With regard to capital reform, we understand that £10 million has been transferred from the operating budget to meet the costs of information and communication technology systems—I assume that that concerns the helpfully named i6 and C3. Are there any disasters looming that we need to know about, given the history of ICT in the police service?

Derek Penman: ICT is incredibly challenging in the public sector in general, and the police service's need to harmonise eight legacy systems and international systems is particularly challenging and particularly expensive.

The major project is i6, which I know has been of interest to the committee. The indications that we are picking up are that the project has been managed well and that, although there is some slippage, that has been taken care of. There is a high level of confidence about the project being delivered.

There is also additional ICT spend on things such as C3, which concerns control room technology. Some of that is now starting to be implemented.

Tina Yule has been involved in the ICT side of Police Scotland and can talk about some of the governance issues on ICT, in order to give you some confidence.

Tina Yule: There has been quite an increase in governance of ICT. The SPA has implemented an ICT scrutiny forum and is introducing further reporting into its financial committee to monitor that capital spend to further improve governance of exactly what the capital money is being spent on and whether the projects are being delivered to schedule.

There is individual governance of each of the projects as well as the ICT programme in total, and a good proportion of reform money is being spent on ICT, primarily because Police Scotland recognises that ICT is a key enabler of

transformational change that can support savings. The flagship programme is i6. Following initial issues with i6 with regard to the specification, Police Scotland has genuinely got into a position in which it and its supplier are confident about guaranteeing delivery to timescale.

John Finnie: They are talking to each other again, are they?

Tina Yule: There is good communication and governance. Strong control is being exhibited by Police Scotland in terms of adherence to milestones, and it is withholding milestone payments until it is satisfied. It also has external assurance through consultancy and the independent gateway review process, as well as through the inspectorate. There is now a good degree of scrutiny of ICT issues, and there is a good deal of capacity in place to deliver the programme.

We believe that the capacity could increase for ICT because, if Police Scotland wants to further progress transformational change to deliver some of the challenging savings, ICT is one of the obvious paths. That would increase the pressure on the ICT resources and the capital funding in the future. However, it is for Police Scotland to say what other ICT programmes it wants to bring forward in that case.

Christian Allard: I have a brief question about police pensions. Is that the elephant in the room? Is it the biggest concern that you have, particularly in the context of the police reform budget for 2015-16?

Derek Penman: That is probably a question that I cannot answer. It is probably best directed to the SPA and Police Scotland's finance directors. My understanding is that the element of pension is taken out of the operational budget and is met from elsewhere.

The Convener: The SPA is looking at the police budget and service delivery, but you are doing that, too. How has the establishment of the SPA impacted on the role of the chief inspector in that regard?

Derek Penman: Our role is to work effectively alongside the SPA in its scrutiny role. Audit Scotland also has a role to play with regard to best value and police finance, and we have a memorandum of understanding with it. For example, Audit Scotland does the detailed work on financial accounting and the annual accounts, and we have meetings with it on financial risk.

Although we do not scrutinise the finance in our inspection activity, we look to monitor the budgets and we sit in on SPA and Police Scotland meetings so that we are aware of the business cases and budget papers that are being dealt with,

and we can comment on them and provide support.

We do not duplicate work. We work alongside the SPA and watch and support it in relation to its governance. If we identify areas of risk, we can pick up on them individually.

The Convener: Do you mean areas of risk for Police Scotland or for the SPA?

Derek Penman: Both, effectively. The SPA's chief executive is the accountable officer for the police budget, so the director of finance works closely with the finance lead in the SPA. Again, we are sighted on that, because we attend and observe private and public meetings of the SPA so that we can see how the budget is being governed. If we are concerned about an area, we can do some scrutiny of that or we can speak to Audit Scotland, if it is more appropriate for it to do that.

We do not both do the same thing. We watch the SPA to see how it governs Police Scotland, and we see how Police Scotland reports to it.

The Convener: That is helpful. I was beginning to suspect that there might be too many cooks busily making the broth. However, you are telling me that the activity is complementary.

Derek Penman: Indeed. We help the authority to exert effective financial scrutiny with regard to the strategic management of Police Scotland. Because we are sighted on that, we can take a view about how effective that is and can support it or inspect it, depending on what is needed.

The Convener: That is while maintaining your independence.

Derek Penman: Yes.

The Convener: Thanks.

We will now have a five-minute suspension.

10:58

Meeting suspended.

11:03

On resuming—

The Convener: We are back in business. I welcome our second panel of witnesses on the budget process: Chief Superintendent Niven Rennie, president of the Association of Scottish Police Superintendents; and Stevie Diamond, police staff Scotland branch, Unison.

As usual, I go straight to questions.

Margaret Mitchell: Good morning. Police numbers are being protected and increased, but,

as far as I can see from the figures, support staff numbers have decreased by 2,035 since December 2009. Is the workforce balance correct?

The Convener: Our witnesses have been here before, so you know that if you indicate to me, I will call you. Mr Diamond?

Stevie Diamond (Unison): No.

The Convener: Oh. Were you not indicating?

Stevie Diamond: I was indicating that my answer is no, the workforce balance is absolutely not correct. There has been much play of the 17,234 figure, which is a political number that has been put in place to maintain police officer numbers. However, Police Scotland is not made up of 17,234 people; at the moment, Police Scotland is made up of around 23,000 people who deliver the service to the people of Scotland.

Our view is that we should have a balanced workforce. Our staff and our officers should be assigned to the jobs that they are there to do. We need some sort of review of Police Scotland's work, to establish exactly how many police officers and how many staff we need to carry out the role that Police Scotland is there to do.

Margaret Mitchell: Perhaps—sorry, I always get my ranks wrong. I do not want to demote or promote you.

Chief Superintendent Niven Rennie (Association of Scottish Police Superintendents): I am chief superintendent.

Margaret Mitchell: Chief superintendent.

The Convener: CS means chief superintendent, not chief constable.

Margaret Mitchell: You live in hope, though, do you not, Chief Superintendent Rennie?

I ask you the same question.

Chief Superintendent Rennie: I agree with Steven Diamond. Our association tends to support a balanced workforce; we have always argued for that. It is always good to have as many police officers available to us as possible and we have supported the 17,234 figure.

There is a wider political discussion. We maintain our education budget on a flat line, we increase our health budget, but we cut justice. Those decisions are about prioritisation—that is right and proper—but when we make cuts and reduce the amount of money we cannot expect police to deliver the same service as previously.

Reform has helped and a transformational change will help, but there has to be a realistic expectation of what we want the police to deliver. When we try to save money around the margins without reducing staff numbers, the issue

becomes one of closing control rooms and police office counters. When we try to use our resources in different ways, the issue then becomes one of police wearing firearms.

We need to have a wider discussion of what we expect the police to do and what we want the police to do, and then fund appropriately.

Margaret Mitchell: So you would support a review of the workforce balance.

Chief Superintendent Rennie: Yes. We have gone a long way over the years to stop police officers thinking that they are architects or lawyers. We employ people to do those things.

The Convener: How did that happen?

Chief Superintendent Rennie: Long may it continue that we have the right people in the right jobs and that police officers use their warranted powers and the skill sets that they have.

Margaret Mitchell: Are you aware of any particular issue with licensing? I think that there has been a downgrading of staff. Licensing is an expert kind of job, given the importance of the control of alcohol at various levels. Are you aware of any issues there?

Stevie Diamond: That is quite a common theme throughout the restructuring of Police Scotland. There has been not only a reduction in the numbers of staff but a deskilling of staff as well. Some staff roles have been given to police officers.

Licensing is one example, and another is legal document serving—the serving of citations on members of the public. There were 69 legal document officers across the country and the proposal was to do away with that service completely and put responsibility for serving citations back to front-line police officers. That proposal will be implemented in December, but we have managed to take the administrative part of citation serving, where citations are recorded—some of them are time critical—and put that back to police staff. However, that involved another downgrading of their role. The part of citation serving that involved meeting members of the public was taken from staff, which downgraded their role by one full grade.

That is quite a common theme throughout: not only are police staff numbers decreasing, but their roles are diminishing.

Chief Superintendent Rennie: I reiterate that if 91 per cent of our budget goes on staff and we have a huge amount of savings to make, we will change the way that we operate, to try to make the savings.

Our members have felt the pain as well. We heard earlier from HMI that our numbers have

been reduced, and the work does not go away. In an ideal world, staff, not police officers, would serve citations, but savings have to be made somewhere and, as the budget gets cut, more tough decisions must be taken in that way.

Margaret Mitchell: I suppose that we are looking at the balance. To what extent is having the increased number of police officers ensuring that police are doing the traditional prevention and detection of crime role that we expect of them? Are they taking on duties that are traditionally associated more with support staff, if not backfilling in those areas?

Chief Superintendent Rennie: For a long time, the police service tried to meet all the public's expectations, but there has to come a stage when we say that we cannot continue to operate in that way.

We heard earlier about traffic wardens. That was an appropriate discussion—we cannot be expected to fulfil everything that society requires. Just last week, the chief constable announced at the SPA meeting that 100 extra officers were being given to child abuse inquiries. We continue to create squads and we continue to meet the public's expectations, but at some point we will be unable to do that. Expectations must be realistic.

Stevie Diamond: To be honest, I have to agree with most of that. However, we have to look at the appropriateness of the roles. If we have 100 roles, why do they necessarily have to be filled by 100 officers? Are there intelligence roles that could be appropriately carried out by members of staff, which would free up the officers to do their warranted roles?

Again, it is part of that bigger debate about how we actually go about policing, the public's perception of what a front-line police officer is, and what support can be given to that officer to carry out their role.

Margaret Mitchell: Are you aware of any increase in the budget for campaigns—some of them have been very positive—PR and advertising having an impact? Has that come across your members' desks? I am talking about the money that is spent on campaigns as opposed to more front-line, direct policing.

Stevie Diamond: I do not know what the budget is for campaigns. I think that Police Scotland has made much more intelligent use of such things as social media, which, to be perfectly honest, is cheaper. However, that is not the be-all and end-all. More positive communication and more face-to-face communication is probably as good a way to go. Not everyone is social media savvy, although we place quite a heavy emphasis on social media. Sometimes, interaction with a police officer on the street is much more positive.

However, if there is a reduction in the number of officers on the street because they are backfilling—for want of a better word—the roles of staff, that obviously has a negative impact.

Chief Superintendent Rennie: Similarly, I do not have the figures at my fingertips. However, if we change to a 101 number for efficiency reasons, there is a need to publicise that so that the public know to use it. There is quite an appropriate use of spend, but I do not know the level.

The Convener: I have used the 101 number—it is very good. Somebody blocked my driveway and I could not get out for two hours.

Elaine Murray: I will ask the same question that I asked the previous panel. Do you have evidence of backfilling of support staff positions by front-line officers? Mr Penman said that he had not detected much of that happening and that his announced inspection in Fife had not detected much of it, although Tina Yule said that there was some evidence of what is called “cover” in custody cases. What is your view on that?

Stevie Diamond: My view is very different from Mr Penman's, I am afraid. An example is the C3 strategic document that was announced in January. We do not call it “backfilling” in the C3 strategic document; we call it “workforce rebalancing”—the suggestion therefore being that it was not balanced in the first place. C3 proposes a split in the workforce, with 55 per cent members of staff and 45 per cent police officers. I am aware of only one police control room in Scotland that was made up entirely of police officers. The rest were made up of under 30 per cent police officers to 70 per cent police staff. That proposal is a rebalancing, which suggests to me that police staff numbers will decrease and police officer numbers will increase.

You may say that police officers bring experience into control rooms, but the control room in Dumfries, for example, was 100 per cent police staff. I did not see any degradation of service there; in fact, I believe that staff were commended for the service that they gave members of the public. I feel that that is a false argument.

Mr Penman also said that the HR system to co-ordinate personnel and establishment—SCOPE—would be able to identify whether police officers were backfilling on a permanent basis. Part of the budget document that Police Scotland put forward mentioned that efforts had been made to reduce the deficit by not employing new people whenever a vacancy arose. However, the work is still there to be done and I am sure that you can imagine who will be doing that work—police officers will be put in. They will not necessarily be registered in that particular role but if there is work to be done,

there has to be someone there to do it, and that will generally be a police officer.

11:15

Chief Superintendent Rennie: My members do not raise that issue with me as regularly as Stevie Diamond's members raise it with him, but I reiterate that, if there is a cut to a budget in which 91 per cent of the money is for staffing, some of those staff will have to be released. It has been traditional in the police service across the UK to stop recruiting, which means that police officer numbers drop, but that has not happened here for a variety of reasons. Voluntary redundancy was used and we have, regrettably, seen a cutback in the number of support staff that we have. The job still has to be done, however, and logic dictates that more police officers will perform those functions. We would like to see the situation rebalanced.

Elaine Murray: That has a resource implication, as police officer salaries are higher than the salaries of support staff.

Chief Superintendent Rennie: To a certain extent—it depends on what role they are performing and who is performing it. The starting salary for a police officer, in real terms, is considerably higher than it used to be.

The Convener: What is the starting salary of a police officer?

Chief Superintendent Rennie: I think that it is around £20,000. It then continues to rise as they go through their probationary period and out the other side. Given inflation and suchlike, it is a lot more in comparison with what it used to be.

The Convener: What is the starting salary of support staff? That is maybe too broad a question.

Stevie Diamond: It is about £15,000. To put that into perspective, around 60 per cent of police staff earn under £21,000.

Elaine Murray: We touched on control rooms with the previous panel. There is concern that those in the new control rooms might not have the local knowledge of those in the previous control rooms, such as the Dumfries control room, and that, therefore, information will have to be transferred to local police officers so that they can identify where incidents are taking place. Do you have any evidence of that happening? Have any issues been raised with you about the efficiency of that system? It has a resource implication if it puts an additional burden on police officers to resolve such issues.

Stevie Diamond: To be honest, I have heard nothing specific about location. However, the people who have taken on the work from Dumfries

are our members and they have been given an extra burden. They have to try to work out the location of incidents, and I am not going to say that there will not be difficulties in that regard—that would be the case anywhere in Scotland. They receive technological assistance, but if someone is unaware of where they are—say they have come across a road crash on a remote road—it is difficult in any case to find that location. It would possibly be easier for someone with local knowledge, who may recognise a local landmark or something, to do that than it would be for someone who did not have that knowledge and was unable to zoom in on an electronic map of the location or whatever. There will be issues around that. However, the staff who are in place to deal with such matters have had training that will assist them in finding locations.

Elaine Murray: The previous panel seemed to be reasonably content with the progress that has been made on the IT systems that support such activity. Are the IT systems appropriate and developing quickly enough, or do you believe that more resources are required to make them more effective?

Chief Superintendent Rennie: Can I first address your question on the control rooms? We went from eight forces into one, so it should not come as any great surprise that we tried to amalgamate some of the services that were duplicating effort—that was one of the reasons for reform. I am not aware of any instances of wrong locations having been given. For a number of years, control rooms across Scotland have been closing or becoming larger, so it has not suddenly become a relevant issue.

I reiterate what Mr Penman said about IT. Our association was very critical of the way in which the Association of Chief Police Officers in Scotland organised its IT. I do not think that we would ever have got national IT systems without a national force, and that was one of the reasons why we supported the creation of a national force. A lot of the savings from the reform are based on it being a success. I regularly attend programme board meetings, and from what I have seen it is being very well managed and a great deal of scrutiny is being given to it at all levels to ensure that we do not have the problems that we have had with previous public sector IT projects. Given the knowledge that I have now, I am confident that the programme is going to deliver.

John Pentland: Mr Diamond, the Scottish Police Federation has suggested that local authorities take up support roles. Is that the way forward or would you object to that?

Stevie Diamond: That would take us back to the 1970s, when members of police staff were employed by local authorities. Policing has moved

on since then and members of police staff are—or should be—much more integrated into the policing team, rather than being separated out.

That is not to say that we should not look at partnership working in the future, and perhaps it is in place in some areas, but we should be equal partners rather than having funding directly run by local authorities. As I pointed out earlier, everyone is under budgetary constraints and we should be looking at things carefully. However, policing is a much more specialised beast than it was in the 1970s and 1980s.

John Pentland: Over the past two or three years, we have seen staff numbers reduce by 1,500 to 2,000 and we are moving into a further efficiency drive. What is the likely impact of that on your members?

Stevie Diamond: Unison's view is that it will be catastrophic. We have not identified where the savings are going to come from in 2015-16. However, the running costs of the organisation account for 10 per cent and staffing costs account for 90 per cent. Of that 90 per cent, 15 per cent is for police staff and the rest is for police officers—and that is ring fenced. It does not take a genius to work out where the savings are going to come from. It is our members who will suffer.

The Convener: Alison McInnes has a supplementary question.

Alison McInnes: You say that it is your members who will suffer. Surely it is the people of Scotland and the service that is provided to them that will suffer if, as Chief Superintendent Rennie said, police officers are not equipped and trained to do those jobs.

Stevie Diamond: I have to agree with you. We have a limited budget, and we have a duty of best value. I am afraid that we are not achieving best value, because we have ring fenced one major part of the workforce. That is not to say that we should be paying off police officers, but we need to look at how we work that workforce.

We went from nine organisations down to one, and we reduced nine sets of senior management down to one, yet we maintained the numbers. A business that reduced nine lots of senior management teams down to one would take the numbers down, but that did not happen. There was a de-layering of sorts, but the money has been put elsewhere in the organisation to maintain the numbers, and the resource is much more expensive than it would have been if we were using police staff in that respect.

The Convener: John, do you want to come in on that?

John Finnie: Yes. Mr Diamond, that is perhaps the case at the local level, but I certainly

welcomed the considerable reduction in the number of chief officer ranks. I thought that the service was much the richer for that. It was the case that there was quite a removal of ranks at chief officer level.

Stevie Diamond: Yes. What I meant was that the 17,234 should perhaps have been reduced by the commensurate number rather than being maintained.

I think that everyone welcomes a high number of police officers, but when we have a budget to meet, we have to use our resources in the most appropriate way. Is it appropriate to maintain one highly paid set of individuals as opposed to having a better-value, more focused set? I think that the second option is a better one.

Chief Superintendent Rennie: I add that our members also saw a decrease. We possibly have a larger SPA than we expected, and a larger PIRC. It is right and proper that we are scrutinised, but we should also examine what element of the savings from reform have gone to create other organisations.

John Finnie: It was certainly the case that the chief officers staff association cost £5 million to run. That £5 million should have been—and it is now being—deployed on operational policing.

Chief Superintendent Rennie: Indeed, but again it is a wider issue. If we are truly to make savings, we need transformational change. We should not take a short-termist approach to reach a budget. We should look at how we operate as a service, considering, as Stevie Diamond said, what services we perform and who performs them, and making long-term savings. That work is still to be done, to a certain extent.

The Convener: I call Sandra White, to be followed by Roderick Campbell and then John Finnie, unless he has something else—

John Finnie: I have a question related to that—

The Convener: No, you had your wee bite there. I will come back to you.

Sandra White: I must admit that I concur with the comments that John Finnie made.

Can you tell me what PIRC is?

Chief Superintendent Rennie: PIRC is the Police Investigations and Review Commissioner—the people who investigate the police when there is a complaint.

Sandra White: Two of the issues that you raised, Chief Superintendent Rennie—I hope that is your title; I am not too sure—are that the SPA is too big and that PIRC—

Chief Superintendent Rennie: I am not saying that they are too big. I am saying that, when we reduced the eight forces into one, we identified savings. There is a perception that some of the savings have been allocated to the directorships—within the SPA, for example. We think that it is not just the service but the wider area of the bodies that have grown since reform that need to be looked at.

Sandra White: I am sure that we will ask questions of the two gentlemen from the SPA who will come before the committee next week.

I want to ask you a similar question to the one I asked the previous panel on the Audit Scotland report and working together. I gave the example earlier of money being taken from police budgets and put into health budgets. I think that all of us in the committee supported the money being given to the NHS rather than custody healthcare being delivered separately. I think that I can presume that your answer to my next question is no—given some of the comments that you have both already made—but were either of you involved in any of the discussions related to consultation and strategies to achieve budgetary savings?

Chief Superintendent Rennie: Not recently, but some time ago our association started a dialogue to discuss why the police service was providing healthcare. It was in a 1957 circular; it had been happening for years. It was an appropriate discussion, and the right decision was taken. As was mentioned earlier, some of the police budget has gone across to the health budget as a result, and that is the proper way for that healthcare to be managed.

Sandra White: I was going to say that 1957 is a wee bit before my time, but never mind.

Have the ASPS and Unison been involved in any of the talks about the strategies on healthcare, forensic science or the increase in police pensions? The increase must be something that you have welcomed.

Chief Superintendent Rennie: I will break those down. It is not appropriate for us to be involved in some of those talks, as they are decisions for the force and the SPA, although our members may be involved in some of the discussions. We will be informed of the strategy and we will be kept updated about developments, which is right and proper. Contributing to discussions, however, is not something that we as an association would do per se.

On pensions, one of the fundamental reasons for our existence is to look after the terms and conditions and the welfare of our members. As you are aware, pensions are largely discussed at a UK level and are not devolved. We are kept updated on the pension dialogue and contribute to

it through representation by one of my colleagues in England and Wales.

Sandra White: There has been an increase of 4.4 per cent and it has been awarded. You mentioned England; there was a lot of disruption there—let us put it that way—because the increase was not accepted by the Westminster Government. I am not going to come with an argument; I am just pointing out that money in the police budget has been put forward by the Scottish Government to police pensions. I assume that that would be welcomed.

Mr Diamond, do you have any dialogue with HMIC, Police Scotland or the SPA on the budget?

Stevie Diamond: In general, we are told. *[Laughter.]*

My answer is similar to Niven Rennie's answer—it is not appropriate for us to be involved in some discussions as they are the organisations' decisions to make. If we see an issue with an organisational decision after it is made, that is when we become involved. I must say that things have moved on and we are involved much earlier in the conversations now, so the result is not as much of a *fait accompli*. There is still room for improvement, but the decision is not for us to make—otherwise we would have made that right decision.

Sandra White: I am glad that you are engaging slightly earlier. What actions can you take if you are unhappy with what comes forward from Police Scotland regarding the issues you have raised here today? Is there any action that you can take to give your feedback?

Stevie Diamond: Absolutely—we will feed back to Police Scotland as part of our engagement with the consultative process. We demonstrated that engagement this week by submitting a paper on the C3—contact, command and control—proposals to the Scottish Police Authority. We are also able to raise our concerns with elected members.

11:30

Sandra White: Thank you. I want to ask you, convener—

The Convener: I am not giving evidence, although that could be interesting.

Sandra White: No—I just wanted to make a request. Mr Diamond just mentioned that he had submitted a paper on the C3 proposals to the SPA. We will hear evidence from the SPA, so can we ask for a copy of that paper?

The Convener: Sorry—what are you asking, Sandra?

Sandra White: Mr Diamond said that the trade unions have produced a paper on the budget to present their thoughts on the changes for the SPA. Can we ask for a copy of that paper?

The Convener: I am just wondering whether it is a public paper. Is it?

Stevie Diamond: No—it was presented in private, I believe. It would be for the SPA to decide whether it was willing to disclose that information.

The Convener: Yes—we can ask anyway. If the paper relates to a bilateral negotiation, you would perhaps want both parties to agree to disclosure.

Stevie Diamond: Yes.

The Convener: I understand that.

Sandra White: That is fine, convener.

The Convener: That is on the record.

John Pentland: Convener, I have a supplementary. Mr Diamond, did the consultation paper that you sent to the SPA have any influence on the decision that was taken?

Stevie Diamond: It informed a meeting—that is the best way of putting it.

The Convener: That is wonderfully diplomatic.

Stevie Diamond: Thank you.

The Convener: I have been diplomatic too, as John Pentland just leapt in without permission. I have been so diplomatic—I must keep on taking my pills.

If we can get the paper, we will get it. I understand that there is a certain discretion in that respect, not only from the SPA but from you, Mr Diamond, if I am reading between the lines correctly. I see that you are nodding.

Does John Pentland still want to come in?

John Pentland: No—you can take me out now, convener.

The Convener: That is good—I will delete you.

Roderick Campbell can go next, followed by John Finnie and Alison McInnes.

Roderick Campbell: Good morning, gentlemen. The Association of Scottish Police Superintendents survey found that long hours are a matter of routine and are a growing problem that impacts on the quality of life, resilience and health of senior officers. We know from the SPA finance report that the police staff salary budget was overspent by £0.152 million, of which £0.1485 million seems to be the cost of SPA corporate staff. We also know that there has been an overspend in the costs for overtime for police officers. I am trying to reconcile those two pieces of evidence.

Chief Superintendent Rennie:

Superintendents are not paid overtime, so that perhaps partly reconciles the evidence.

All joking aside, I have real and significant concerns about the workload of my members. We have reduced the numbers of superintendents considerably through reform without really measuring what has been left for the remainder to carry.

Our survey, to which you referred, has shown that long hours are the norm for the vast majority of our members. They are on call when they are not actually working, with calls throughout the night, and they are expected to be at their desk at 7 o'clock the following morning. There is a lot of travel involved in going to meetings. Over and above that, they report that they cannot take their rest days or their annual leave and—more worryingly—that, when they feel sick, they would rather use annual leave than report in sick.

We have highlighted that culture to the force, and I have written again to the director of human resources in the past week to say that we need to do something about it, because my members are carrying an intolerable burden.

Roderick Campbell: Mr Diamond, do you want to comment on those issues as far as they have impacted on your members?

Stevie Diamond: The situation is similar for us. Whenever staff are feeling under pressure, they will do anything that they can to make it known that they are the right person for the job. Most of our staff qualify for overtime, but a lot of it will be paid in time rather than money. There are real pressures on staff to perform and fill in the gaps that have been left by people leaving or by roles not being filled.

I am surprised, to be perfectly honest, that the sickness absence rate has not increased considerably more. That has been the experience previously, as people just burn themselves out. That may be coming in the very near future.

Roderick Campbell: Mr Rennie—or rather, Chief Superintendent Rennie; I will get it right eventually.

The Convener: Do not take any of this personally.

Chief Superintendent Rennie: I am well used to it.

Roderick Campbell: Do you feel that Police Scotland and the SPA are receptive to the comments that your organisation is making?

Chief Superintendent Rennie: At a certain level they are. We have had acknowledgement from the chief constable, and from the director of HR at various meetings, that there is a problem as

our survey has shown. It is slightly worrying for us, however, that it is now six months since the survey was produced and there has not even been a meeting to discuss how we are going to tackle the issues. The demand goes on, and my members continue to be stretched, and we do not see any tangible action being taken to address the problem.

The Convener: I have Alison McInnes on my list next.

Margaret Mitchell: Can I ask a supplementary?

The Convener: I will take Alison first, as she has not been in yet, and then I will let you in with a supplementary.

Alison McInnes: Thank you, convener. I am concerned by the starkness of what you have just said, Chief Superintendent Rennie. You said that your staff are facing an “intolerable burden”, and Mr Diamond also expressed concerns about the pressures that exist.

All of that flows from the expected savings, which flow from an outline business case that was sketchy at best. Everyone, whether they supported the reforms or not, raised concerns about the business case some time ago. Would you support calls for a review of the timetable for the delivery of those savings through reform?

Chief Superintendent Rennie: Three years in, there is perhaps a need to revisit what was in that business case. You used the word “sketchy”, which we would recognise. Some of the business case was predicated on staff reductions at police officer level that have not happened. Whether that is good or bad, it is a fact.

Going back to what I said earlier, we need to review exactly how we operate and what we are trying to deliver. The public and the politicians must have a lesser expectation of us—if you are going to cut our budget, we cannot be everything to everyone. Just now we are trying to be, and much of that burden is being borne by my members.

Alison McInnes: If we do not face up to a review, what are the risks to the service?

Chief Superintendent Rennie: We are a can-do organisation, and we will continue to try to deliver the level of service that is expected of us. The risks are that there will be mistakes. Unfortunately, as we have seen throughout the United Kingdom, when mistakes happen in public service there is an inquiry to find out what happened and whose fault it was. There is more than just the service to blame here: we need a fundamental review of what we require from the police.

The Convener: Margaret Mitchell can ask her supplementary now.

Margaret Mitchell: Are you aware of any budget for a whistleblower helpline that would help those people who are off sick and burned out or who feel that the job is getting them down, so that they can raise specific issues in confidence and be taken seriously?

Chief Superintendent Rennie: There is a facility for that. I have been in ASPS for 11 years, and my members are professional career police officers who want to do a good job. They will always be committed to their job first and foremost. There is an onus on them to admit when the work gets too much, but there is a feeling among them that that would be showing some sort of weakness, so they do not do it. Although there is provision, therefore, I am not so confident about whether it is used.

Margaret Mitchell: Are you confident that they are even aware that it exists?

Chief Superintendent Rennie: Oh yes—they are aware that it is there. My members at superintendent level help to publicise that provision to ensure that their staff are well taken care of, so they are well aware that there are facilities in place.

Margaret Mitchell: Is there confidence about how concerns are dealt with and how that facility is operating at present?

Chief Superintendent Rennie: I have no evidence to suggest that there is no confidence in it. Everybody is confident—even if they have not used it—that it works.

Margaret Mitchell: Mr Diamond, do you have any comments on that, as it would apply to staff too?

Stevie Diamond: Absolutely—as Chief Superintendent Rennie said, his members will inform my members of the facility. It is well used; we generally receive either a quarterly or monthly report that gives a breakdown of the issues that have been raised with the confidential helpline. Similarly, we will receive calls from members.

One issue that is raised with us is stress. We carried out a stress survey, which basically echoed what the Association of Police Superintendents found out from its survey. It was quite clear that there are members who are suffering badly from stress, but the only way that the organisation records that is if those people go off sick with stress. It appears to be underreported because there is no real method of accounting for people who are suffering from stress but do not want to go off sick, because they are afraid of putting their head above the parapet.

Margaret Mitchell: That information is anonymous, so can it be made available for the committee to see?

Stevie Diamond: Again, that is a matter for the SPA to decide.

Margaret Mitchell: It might be worth seeing that because it could give an indication of where the pressure points are.

Stevie Diamond: Possibly, yes.

The Convener: You are next, John, so no need to look anxious.

John Finnie: I am not anxious; I am frustrated.

Gentlemen, forgive me for being so direct, but it is time for you to put up or shut up. You are prepared to come here, in the glare of publicity, and make these allegations—which I absolutely understand to be the case—but has a stress assessment been done of individual posts and have grievances been raised?

I am not aware of anything that suggests that either of your groups of members are not covered by the working time regulations, and there should be an agreement in place. The agreement used to be—and I do not suppose that it has changed—47 hours averaged over a 17-week rotational cycle. There should be issues of compensatory rest. There is nothing that will make Mr House pay more attention than litigation.

I commend the route of tendering a grievance and going through due process. I assure you that you would get a lot of support if you were to do so and it would focus minds on the important issues, which are workloads and the effect on individuals, which has an impact on the public in turn.

Chief Superintendent Rennie: I fully appreciate what you are saying, but you have to remember that, although we have an executive, we also go with the will of our membership. Being professional police officers, some of our members find taking on the force in such a way to be unpalatable. In the first instance, we are continuing to negotiate with the force. I agree that some of my members who verge on the more militant are suggesting the same route as you do.

John Finnie: Mr Rennie, the difficulty is that it is not militant. What does it say to the public if your members will enforce legislation in relation to the public but that vital, protective, health and safety legislation that applies to your members will be set aside because they are career police officers? That sends a very poor signal. I would encourage engagement through a formal process. I hope that the chief constable is listening to this discussion.

Chief Superintendent Rennie: We have an executive meeting on Thursday, Mr Finnie, and I will certainly put your comments on the agenda.

The Convener: John Finnie is supposed to be asking questions, but it looks like he is leading a campaign.

John Finnie: Can I move on to a couple of questions?

The Convener: Let me check where we are. Yes, you are next.

John Finnie: That is reassuring.

Mr Rennie, you heard the comment that I directed to the inspectorate about my understanding of a change in arrangements for the road policing unit. A number of issues have been raised today about devolved resource management. It seems that the unfortunate reality is that your members have little control over budgetary matters.

Chief Superintendent Rennie: I would go further than that. Throughout my service I have seen budgets get devolved and brought back in. The problem now is that my members do not have the local staffing support to be able to manage budgets. That is one area of the business divisional administration support that has gone, largely through voluntary redundancy. Although I welcome devolved budgets and greater powers to move budgets around locally, I do not think that we have the infrastructure to support that.

John Finnie: Do you agree that it would be an opportunity to say to folk that, regardless of the fact that there is a single service, the police service reflects local priorities because decisions are being made by local commanders who have autonomy in financial matters?

Chief Superintendent Rennie: All my members would like to have more power to tackle matters locally. Having a budget would certainly help them.

John Finnie: Would you be concerned by the suggestion that road policing would only be available on a 24-hour basis from the specialist unit at three locations, so that north of Perth there would be nothing?

Chief Superintendent Rennie: I heard that for the first time this morning from you, Mr Finnie, so I would need to find out more information before I could comment.

John Finnie: If it were accurate, would the suggestion concern you?

Chief Superintendent Rennie: If there were to be no road policing, it would concern me. I was formerly the head of road policing and I cannot see that it would be totally withdrawn in that way. There must be some sort of contingency, and I would need to find out more.

John Finnie: Okay, thank you.

I have a question for Mr Diamond. We have a lot of statistics about the national voluntary release panel. I wanted to ask you about the sentence that says:

"The Return on Investment profile is currently 1.06 years based on full year savings of £23.459 million."

I assume that the saving is realised after 1.06 years.

Stevie Diamond: Yes.

John Finnie: Is there not an on-going financial implication in relation to pensions for your members who are released under the scheme, or is that factored into that 1.06 years?

11:45

Stevie Diamond: I believe that it is factored in and is based on Scottish Government guidelines, which are based on national guidelines. I would have to check it to be absolutely certain.

John Finnie: I would be grateful if you could check that.

Are you content with the way that pending decisions are being dealt with?

Stevie Diamond: Yes. We are involved in the panel as observers. We do not make any decisions about who is released or not, but we are there to ensure that the process is carried out fairly.

John Finnie: Okay.

Stevie Diamond: I would like to reply to the question about grievances. We are a lay-led union, driven by our members. It takes real guts for a low-paid member of staff who thinks that their job is under threat to come to us to say that they want to raise a grievance. Our members are the ones to say to us that they want to raise a grievance; we will encourage them to do that and support them in that, but it takes real strength of character.

John Finnie: It does. It is also a further aggravation if they are victimised because they raise a legitimate grievance.

Stevie Diamond: Absolutely. You should believe me when I say that, when it comes to putting up or shutting up, we put up all the time. We have to go through the legitimate process. If it comes to going through the courts, that is something that we will do, but we need the back-up from our members in the first place.

John Finnie: I was trying to be supportive when I said that.

The Convener: I do not think that Mr Diamond is a shrinking violet in any way, and neither is

Chief Superintendent Rennie. They are pretty tough men, representing their members.

Christian Allard: Earlier in the meeting, Mr Penman gave a good answer on how we can make some savings and operate in a different way from the way in which we are operating now. One of his examples was quite telling: there is now no police presence at some of the games at Aberdeen Football Club. Now that there is greater clarity under the change to a single police force, maybe it is time to redefine what the police should and should not do.

How much difference do you think that that policy will make at football events, which attract a lot of hours during the weekend and cause disturbance in policing at divisional level? Do you think that some of those costs have been recovered significantly or not?

Chief Superintendent Rennie: There are two aspects to that. First, on football, Mr Penman's answer was excellent. We have gradually withdrawn policing from football to a certain extent, but we still get the big games—as the press reported recently, Celtic and Rangers are to play each other again. There is cost recovery from the clubs, but it goes wider than that. Just because a game takes place in Glasgow, that does not mean that there will not be a policing consequence in Aberdeen or Edinburgh. There is no ability to get those costs back from the clubs, because we cannot say what is directly caused by the football.

Secondly, on the wider topic of cost recovery, I have been impressed by the way in which Police Scotland has operated, although it has attracted criticism. At the Wickerman festival in Dumfries, there was criticism of the way in which Police Scotland went about recovering costs. In days of tight budgets, if the police are required at an event that is run by a commercial entity, it is quite right that that body should refund the costs of the policing. Police Scotland is well down that road.

Christian Allard: Are you happy about the direction that we are taking?

Chief Superintendent Rennie: Yes.

Christian Allard: That should affect everything that you do, whether it is a public event or a private event, and whether it is indoors or outdoors. Should the money be raised before an event happens?

Chief Superintendent Rennie: As I said earlier, we need to consider everything that the police do—what it is appropriate for the police to do, what it is appropriate for other agencies to do, what we expect of the police and where the funding comes from. That is part of transformational change and we must do that work.

Christian Allard: We spoke about transformational change with the first panel, and you have referred to partnership in some of your answers. Do you envisage partnerships not only with local authorities but with the third sector and perhaps the private sector, especially in relation to prevention?

Chief Superintendent Rennie: Everything should be up for discussion. At our conference last year, we had input from third sector representatives, who said what they could do to support the police. We would welcome all avenues for exploring how the police operate in the future.

Christian Allard: So you would welcome a budget partnership and, at some point, you might not be the leading authority on some campaigns or actions.

Chief Superintendent Rennie: We should be open minded. Let us recognise that we have come a long way as far as partnership is concerned. Partnership working is not something new: we have been working in partnership with local authorities and other partners for a number of years. We should consider what all sectors of society can deliver in the criminal justice arena.

John Pentland: I have two questions. First, you mentioned absenteeism and sickness. Could you tell us what that is in percentage terms per year? How does the current level compare with the levels last year and the year before?

Secondly, following on from the "Put up or shut up" comment, do you think that it is right that the chief constable controls most of the resources but does not report to an accountable officer?

Stevie Diamond: I do not know the absence figures off the top of my head. They were reported at the last SPA meeting.

The Convener: The absence level is about 10 per cent.

Stevie Diamond: It is roughly 10 per cent. The report said that there was an upturn, although it was perhaps not as much as we expected.

As for the chief constable reporting to an accountable officer, I believe that that is done through the SPA. The chief constable has to report to the SPA to ensure that his budget is balanced. That is how it has been carried out; it is not really for me to say whether that is right or wrong.

Chief Superintendent Rennie: In our association, it tends to be presenteeism, rather than absenteeism, that causes an issue. I want to ensure that my members are taking appropriate time off. That is one of my main concerns.

It is right and proper that the statutory obligation lies with the chief constable, who reports to the SPA. As you found out earlier, he is inspected by

other bodies, too. I think that that is the correct structure.

The Convener: We knew that; we did not find it out. We know about Audit Scotland and HM inspectorate of constabulary for Scotland.

Chief Superintendent Rennie: Quite correct.

The Convener: Thank you very much for your evidence.

Petitions

11:53

The Convener: We will move straight on to item 7, on petitions, without a break. [*Interruption.*] Pay attention, team.

Roderick Campbell: For the record, I draw attention to my entry in the register of interests as a member of the Faculty of Advocates.

Self-inflicted and Accidental Deaths (Public Inquiries) (PE1501)

The Convener: The first petition, which is a new petition, is PE1501, on public inquiries into self-inflicted and accidental deaths following suspicious death investigations. We have been told that the Scottish Government has committed to bring forward legislation to implement the recommendations in Lord Cullen's "Review of Fatal Accident Inquiry Legislation". Scrutiny of the proposed FAI legislation may be the most appropriate forum for considering the issues raised by the petitioner. I invite members' comments.

Sandra White: On the fatal accident inquiry petition?

The Convener: On PE1501 in particular—the new one.

Sandra White: Sorry—I was going to ask about PE1280.

The Convener: We have not come to that one yet.

Sandra White: Okay—I will leave it for now.

The Convener: Right. [*Interruption.*] Just bear with me a minute. I am getting prompting from all round me.

Are members content to consider the petition as part of our scrutiny of the forthcoming proposed legislation on FAIs? That is what I was trying to get from you.

Members indicated agreement.

The Convener: Do members wish to write to the Crown Office and Procurator Fiscal Service to ascertain the level of investigation that has been carried out into the 4,000 deaths classed as self-inflicted over the past five years? We would like to have that statistic.

What am I getting back from you? Yesses?

Members indicated agreement.

Fatal Accident Inquiries (PE1280)

The Convener: The next petition is PE1280, on fatal accident inquiries on deaths abroad. Like the previous petition, it relates to FAIs. Are members content to note the developments that are outlined in the papers and to agree to return to the petition once legislation on FAIs has been introduced?

Sandra White: I would like us to keep the petition open. The Government has been considering the matter and was going to make some proposals in, I think, September.

The Convener: Do you mean September next year?

Sandra White: Yes—2015.

I request that the committee write to the Cabinet Secretary for Justice and ask for an update. A number of MSPs have raised the issue through constituents, and it has been going on for a while. I welcome the fact that the Government is considering legislation, but I would like a wee update.

The Convener: If proposals are going to be published or a bill is going to be introduced in September 2015, will there be sufficient time in the parliamentary session to consider that proposed legislation?

Sandra White: We could ask that in the letter to the cabinet secretary.

Elaine Murray: The note from the clerk just says 2015, not September 2015. Maybe we could get a timeline from the Scottish Government for when it intends to introduce legislation.

The Convener: Could we also ask what its thinking is about what the legislation will cover? Some of the petitions are on different issues. Will it be a broad bill on FAIs, will it just be on FAIs on deaths abroad or what?

We have been told, broadly, that a bill will be introduced in 2015. Obviously, the clerks have done their best to find out, but do members also want to ask whether there will be sufficient time for it to be processed in this parliamentary session?

Are members happy with something along those lines? Alison, you do not look as though you are.

Alison McInnes: No—I am.

The Convener: You are. You are just thinking. You have your thinking face on. That is what we will do.

Justice for Megrahi (PE1370)

The Convener: Petition PE1370 concerns an independent inquiry into the Megrahi conviction. Members have the most recent submission in annex A of paper 6. It makes it clear that Justice

for Megrahi and Police Scotland have had two constructive meetings since we last considered the petition and, in a separate development, the Lockerbie relatives have made a submission to the Scottish Criminal Cases Review Commission.

Are members content to note the progress that is being made between JFM and Police Scotland and to maintain a watching brief on that and, perhaps, on what happens with the SCCRC?

Members *indicated agreement.*

The Convener: Each time that we consider the petition, members of JFM make a long journey to come to the public gallery. We welcome their attention to what the committee is doing on the petition. They have kept going for a long time. In particular, I mention Robert Forrester, who has made a long journey to come to every one of the meetings. [*Applause.*] You must not clap.

We will keep the petition open while we monitor the progress between JFM and Police Scotland and at the SCCRC.

Access to Justice (Non-corporate Multiparty Actions) (PE1427)

The Convener: PE1427 concerns multiparty actions. The Scottish Government has stated that, in the long term, it is committed to multiparty or class actions. It will consult on its approach to matters that will be taken forward in primary legislation following Sheriff Principal Taylor's recommendations.

Are members content to keep the petition open until after the Scottish Government has developed its approach to the issue?

Members *indicated agreement.*

The Convener: Do members also wish to ask the Scottish Government specifically to include the petitioner in its consultation and to respond to the petitioner's concerns about the holding of documents by private companies?

Roderick Campbell: The petitioner has highlighted the fact that there are issues in relation to the Freedom of Information (Scotland) Act 2002, but there are court processes for the disclosure of documents that are outwith that act, so the issue is partial. I do not have a problem if the committee wants to write to the Government about that, but I thought that I would be as well to point that out.

The Convener: We appreciate the limitations of the Freedom of Information (Scotland) Act 2002, but its remit is to provide as much as possible. It would be courteous to the petitioner at least specifically to invite him to respond. Do you agree?

Roderick Campbell: Okay.

Administrative Justice (PE1449)

The Convener: PE1449 concerns preserving an independent Scottish administrative justice council. Since we last considered the petition, we have received submissions from the chair of the Scottish tribunals and administrative justice advisory committee, the convener of Accountability Scotland and the original petitioner. The chair of the advisory committee gives assurances that the end user is well represented on it. I see that we have a note of all the members of it.

Are members content to close the petition?

Members *indicated agreement.*

The Convener: In doing so, do we wish to draw the Scottish Government's and the advisory committee's attention to the letters from Accountability Scotland and the original petitioner?

Members *indicated agreement.*

Solicitors (Complaints) (PE1479)

12:00

The Convener: The next petition is PE1479, on the legal profession and the legal aid time bar. Since we last considered the petition, the Scottish Legal Complaints Commission has proposed increasing the legal aid time bar limit from one year to three years with effect from 1 January 2015. The commission is currently consulting on those changes and the petitioner has been included in that consultation. The petitioner has indicated that, in his view, there should be no time bar.

Are members content to close the petition on the grounds that the time bar is being extended and that the petitioner has had the opportunity to participate in the consultation?

Alison McInnes: I would be happier if we waited until the consultation had closed and we were able to have a look at the outcome. I do not want us to prejudge the consultation. I would be happier to keep the petition open for one more cycle, if that were possible.

Margaret Mitchell: It seems sensible to keep the petition open until after 17 November.

Roderick Campbell: I do not have a major problem with that, but I could never agree with the idea that there should be no time bar.

The Convener: I am in the same position. One must have some point of finality unless it is a common-law crime, for which there is no time bar. Otherwise, one must have some kind of surety.

Is the committee happy to do what Alison McInnes suggests?

Members *indicated agreement.*

Supreme Court (Civil Appeals) (PE1504)

The Convener: The next petition is PE1504 on civil appeals. The petition was originally referred to us for consideration during our scrutiny of the Courts Reform (Scotland) Bill, which has now been passed. The committee previously wrote to the petitioner to ascertain what the point of general public importance was in her case and what reasons were given by solicitors for not representing her. Her response is in annex D. Does anyone have any comments to make on the petitioner's latest submission?

Are members content to close the petition on the ground that the bill has now been passed?

Members *indicated agreement.*

Emergency and Non-emergency Services Call Centres (PE1510)

Inverness Fire Service Control Room (PE1511)

The Convener: The next petitions are PE1510 and PE1511. They were referred to us for consideration during our evidence session with the inspectors of fire and rescue and constabulary in August, and the issues of police and fire control rooms have arisen again today. Are members content to keep the petitions open for the time being, given that we can raise questions on them when we take evidence on the budget?

Members *indicated agreement.*

Subordinate Legislation

Legal Aid and Assistance By Way of Representation (Fees for Time at Court and Travelling) (Scotland) Regulations 2014 (SSI 2014/257)

12:01

The Convener: Item 8 is subordinate legislation. We have one negative instrument to consider, which aims to bring in a consistent approach for how solicitors charge their time engaged at court across civil legal aid, criminal legal aid, legal aid in contempt of court proceedings and advice and assistance for matters relating to assistance by way of representation. The instrument is due to come into force on 10 November 2014. The Delegated Powers and Law Reform Committee did not need to draw the attention of the Parliament to it on any grounds. Do members have any comments on it?

Roderick Campbell: I am pleased that the Faculty of Advocates, the Law Society of Scotland and the Scottish Legal Aid Board seem to be content.

The Convener: Well, bring out the cake! They are content—for the time being.

Are members content to make no recommendation in relation to the instrument?

Members *indicated agreement.*

Rules of the Scottish Land Court Order 2014 (SSI 2014/229)

The Convener: Item 9 is consideration of another piece of subordinate legislation—an instrument that is not subject to any parliamentary procedure. The instrument sets out the practice and procedure to be followed in the Scottish Land Court with effect from 22 September 2014—it seems a bit pointless to consider it if it is already in effect. The Delegated Powers and Law Reform Committee has drawn the instrument to the attention of the Parliament for minor drafting errors and a failure to follow normal drafting practice. The DPLR committee also noted issues with the timing of the instrument. Are members content to endorse the concerns of the DPLR committee?

John Finnie: I find the Scottish Land Court's response, in paragraph 2 on page 6 of our paper, strange at best and unprofessional at worst. It states:

"The general approach taken in drafting the Rules was to use gender-neutral terminology, but as you will be aware this can sometimes become cumbersome."

I do not think that that is an appropriate response from a public body.

The Convener: The DPLR committee's report has picked that up—the DPLR committee does not miss much. Are members content to endorse that report?

Members *indicated agreement.*

John Finnie: Yes, but it is worth saying that I would have expected more from a public body in this day and age.

The Convener: Right. That said, we move into private session.

12:04

Meeting continued in private until 12:12.

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