



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# JUSTICE COMMITTEE

Tuesday 29 January 2013

Session 4

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**JUSTICE COMMITTEE**

**3<sup>rd</sup> Meeting 2013, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Jenny Marra (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Roderick Campbell (North East Fife) (SNP)

\*John Finnie (Highlands and Islands) (Ind)

\*Colin Keir (Edinburgh Western) (SNP)

\*Alison McInnes (North East Scotland) (LD)

\*David McLetchie (Lothian) (Con)

\*Graeme Pearson (South Scotland) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Nigel Graham (Scottish Government)

Kenny MacAskill (Cabinet Secretary for Justice)

Colin McConnell (Scottish Prison Service)

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

Committee Room 1



## Scottish Parliament

### Justice Committee

*Tuesday 29 January 2013*

[The Convener *opened the meeting at 10:00*]

### Decision on Taking Business in Private

**The Convener (Christine Grahame):** I welcome everyone to the Justice Committee's third meeting in 2013 and ask you to switch off completely mobile phones and other electronic devices, as they interfere with broadcasting even when switched to silent.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take in private items 6 and 7?

**Members** *indicated agreement.*

## Subordinate Legislation

### Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 [Draft]

10:00

**The Convener:** Item 2 is consideration of the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013, which is an affirmative instrument. I welcome Kenny MacAskill, the Cabinet Secretary for Justice, who is here to give evidence on the instrument and move the motion for the committee to approve it. He is accompanied by Scottish Government officials Nigel Graham and Craig McGuffie. I invite the cabinet secretary to make an opening statement, if he wishes.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Thank you. The purpose of the draft order is to consolidate the current exclusion and exceptions order, which was made in 2003. There have been 16 modifying orders since 2003 and we think that it is correct to consolidate all the modifying orders into one fresh order. That will help make the legislation easier to use.

It is important to stress that nothing in the draft order or, indeed, in the Rehabilitation of Offenders Act 1974 itself, debars any person from undertaking any job or profession. However, the legislation helps to inform decisions that may be made about whether to employ specific persons in specific areas of employment.

We believe that it is appropriate that positions involving a particular level of trust, such as work in the childcare and health professions, should be exempt from the provisions of the 1974 act to ensure that there is adequate protection for children and vulnerable people in particular. It is important that we strike the right balance between supporting the rehabilitation of offenders and protecting the public. Employment can reduce reoffending, thereby cutting the cost of crime and helping to close the opportunity gap.

Along with consolidating the legislation, we are taking the opportunity to make some minor changes to the order's content. For example, we are removing outdated references to independent schools tribunals, following separate legislative changes that were made back in 2005, and updating references relating to appeal procedures under the National Lottery etc Act 1993. The draft order also widens the conviction information that is available to the Financial Services Authority when it is authorising a person to carry out regulated activities, takes account of the commencement of the electronic money directive by the United

Kingdom Government and provides for a new category of institution called payment institutions, which were created in 2009 following the implementation of the payment services directive by the UK Government. The draft order will also permit approved regulators under the Legal Services (Scotland) Act 2010 to consider spent convictions, where appropriate, as part of their assessment of the fitness of investors and those in certain named positions within licensed providers, and ensure that the court is able to have access to information relating to the spent convictions of anyone who is seeking to become a “lay representative” within the meaning of the 2010 act. We are also making consequential changes required by police reform and to reflect summary justice reform legislation and the role of signing justices of the peace, and we are altering the definition of actuary to reflect the merger of the Faculty of Actuaries and the Institute of Actuaries. Overall, we consider that the amendments are necessary to ensure that various agencies and bodies are able to continue to fulfil their functions effectively.

That is a quick run-through of what is a lengthy instrument. I am happy to answer questions.

**Roderick Campbell (North East Fife) (SNP):** Good morning, cabinet secretary. I would appreciate a bit of clarification on the legal services situation. You said that “approved regulators” would

“consider spent convictions, where appropriate”.

What is meant by “where appropriate” in that context?

**Kenny MacAskill:** Nigel Graham will respond to that.

**Nigel Graham (Scottish Government):** It is to check to make sure, I suppose, that there is protection of the appropriate investments. Where appropriate, they have to make the checks. Solicitors and advocates are dealt with in exactly the same way to see whether they are actually fit and proper. I cannot say what would be appropriate; they have to determine what would be appropriate in order to make that decision. However, it is about protecting the public and ensuring that investors are appropriate people.

**The Convener:** I think that you have just said that it is not appropriate to say what is appropriate, but I may have missed that. I feel like I am on “Yes, Minister.”

**Kenny MacAskill:** It is really for the Law Society of Scotland to decide what the criteria should be.

**The Convener:** Yes. Are you happy with that, Rod?

**Roderick Campbell:** I am not sure that I am any clearer, but I am happy to leave it there.

**The Convener:** I am sure that I am not clearer, so I am a step ahead of you.

**Jenny Marra (North East Scotland) (Lab):** Cabinet secretary, you said that a primary concern is the protection of children and vulnerable people. I completely support and understand that in relation to the disclosure of spent convictions. However, the majority of the Scottish Government policy note does not relate to children or vulnerable people. There are several amendments in relation to the Financial Services Authority and legal services, and I am unclear about the changes in relation to independent schools tribunals and the national lottery—maybe you can explain them. Also, I do not see how there is a direct impact on children in relation to lay representatives on the Court of Session Rules Council—it is not as if decisions are being made about people who work in social services or schools.

Given that there is quite a big civil liberties issue, because disclosure of spent convictions is being extended, why did the Scottish Government decide not to undertake a full consultation? I would be more comfortable if the extensions were being made after a consultation.

**Kenny MacAskill:** There are two separate issues. In relation to independent schools tribunals and so on, there have been changes—as I said, there have been 16 changes since 2003. The draft order is an attempt to consolidate. The 16 changes were made by Scottish statutory instruments, which I or my predecessors made. Society has changed and some of the organisations have changed. For example, lay advisers are being brought in, so we must make arrangements for them. That is the situation. The draft order is meant to provide clarification and ensure that the law is as clear as it can be.

You asked about the broader issue of consultation. We are intent on consulting, and in the coming months we will go out to consultation on where the balance should lie in relation to the rehabilitation of offenders. The draft order is about getting the law as fit for purpose as it can be, given the significant changes—16 in nine years—that have been made. I think that the draft order will make things easier. However, you are right to say that there is a broader issue that has to be looked at, and we will go out to consultation in the coming months.

**Jenny Marra:** Are you saying that there will be a consultation before the Parliament signs off on the draft order?

**Kenny MacAskill:** No. The Parliament is being asked to sign off on the draft order so that we can

make the law as clear as it can be at the moment, to deal with changes, provide for new arrangements and ensure that the system is easier for the people who operate within it. However, we recognise the more fundamental principles in relation to the rehabilitation of offenders and we are going out to consultation on those in the coming months.

**Jenny Marra:** Why did the Scottish Government not undertake a full consultation, given the broad extensions in the draft order?

**Kenny MacAskill:** The draft order presents an opportunity to tidy up the law. There have been changes. For example, the Institute of Actuaries and the Faculty of Actuaries have become one organisation. Such matters have been dealt with through some 16 SSIs over nine years, as I said. We are seeking to tidy up the law and address issues that the Lord President wanted us to address, by considering the new law advisers.

However, we recognise that there is a broader issue of public concern about where the balance should lie in relation to the rehabilitation of offenders. We will go out to consultation on that.

It would be possible to leave the current morass as it is, but we were asked by many stakeholders to provide clarity and sort out matters, some of which are quite innocuous but doubtless have an effect—I am thinking about the nomenclature following the amalgamation of two bodies to form the Institute and Faculty of Actuaries. It is about getting that right, but that does not detract from the need for full consultation, to facilitate public debate on where the balance should lie.

**The Convener:** May I clarify the process? If the committee recommends that the draft affirmative instrument be approved, it will go to the Parliament, which can vote to approve it. Where does the consultation fit in? Are you talking about a wider consultation on rehabilitation?

**Kenny MacAskill:** Absolutely. It is much wider—

**The Convener:** I see. I appreciate that. The consultation is not about the instrument that we are considering.

**Kenny MacAskill:** No.

**The Convener:** I wanted to clarify that.

**Graeme Pearson (South Scotland) (Lab):** Cabinet secretary, I think that you have a copy of the policy note, which was provided to us. Under “Persons appointed to assist the police”, paragraph 19 says that the Police (Scotland) Act 1967 will fall and that we will be subject to the Police and Fire Reform (Scotland) Act 2012. The paragraph says that

“section 26 of the 2012 Act is framed in a slightly different way from how section 9 of the 1967 Act”

was framed and that there are

“consequential changes”.

In what way is the 2012 act framed slightly differently?

**Kenny MacAskill:** The consequential changes in paragraphs 6 and 8 of part 2 of schedule 4 to the order reflect the forthcoming repeal of section 9 of the 1967 act. Overall, the policy behind those paragraphs in the order remains the same as that behind the equivalent paragraph in the 2003 order. We are reflecting changes in legislation.

**Graeme Pearson:** The paragraph that I quoted says:

“section 26 of the 2012 Act is framed in a slightly different way from ... section 9 of the 1967 Act.”

Can anybody explain in what way and why the 2012 act is different?

**Kenny MacAskill:** I do not think that we can answer that precisely, but we are happy to write in greater detail.

**Graeme Pearson:** I am obliged.

**John Finnie (Highlands and Islands) (Ind):** I, too, am interested in civil liberties, but I consider the proposals to be proportionate for the people who are not only directly but indirectly involved. Under “Consultation”, the policy note refers to detailed discussions with relevant bodies. Has any of those bodies expressed reservations about the proposals?

**Nigel Graham:** No. I spent last year speaking to stakeholders about the Rehabilitation of Offenders Act 1974. All the stakeholders that I have spoken to, including Apex Scotland and Sacro, are happy with the balance between reform—putting offending behaviour behind someone—and protecting the public.

All were happy with the principal purposes of the draft order and with the scrutiny of such an order, which must go through the committee and Parliament. Nobody said anything to me that suggested that they were concerned about what is in the draft order.

**The Convener:** My question does not pertain to the draft order, but it follows on from the cabinet secretary’s comments about a consultation on the rehabilitation of offenders. Do I take it that primary legislation on the rehabilitation of offenders will be on the agenda at some point?

**Kenny MacAskill:** Primary legislation would be required. The consultation is a prelude to considering primary legislation.

**The Convener:** You will know that the committee is looking into purposeful activity in prisons. We are obviously interested in how that helps to rehabilitate offenders, so it would help if you could give us an idea of the timetable for the forthcoming legislation.

**Kenny MacAskill:** The timetable will ultimately be for the Minister for Parliamentary Business, but it is fair to say that it would come at the end of the parliamentary session.

**The Convener:** That gives us an opportunity to put forward our ideas, following our inquiry.

**Kenny MacAskill:** We intend to go out to consultation by the summer, and that consultation will take place over a period. That takes us into 2014, so a legislative vehicle would not be produced until near the end of the parliamentary session.

**The Convener:** It is a matter for the committee, but the committee might want to respond to the consultation—that will depend on what the consultation says. That would put us straight into the statutory process, which would be in addition to our inquiry. That would be useful.

**Kenny MacAskill:** That would be helpful.

**The Convener:** Under item 3, I invite the cabinet secretary to move the motion.

*Motion moved,*

That the Justice Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 [draft] be approved.—  
[*Kenny MacAskill.*]

**Jenny Marra:** I do not feel that I can support the waving through of extensions to the disclosure of spent convictions without a full consultation. As I said, there are far too many extensions for them to be waved through in a statutory instrument without proper consultation, so I do not support the motion.

**Roderick Campbell:** I would be grateful if Jenny Marra outlined for my benefit the extensions that she thinks will be made, other than technical changes.

**The Convener:** It is unusual for committee members to ask each other questions—usually, questions are for the cabinet secretary. Perhaps he could reply to the point. As we are in the debate, the cabinet secretary and not an official must answer.

10:15

**Kenny MacAskill:** As I indicated, the draft order is not about an extension. Changes have occurred to the Faculty of Actuaries, to how independent schools are regulated, to the national lottery and to

the Police (Scotland) Act 1967, which is being repealed. Those things are not about an extension as such. The draft order clarifies the terrain, which has changed under our feet, and will make the law clearer for those who are involved in dealing with it.

There will be a further debate, on which we will be delighted to engage with the committee. We will welcome the committee's views on that as we seek to set, as a society and as a Parliament, where the balance should lie. The draft order, however, is simply about trying to get the law up to speed so that it takes into account, for example, the introduction of lay representatives. The court needs to ensure that lay representatives are appropriate people to appear on behalf of individuals, so some information should be available to the judiciary so that they can be aware of whom they are allowing to appear before them.

**The Convener:** Perhaps Jenny Marra can point the cabinet secretary to the specific extension that she is referring to.

**Jenny Marra:** Even as I look through the draft order, it occurs to me that by including the Financial Services Authority we are also extending the current exception to a new category of institution. As I pointed out earlier, the Financial Services Authority has no direct impact on children and vulnerable people, whom the cabinet secretary referred to in his initial explanation. Therefore, it seems to me that the draft order involves an extension of the disclosure of spent convictions that does not seem to match the original aim of protecting children and vulnerable people. As I said, there is a civil liberties issue involved in that extension.

**Kenny MacAskill:** I think that there is a need to protect vulnerable people—

**Jenny Marra:** Through the Financial Services Authority?

**Kenny MacAskill:** Actually, great frauds can be perpetrated that affect many people, especially the vulnerable, the elderly and those with dementia. Such matters are frequently raised with me by senior police officers, and I have no doubt that Mr Pearson will have experience of organised groups that operate in that way.

The circumstances have come about because legislation south of the border has introduced changes to financial services. We want to ensure that the law protects vulnerable people, including the elderly, and, indeed, ordinary Scots, who sometimes have to deal with financial services. We need to ensure that as much information as possible is available to those in the FSA who are charged with the responsibility of licensing people. We think that the draft order is an appropriate step to take to ensure that we get the law up to speed.

Changes have taken place in financial services that have not been reflected in the rehabilitation of offenders legislation. If we do not make the order, people will not be required to disclose matters that they are required to disclose south of the border, and the protection of some people in Scottish society could be threatened or jeopardised in areas where protection is offered south of the border. We have not been in charge of the timetable for introducing legislation on the FSA and so on, but we have an obligation to ensure that we provide protection to the public by ensuring that the rehabilitation of offenders legislation is kept up to speed.

**Jenny Marra:** Do you accept that the draft order extends disclosure and is not simply retrospective?

**Kenny MacAskill:** Yes. That is done for the right reasons of providing protection by ensuring that those who are given the right to operate in the financial services world meet the criteria and of ensuring that those who regulate them are aware of who is seeking employment in the industry.

**Jenny Marra:** My point was that there should be no extension without consultation.

**Graeme Pearson:** I seek clarity on what is being proposed. Is it the cabinet secretary's position that, at some future date in the current parliamentary session, the wider issues pertaining to the balance between individual human rights and civil liberties will be analysed in the context of the disclosure provisions, so that the appropriate balance can be achieved and discussed more fully across the Parliament?

**Kenny MacAskill:** Yes, part of the consultation will be a widespread review.

**Graeme Pearson:** I accept the point that those who seek employment within financial services gain access to vulnerable people, particularly the elderly, who are perhaps not as adept as others at making judgments about whom to trust. It would not be acceptable that people with any criminal background should be able to seek employment in financial services and thereby be authorised to conduct and transact such business.

I understand the threat that you identify, but the points that Jenny Marra made about the appropriate balance being achieved after consultation and discussion are important. I would be concerned if the point that you are making is that, in the interim, vulnerable sections of our community will be left vulnerable as we await the next debate. Is that your current position?

**Kenny MacAskill:** That is the point that I am making.

**Roderick Campbell:** Paragraph 10 of the policy note says:

"The equivalent of the 2003 Order in England & Wales has been amended to address this issue".

Did that go out to consultation in England or was the legislation just amended?

**Kenny MacAskill:** We are not able to say.

**The Convener:** That point has had a good battering, as we might say.

The question is, that motion S4M-05457 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

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

**The Convener:** The result of the division is: For 7, Against 2, Abstentions 0.

*Motion agreed to,*

That the Justice Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 [draft] be approved.

**The Convener:** I thank the cabinet secretary and his officials for attending.

I will suspend the meeting briefly, but we will not leave our seats.

10:21

*Meeting suspended.*

10:21

*On resuming—*

## Prison Visits

**The Convener:** Item 4 on the agenda is a report on our prison visits. Members have visited Barlinnie, Edinburgh, Inverness, Low Moss, Perth and Polmont over the past two weeks, and Alison McInnes and I are going to Addiewell tomorrow morning.

Detailed written reports have been provided in the meeting papers. However, it might, especially given our next agenda item, be helpful to go round the table and highlight—that is the keyword; do not go through the whole paper—the most important things.

I also apologise to Roderick Campbell, whose name has been put incorrectly on the front of the paper. That must have made him cry.

In the following item, we will take evidence from Colin McConnell, who is the chief executive of the Scottish Prison Service and is in the gallery just now. I ask committee members to bear that in mind when they highlight things, because they are already hinting at where they will go with their questions.

John Finnie was at Inverness prison. I ask him to highlight the issues to which he wishes to draw attention.

**John Finnie:** We were made welcome. A lot of positive work is going on in Inverness. The issues include the limitations caused by the building's construction and the consequent capacity for meaningful work to be undertaken.

On page 3 of the paper, there is a note about a project on pathways into offending. We need to follow up on that and keep a keen interest in it.

There are many similarities in the reports, so there is no point in highlighting the various work streams that exist in Inverness. Limitations on the education that can be provided there are primarily to do with the fact that the chapel is used for education and the clergy person who is in charge of it places some limitations on its use.

On a positive note, there is a female offenders unit at Inverness; 24 prisoners have been through the unit in the past three years, of whom only three have reoffended. The quality of the fabric of that wing might be an indication of how folk respond if we treat them in a certain way. It is also significant that former prisoners have continuing links with the unit; those who have left occasionally phone in for reassurance and advice. Some of them are in meaningful, gainful employment.

There are many positives, but the structure of the building places limitations on the prison. The fact that it is right in the centre of the town also creates some difficulties.

**The Convener:** Perhaps later we can ask why the women's unit is so successful. That is interesting.

Colin Keir and David McLetchie both went to Saughton. It is HMP Edinburgh, but I call it Saughton. Perhaps they would like to say something about it. David and Colin—it is rather like a routine.

**David McLetchie (Lothian) (Con):** The prisoners' work programme has limitations, many of which are to do with the significant number of relatively short-stay prisoners, in that it is harder to get them on meaningful programmes. That is probably the biggest weakness in the schedule. On the other side of the coin, there are meaningful activities, too, so I do not just dismiss everything out of hand, although I got the impression that the programme is not as well structured or organised as it might be.

**Colin Keir (Edinburgh Western) (SNP):** I agree. We saw some impressive work activities, such as portable appliance testing and woodwork, but there are fundamental problems, particularly with the short-term prisoner population. Some prisoners do not have the inclination to do anything, so getting them involved can be difficult. Those are the real issues. There is a shortage of about 250 activities places, which creates some pressure, but the underlying issue, particularly for those on short-term sentences, is that they face a very mundane day.

At the end of our visit, we had a discussion with two prisoners who were due for release later in the week. When we asked them about short-term sentences and the issues of deterrence, punishment and rehabilitation, their answer was that their term in prison was an "inconvenience". Boredom is an issue. As a result of my visits, my view on short-term prison sentences is becoming harder: to be honest, I do not think that they are worth much.

**The Convener:** Your report mentions internet restrictions and states that internet access for educational purposes is provided successfully elsewhere in the United Kingdom. Did you pursue that?

**Colin Keir:** From what I remember of the conversation that we had on that, the issue is about where to draw the line. Allowing internet access for educational purposes is one thing, but there could be access to other things out there on the internet. I have problems with that, although I understand why the educationists want a bit more

access. There would have to be barriers to wider access to the internet.

**The Convener:** Alison McInnes and I visited Polmont.

**Alison McInnes (North East Scotland) (LD):** The visit was interesting and we were made very welcome. We had a good time exploring a number of things. There are particular challenges for a young offenders institution, because the community is more volatile and staff perhaps have to deal with more relationship issues. Because Polmont is a national institution, it has difficulties linking to local authorities. There is patchy involvement by local authorities: some are fairly actively involved in connecting with offenders in preparation for release, but others are not. That needs to be tackled.

Multiple agencies and partners are involved at Polmont. In some respects that is a good thing, but there are disconnects between them and different approaches are evident. One approach is that of youth and community bodies such as Barnardo's, which actively encourages offenders to engage with classes and groups. There is also the more traditional college provider, which tends just to accept that a third of the prisoners at any one time will not engage—I think that that is what the person to whom we spoke said. I am concerned by such resignation, so I would like to explore how we could encourage everyone to be engaged in the available activities.

The governor at Polmont is relatively new—she is only a few months in post, I think—and has instructed a thorough review of all the activity. That analysis will be helpful, because it will allow us to see what works and what does not and, perhaps, to co-ordinate the activity better.

10:30

**The Convener:** I will add a couple of points to that. I accept the difficulties about internet-based learning and I agree with Alison McInnes about what I call education by stealth: for example, getting people in for plumbing and joinery and asking them to measure out a metre, when they do not know what a metre is. That way, learning has some purpose, rather than its being detached from ordinary life.

Another issue, which I raised in a mental health debate in Parliament, is that many prisoners do not have a general practitioner. Excellent work on drug, alcohol and mental health goes on, data are collected, and prisoners are treated before being discharged sometimes on a Saturday, when facilities such as housing services are not open. We cannot expect that every discharged prisoner will have someone to meet them, but we need somehow not to waste all the effort that the prison

officers and medical teams make in prison. Often when prisoners are discharged they get a wee drop of money and, immediately, off they go—back to the way they were before.

The other issue is families and parenting. You should have seen my and Alison's faces when we watched a young man feed his six-month-old child chocolate. We said nothing. He was a nice lad, and they were a very young couple with a young baby. We watched them and thought that they needed a proper family/parenting centre so that they could get the right training in how to do things. The man was there for a short time and the couple are lucky in that his partner travels from fairly nearby.

Alison McInnes was quite right that Polmont takes young offenders from the whole of Scotland. Twenty-five per cent of the lads there are parents. I nearly dropped when I heard that. Family centres, which we had heard about at Cornton Vale, are very important.

We want throughcare—as usual—and family centres to try to break the cycles. I noticed in Colin Keir and David McLetchie's paper on Saughton that there are third-generation inmates. We need to stop not just people now, but the next generation going through the churn.

The next report is from Graeme Pearson, who was at Low Moss.

**Graeme Pearson:** I attended Low Moss last week. It is a very modern prison; it will be a year old next month. It has 700 prisoners, which is just about full to capacity. There are nearly 120 remand prisoners; comments were made earlier about the difficulty of engaging with remand prisoners because encouraging them to participate in prison life and activity is something of a problem. Some of the other short-term prisoners also need to be encouraged to see the point of participation.

Low Moss has some unusual aspects. It has very tight external security; there are a significant number of external and internal closed-circuit television cameras to cover the environment, and the prison has a no-metal policy. Staff and management believe that the prison's culture can be more relaxed because the external security is such that there is a high level of confidence that the internal area of the prison is reasonably secure, and contraband is reduced to an absolute minimum.

There is a curfew on TV access, so prisoners are put to bed at one o'clock in the morning and TVs are turned off. That seems to have had a positive effect on the prison, because it encourages prisoners to get a night's sleep, which means that in the morning they are more engaged and determined to go out and do something. I

understand that in many other prisons, prisoners are allowed to watch TV through the night. We all know that if people do that, in the morning they are not in the right frame of mind to engage.

Family visits are a main feature of the prison and families are encouraged to come in throughout the week as and when they wish. Family visits take place in the main hall, which looked to me like a gymnasium—you could play five-a-side football in it. However, there is no doubt that prison staff have made it as friendly for receiving families as possible and, apparently, it works. I did not see any families when I was there, but there is no doubting the staff's enthusiasm. The area looks fresh, clean and tidy.

Cubs, scouts, brownies and guides are all encouraged to meet within the prison environment, and the children of the prisoners are encouraged to join the local cubs and scouts groups and so on. The hope is that those children will take that experience back with them to their own locales and estates, where they might maintain that kind of community involvement.

Prisoners are involved in work within the prison to maintain the prison environment. That includes stuff such as basic painting and window cleaning, which I think is a good thing. The governor is keen for external work to be included within the process at Low Moss. In the old Low Moss, which is now a long time gone, external work groups maintained the pathways, dealt with vandalism and cleaned up areas around East Dunbartonshire and apparently gave a lot of time and effort to the local community.

The first page of my report includes a breakdown of the hours dedicated to the various purposeful activities. Without in any way wishing to undermine the effort that the staff put into those activities, I think that it is very noticeable that "Offender behaviour programme attendance" had a mere 6,800 hours, whereas "Scheduled activity/work attendance" had 436,000 hours and "Other activity (eg PT, sports)" had nearly 52,000 hours. By comparison, the 6,800 hours for the offender behaviour programme perhaps pales into insignificance. The same is true of "Education attendance", to which 21,500 hours were dedicated. Given the information that we have received over the past couple of years about the importance of education, a bit more effort needs to be given to education and to the offender behaviour programme.

I had a very positive visit. I was really impressed with the culture among the staff and management in Low Moss, who deserve encouragement.

**The Convener:** Does "Education attendance" mean formally sitting down to learn to read, write

and count, or does it include—as I think it should—applied education?

**Graeme Pearson:** I think that the education includes all sorts of things. There may be a softness to it, in that prisoners who merely attend and show an interest will be included in the figures. However, prisoners are encouraged to develop practical skills so that they know how to measure, paint and build things, which I think should be encouraged.

**The Convener:** Sandra, do you want to tell us about your visit to Barlinnie? You went to the Bar-L.

**Sandra White (Glasgow Kelvin) (SNP):** Yes—I think that is what they called it when we walked in. It was very interesting—

**The Convener:** You got a hat out of it.

**Sandra White:** I got a hat and a mug—the clerk got a mug as well—which you cannot buy. Perhaps in later years the mug might appear as an heirloom on the "Antiques Roadshow". I thank the clerk, Joanne Clinton, for all the notes that she took.

The visit was very interesting and I was impressed by the dedication of the governor and staff. They were very honest both with us and with the prisoners. We had a tour around most of the prison and met numerous prisoners in numerous areas. They, too, were very up front and honest with us, and were never led by the governor on how to answer questions or on what questions to ask. It was a very relaxed atmosphere in some areas.

Some problems are exactly as other members have raised, including lack of housing and employment opportunities for prisoners on release, particularly for those on short-term sentences and for remand prisoners.

An interesting issue is that remand prisoners do not participate in programmes or courses. The governor said that remand prisoners are often advised by their lawyers not to take part in any programmes or courses because that could be seen as an admission of guilt. I thought that that was a very interesting comment.

As I say in the report, we saw Theatre Nemo. There was also an American actress involved in putting on a play, which 55 prisoners attended. We went in near the end of that play and spoke to a number of the prisoners, who certainly seemed to have got a lot out of it. The play was about someone who had been incarcerated in Auschwitz and it was called "Imprisonment". We spoke to the actress and, as I said, to the prisoners. One prisoner came up and said that it was even better than going to Óran Mór for a play, a pie and a pint—he thought that it was a much better

performance in that respect. I was very impressed by the amount of things that were going on.

Another issue that came up was the lack of throughcare opportunities for short-term prisoners. Obviously, the point about remand and short-term prisoners came across loud and clear. I definitely formed the impression that there really is not any meaningful purposeful activity going on for remand prisoners.

We spoke to a number of the prisoners, and one gentleman said that he had been going through a revolving door for 20 years—and he was not very old. When he got out of prison there was a shortage of housing, so he was given a sleeping bag. That is what happens in some areas. He was put into a hostel, and he got back into the same old ways again.

We were told that literacy and numeracy levels are not as poor as they are portrayed to be. The prisoners were given a five-page booklet to fill in, and 90 per cent of them were able to fill it in. Therefore, it was assumed that they could read what they were filling in and answering.

We spoke about employment and housing, as well. The prisoners feel that there are too many agencies trying to deliver similar programmes. They are not all meeting up, and there is no throughcare, in that regard.

I will mention Low Moss in relation to overcrowding at Barlinnie. The governor had said that, until Low Moss came along, Barlinnie was very overcrowded. At the moment, the prisoner number is nearer to 1,300—Barlinnie hosts 1,104 and there are 560 staff. I was very impressed by what the staff are trying to do, but the main concern—as in other prisons—is about short-term prisoners and remand prisoners. That is perhaps where we should be targeting our resources, which do not seem to be getting through, however, for the reasons that the governor raised with us.

**The Convener:** I am conscious, having done it myself, that we have been speaking about purposeful activity, which is a spectrum of activities including activities to address drug and alcohol problems, as well as education and work. That drifts into throughcare, one aspect of which—as one of the purposeful activities in prison—is that it continues afterwards, and is not just seen inside the prison gates. Our inquiry will go into that as well.

**Sandra White:** We should raise that point as we proceed with our inquiry. In Barlinnie, a number of the prisoners who took part in courses were able to get Scottish vocational qualifications and City and Guilds qualifications at bronze level. A number of them have found employment outwith the prison having finished their courses. It is good that lots of outside agencies are involved in

rehabilitation. Those two main areas that I mentioned are the ones at which we should be targeting our resources.

**The Convener:** Do employers go into Barlinnie?

**Sandra White:** Martin Plant Hire employs a number of prisoners; they do not use an apprenticeship process, but the prisoners work there. Various other companies are involved, including the Bike Station, to which people hand in their bikes—some old, some not so old—and prisoners learn how to strip them down and completely renew them. As they go through the course, they get bronze, silver and gold awards. A number of the prisoners have got jobs outside. I am very impressed with what is going on. It would be good to do that on a larger scale.

**The Convener:** You, too, had experience of the Bike Station, Alison.

**Alison McInnes:** Yes.

**The Convener:** Do we know whether the people got jobs at the end of it?

**Alison McInnes:** I think that one person was employed at the Bike Station after they had left prison.

**The Convener:** Roddy—you were at Perth prison.

**Roderick Campbell:** Yes. I will try to be brief, as a lot of the points have already been covered. I was impressed by the governor and his staff, including the deputy governor, and by their general attitude to and enthusiasm for the prison.

We visited a number of different activities. One of the things that disappointed me slightly was that there is in the education area a very good kitchen area and an art room, neither of which are being used. We were also in the laundry room and the tailoring facility; again, absence of staff means that the number of prisoners who can do activities there is restricted. Now that I have had the opportunity to see the figures, I can see that Perth does not figure very well on the scale of purposeful activity—it is below average.

I talked to a number of prisoners. I was impressed by the enthusiasm of a young man at the Bike Station, which offers a relatively new activity in Perth. He was very enthusiastic about and keen on the project. Someone from the Bike Station spoke to me about the difficulties in trying to arrange employment, which tallies with what Alison McInnes said about numbers. What we saw was quite good on the whole, but there is a difficulty in making maximum use of the facilities.

We also looked at B hall, which has been refurbished, and the suicide cell, which was not being used. I was not overly impressed by the condition of B hall, and I note that a prisoner on

remand died in Perth the day after my visit. From that point of view, I was not necessarily terribly happy with the purposeful activity, but I think that the throughcare is positive in that it goes beyond the statutory throughcare. There is currently a project with Dundee that is in its early days. The prison is certainly doing better than average in its approach to throughcare for short-term prisoners.

**The Convener:** I thank members for that.

I suspend the meeting briefly to allow Colin McConnell to take his place so that members can ask questions in our purposeful activity in prison inquiry.

10:46

*Meeting suspended.*

10:46

*On resuming—*

## **Purposeful Activity in Prison Inquiry**

**The Convener:** Agenda item 5 is our purposeful activity in prison inquiry.

Good morning, Mr McConnell. As I have trailed already, we have had the opportunity to hear members' feedback from their visits. Now members have questions on purposeful activity in prisons. John Finnie has your starter for 10.

**John Finnie:** Good morning, Mr McConnell.

Targets can sometimes be a good thing. Do they impact positively on purposeful activity? What about the balance between quality and quantity, for instance?

**Colin McConnell (Scottish Prison Service):** In a sense, the answer lies in the question. The targets are helpful because they give us a focus and an impetus to ensure that both across the individual prisons and collectively across the service we do as much as we can with the offenders who pass through our care. That is the issue. However, the target that is currently set does not necessarily give us enough direction or enough underpinning of what the content should necessarily be specifically or generally. The question touches on that. However, the target is useful, and I think that we would be in a far worse place without it. It is likely that we will discuss the number of different approaches that we could take to make the target or a series of targets more relevant.

**The Convener:** I did not give you the chance to make an opening statement, Mr McConnell. Do you want to do so?

**Colin McConnell:** No. I think that the discourse—

**The Convener:** You are a man after my own heart.

**John Finnie:** Setting aside the issues to do with remand and short-term prisoners and the challenges that they raise, which recur in all the establishments that we visited, is there a benefit in having individual, personal targets?

**Colin McConnell:** That is undoubtedly the direction of travel. Having overarching targets for the organisation as part of a building-block approach across the 14 public sector prisons is valuable and important, but that needs to be underpinned by what is important for each offender on the journey through custody. You are quite right to touch on the qualitative aspect.

As you know, we have the core assessment and core plus tools, which are mentioned in our briefing. They are beginning to give us a level of granularity and understanding, but I do not think that the service, either through its systems or, for that matter, its ability to respond to that information, is necessarily at a mature enough stage yet to make sense and best use of that information as it is gathered.

**John Finnie:** I do not think that the public sector supports the Scottish Prison Service in a collaborative way on some issues, although that might be difficult for you to say.

You may be familiar with the getting it right for every child approach.

**Colin McConnell:** GIRFEC.

**John Finnie:** Yes. Can we get it right for every prisoner?

**Colin McConnell:** I have said it before, but that is one of those rifle-shot questions that needs to be put into context. There are more than 7,700 offenders in custody today and, as far as the prison service is concerned, the real challenge for the Scottish Government and the people of Scotland is to put in sufficient investment to address every single need or concern that offenders who pass into custody have. We could develop a better approach if there were greater links between a national service such as ours and what is happening locally because, after all, the areas that people come from and go back to are what will make the difference.

Such initiatives are under way. Crucially, the Scottish Government is, as you know, driving an agenda of joined-upness; however, we still have a considerable distance to travel on this journey. If I might say, one of the real positives in Scotland that I have not encountered elsewhere on my travels is the connectivity between justice and education, or indeed learning, that has been put in place under Leslie Evans. There are tremendous advantages in being in that forum as chief executive of the Scottish Prison Service and having the ability to link up with education colleagues. As you rightly say, it is absolutely crucial that we translate the GIRFEC approach into our management of offenders, in particular youngsters in our care. We have to make that work in custody, and then connect it with communities.

**The Convener:** Are there international examples that the Scottish Government or indeed the committee could look at of the sort of links between the national and the local that you have described?

**Colin McConnell:** Of course, I do not want to downplay anything that colleagues or jurisdictions

elsewhere might have achieved or be achieving, but certainly within these islands I am not aware of an approach that is any more sophisticated than ours. I would say—if you do not mind, convener—that the dialogue that we in Scotland are having about joining things up and joining things together to make the whole system work is unique. We are not taking the kind of fragmented approach that one might observe is being taken in other jurisdictions.

**Graeme Pearson:** I want to ask about three areas, the first of which has been covered reasonably well in John Finnie's earlier questions. Where will you be applying pressure in the coming years to encourage purposeful activity that has some meaning for reoffending, for example? After all, when one sees the phrase "purposeful activity", one gets a warm feeling and thinks, "Well, that's good," but what is that purpose? The committee, I presume, will be worried about how to prevent reoffending and one would hope that this purposeful activity will go some way towards helping the situation.

**Colin McConnell:** I will go right to the end and then explain why.

Ultimately, the Scottish Prison Service will become a less distinct organisation. We are broadly recognised as being pretty much a stand-alone organisation—after all, we are an executive agency of the Scottish Government—but we are already on a significant journey to transform ourselves and become more connected with justice and learning, which will really have an impact. We are also really determined to get connected with our partners not only in the third and not-for-profit sector but, crucially, at a local level. Our approach simply will not work unless there is connectivity that can be evidenced with local authorities and their approaches to expenditure on and support for offenders. Those resources will be looked at in a less distinct way, by which I mean that instead of my sitting on my £400 million and saying, "No one can touch this," we will take a broader look at the resources that are available and how they can have more impact.

To put that in context, it is useful to think through the genesis of purposeful activity. I suppose the Victorian era is still with us in the fundamental design of our prisons. That era was much more about reform or punishment, as opposed to what we are talking about today, which is rehabilitation and reintegration assistance. The design and structure of our prisons and much of our paradigm for construction are still based on the Victorian era, so we are pulling a lot of that forward with us. The concept of purposeful activity has very much been the notion of the day; it is about putting positivity into what we do with offenders.

The tone of Mr Pearson's question was significant, because purposeful activity does have a soft, unspecific feel to it. That tone is absolutely right, because purposeful activity is a non-specific and general approach, although it is really helpful and important. Deliberately or not, Mr Pearson turned the phrase around and asked about activity with purpose. What we must do is work harder to be clearer about how we must work in a meaningful and impactful way with offenders as they pass through our care, rather than just be triumphant about having half a million hours of purposeful activity, which lacks the qualitative input that we need.

**Graeme Pearson:** As I said, I was very impressed by the staff. However, my suspicion was that purposeful activity was just about occupying the day rather than having a point or an outcome. To engage prisoners with the ethos of this new life that you indicate is your vision, should it be possible for court reports to take account of prisoners' commitment in the prison establishment in the event that they reoffend in the future? When someone who has already been a prisoner is being sentenced at a future time on another matter, should prisons be able to feed into a probation report and indicate that while the person was a prisoner they showed some willingness to move forward, or were unwilling to engage? Prisons get a really close look at somebody for a long period of time, but I am not aware of any reports on prisoners coming from prisons for consideration by the justice system.

**Colin McConnell:** I will restrain my natural reformist tendencies in answering the question.

**The Convener:** Why?

**Colin McConnell:** Lots of things happen to people when they are in custody. Of course, some are with us—either thankfully or depressingly—for a very short space of time, while others spend a significant proportion of their lives in our custody and we get to know them really well. However, one of the realities of the current system, not just in Scotland but elsewhere, is that as the custody journey ends, there is a drop-off. However, all the knowledge and information about the prisoner do not necessarily go to waste, because they stay with us and we make use of those as and when the offender comes back in. That said, we must give credit where it is due, because what has been achieved in Scotland is that every prisoner who leaves the Scottish prison service leaves with a community integration plan. Everybody goes out with some sort of plan, although the validity and value of the plan reduce the shorter the time that someone is with us, because we will not have had the time to make links or whatever.

However, to address Mr Pearson's point entirely, desistance is a journey. Fergus McNeill or

Shadd Maruna know about desistance theory and they will tell you that we all understand that desistance is a journey. Sometimes it is a long journey and different things happen. For someone simply to stop offending is very rare. What usually happens is that behaviours change, and those who succeed in that ultimately desist from offending.

It would be useful if we were able to inform the judiciary, as decisions are made, about how far along that journey we think that an individual might be and the sorts of things that judges and sheriffs might want to take into account. Of course, that would not be to constrain judicial independence, which must be retained. However, more information, best placed, would help good-quality decisions.

11:00

**Graeme Pearson:** Is it feasible that, in the foreseeable future, prisons would be capable of supplying that kind of information to the system, if the system desired it?

**Colin McConnell:** I know that, when someone has been given a sentence and spent their time in custody, the whole issue of tracking and retaining contact is a civil liberties issue. However, a genuine case can be made, for the common weal, for our at least offering to retain that relationship and, in some cases—depending on risk—insisting on that. I am sure that members will have heard me speak about the skills and knowledge that exist in the prison service among the men and women prison officers. In my view, they are tremendously skilled and knowledgeable about offenders. However, that knowledge is retained within the walls of the prison. With our community and local authority colleagues, we need to find a way of using that knowledge and experience more widely to do the sort of thing that you suggest.

**Graeme Pearson:** I will ask my final two questions together. The first is looking for a quick answer. Will you extend the curfew for TV across the prison estate to allow prisoners to get to their beds so that they can get up in the morning and feel okay? I will leave that sticking to the wall and you can let me know.

My second question is stirring up a hornets' nest. Low Moss has the capacity to do videoconferencing, but its use still seems constrained. That raises a couple of issues. One is about the economics and the savings for the public purse, but just as important is the disruption to prisons when they constantly have to stream people out in the morning and get them back in at night. That takes time for prison officers, who could be doing constructive work with prisoners, but who instead shepherd people out the door,

sometimes at half past 5 in the morning to go hundreds of miles to a court to hardly say a word and then be brought back to the same establishment. Will there be any changes that we can see and measure so that we know that the SPS has got the point and is beginning to use the facilities that we have spent money on?

**The Convener:** That was not a short point—Graeme’s short points are quite long—but it is a good point.

**Graeme Pearson:** I cannot help that—it is too important.

**The Convener:** He cannot help it. He is paid by the word.

**Colin McConnell:** I will respond to both points, if I may.

On video links with courts and videoconferencing more generally, I return to my time in Northern Ireland, where there is a very successful system. Although the prison system there is much smaller, there are many dispersed courts and probation offices in rural areas. So I have seen a system that works well. As members know, we are pursuing an initiative to link up prisons and courts. Ultimately, that will develop into wider conferencing. If we are to make the desistance journey work, we have to connect up, and information technology infrastructure and videoconferencing are key aspects of that. We have a cross-departmental initiative on that. The approach is being successfully piloted at Barlinnie, and we are on a route to roll it out.

I also want to comment on the question about the telly, which is a thorny issue for me. I am actually a bit of a fan of TVs in cells, and I would go much further. To be a wee bit reformist, I would have telephones in cells as well. Let me explain why, if I may. I know that the idea might stick in the craw certainly of the public and maybe even of some committee members but, generally, we get people to behave normally if we treat them normally and we try to recreate normality.

If I may, let me use a very personal example. My son is in his second year at the University of York, where he is studying law. That is a hard course, and I am one of those grumpy dads who likes him to have his sleep and do his studies and all that sort of stuff. When I texted him last weekend at about 10 o’clock at night, I thought that at that point he would be settling down to get a good night’s sleep to be ready to start off on the Monday—

**The Convener:** The parents among us are laughing.

**Colin McConnell:** Actually, Victor said to me that he was heading over to his mates’, who had got a few beers in, to watch American football. I

subsequently got a text yesterday to say that they were knackered by half past 2, so they went off to bed and gave up. He had a full day of lectures after that. I was a bit grumpy about the situation, but he is actually doing okay. I use that shaggy dog story to make the point.

I watch telly—probably not as much as I would like—sometimes until late at night. I know lots of people who do so. It is a window on the world. It is about keeping informed about what is going on. Actually, it can be a displacement activity as well. If it stops somebody thinking horrible thoughts about themselves or others and encourages discourse about “Coronation Street” or the news or whatever, loads of positives can come from that. Notwithstanding the fact that this is one of those issues that polarises people, I think that there is a place for it.

On whether there should be a curfew, I think that there are pros and cons. I would much rather treat people with respect and decency in the sense of saying, “Please use it sensibly”. Where people do not do that, we might have to curtail the activity for them.

**The Convener:** Given that caveat, presumably what they are watching on television is monitored—

**Colin McConnell:** Yes, it is controlled.

**The Convener:** Obviously, the same would apply to phone calls. We should just put that on the record, so that people do not think that they are in some kind of Marriott hotel instead of in prison.

**Colin McConnell:** One of the nine factors that is generally accepted as helping towards reducing reoffending is relationships and family contact. Where there is anything—reasonably and safely—that we can do that can help to sustain or develop family contact, we should give it a go.

**The Convener:** Let us move on to the next question, as Graeme Pearson has had a big whack at asking about that issue.

**Sandra White:** Good morning. As I said in my earlier comments, one interesting thing that I found out about on my visit to Barlinnie is the amount of employment opportunities that are provided. Obviously, those could be even better if we had more moneys or if we did things in a more constructive way. Therefore, I want to ask about improving community links.

I know that we also have long-term prisoners, but I was very impressed by a comment that was made by, I think, the deputy governor. When I referred to the “prisoners”, he said to me, “You are falling into the trap of thinking that everyone in prison is a prisoner. We have bad guys, and we have other people who just happen, in their turn in

life, not to have been as lucky as others.” I thought that that was, if not compassionate, at least a very commonsense way of looking at the matter.

The Barlinnie staff talked about trying to improve links with the community, especially for shorter-term prisoners with whom we know we have big problems. One idea was that the experience of prison officers, which you have also mentioned, might be used out in the community. To ensure that prisoners serving a short time are not simply in a revolving door, perhaps short-term prisoners could go to community centres where a prison officer might act as a mentor or contact for them and where they might get training and education within the community. People might then move on much quicker.

How do you see those links with the community, with education and with jobs? Could we take up that governor of Barlinnie’s suggestion about prison officers—retired people or people with experience—going out into the community to be there for people?

**Colin McConnell:** Our general approach should be that nothing in itself works but lots of things together help. We often talk about the what works agenda as if it were some sort of fantastic accurate science. Of course, because we are dealing with complex individuals in very difficult circumstances, the science is really difficult to apply. Linking up with the environment to which the offender will return—I know that that term jars with people, but I think that it is meaningful here—is absolutely crucial.

There is no point in having a false environment in prison that is either everything in the garden is rosy or totally depressing and not decent. We need to find a way of working together that ensures that while the offender is looked after properly, the focus is on reintegration and resettlement back into the community, leaving that offender in a far better set of circumstances not to reoffend than when he or she came to us in the first place.

On Barlinnie, like most governors, Derek McGill is a bit of an entrepreneur. He is doing loads of things that are not directed by me or by the SPS but that are part of the overall approach of connecting locally and bringing in the community in order to engage offenders more generally in what is important outside and, potentially, how not to reoffend. The bit of that that is missing is the outreach—the knowledge, experience and support going back out.

As I said in the Sacro lecture in November last year, going straight is not an easy ask. The academics tell us time and again—as if, by experience, we did not know—that desistance is a long and complex journey. The best way to help

people not to reoffend is to be there to catch them when they trip up. I might be being controversial again here, but maybe we are sometimes a bit trigger-happy. Someone trips up, they have defaulted, they are back in the system and the merry-go-round starts again. If we were able to connect with the community more broadly, we might catch some people before they fall and keep them on the desistance path rather than back on the prison path.

**The Convener:** How would you catch them before they fall? I hear what you say but you probably do not know that they will fall until they do. Bearing in mind the independence of the judiciary, are you suggesting that if somebody defaults, there should be something else? It follows on from Graeme Pearson’s question. You have material that sheriffs can look at to see how that person was progressing in prison. I do not mean that we should go soft, but we should have something that treats that person more as an individual, rather than say, “If you do this, no matter who you are, you’re back.” Is that what you are suggesting?

**Colin McConnell:** Primarily, the focus would be on short-term offenders. I heard many of the observations earlier, which, quite rightly in my view, focused on what is, in a sense, the lack of service provision for short-term offenders. Those are the ones that are on the merry-go-round. We all know that.

Regrettably, for a lot of offenders, going straight and staying out of trouble is a really difficult ask. They have no immediate reference points when things start going wrong, despite the best efforts of criminal justice social work—or social work in general—and other professions who are out there. SPS staff—the men and women who, as prison officers, work with offenders day in, day out—have something to add in the community environment. I see it as a 24/7 thing. Going straight is not 9 to 5. Things happen late at night, early in the morning or at weekends. A phone call that generates support or advice, or that makes a connection to another service, might just prevent someone’s relapse back into the system and back into prison. I know that that sounds a bit utopian but if we do not make that journey and try it, we will never know. Huge positives could come from that. That is not a land grab or tanks on the lawn. I see it a bit like empowering, supporting and enabling the community, not replacing.

**Sandra White:** Convener, may I come back in?

**The Convener:** Yes, I was giving you a look, saying, “Do you have another question?”

**Sandra White:** The conversation started with the example of a prisoner who is released and put in the same environment as before—that happens

to a lot of them. The prisoner feels quite vulnerable but cannot get joined-up help. They are in the house and the drug dealers in that environment put drugs through the door. They do not ask for any money but they reappear three or four days later and the whole spiral starts again. What Colin McConnell was saying is what I was trying to get at: prison officers know all of that—they have that connection. If there was some way in which we could feed in those aspects, perhaps we would stop a lot of reoffending. It was an observation rather than a question.

**The Convener:** I will move on to Alison McInnes.

11:15

**Alison McInnes:** Good morning. You may have heard me earlier mention my surprise at just how many agencies and partners were working in the prison that we visited. On the one hand, I saw that as a positive thing, because lots of experience is brought in. However, I felt that there was a disconnection, in that I did not get a sense that an overarching ethos was driving all the different courses. How do you hope to integrate all the work that is being done?

**Colin McConnell:** In some ways, that comes back to Mr Finnie's initial question and the fact that we have focused on the general rather than the specific, important though that is—this has been a journey for us. This is a very crowded playing field. It is crowded because there is a genuine interest, determination and hunger to make a difference, and that has generated lots of possibilities from voluntary agencies and the not-for-profit sector. Actually, I met one of the voluntary organisations yesterday—for the sake of this conversation, I will not say which—just to discuss that very point about how crowded the landscape is.

Specifically, if we look at the PSP for Low Moss, we see that 40 external agencies are engaged through its PSP. On the one hand, the sheer colour of what is going on is fantastic because there are lots of different local—

**The Convener:** For the purposes of the record, what is a PSP?

**Colin McConnell:** PSP stands for, I think, public social partnership.

**The Convener:** Sorry, I did not mean to catch you out, but anyone like me who reads the record will be asking themselves, "What is a PSP?" We came across all this jargon when we went to the prisons as well. We probably need a glossary.

**Colin McConnell:** You can determine from my answer that I am used to using the jargon without reflecting on what it means.

**The Convener:** You will not be punished if you have got it wrong—you will be on probation.

**Colin McConnell:** The point that I was making was that, on the one hand, it is fantastic that there is so much local interest and generation of possibilities and help. However, in a sense, many of the organisations are fighting for the same space. How that translates into the prison environment is that, at times, they are jockeying each other for the same prisoner.

We need to be mature and calm and have a discussion with colleagues out in the community about how we can make better sense of where the needs are and which organisations are best placed to meet those needs. If we look at that as a resource, we know that there is a finite pot of money, which I would like to be spread as effectively and evenly as possible. We need to be careful in case, for the thousand flowers blooming, we do not see any beauty. As I say, I think that there needs to be that calm deliberate dialogue about trying to find out what we need to do and who is best placed to do it.

**Alison McInnes:** Do you have a timescale for that sort of review, which would clearly be a significant piece of work?

**Colin McConnell:** I think that the Scottish Government is already generating that discussion through justice policy. A number of initiatives are being taken forward by justice policy, particularly on the reducing reoffending programme, that are designed to address that very issue. As you will know, a £10 million change fund has been set up—obviously, I do not run the fund, as that is a policy issue—which is designed to generate the change of direction to ensure that the infrastructure is put in place to support the policy intent. Every effort is being made, so I think that we are on the path to achieving that.

**Alison McInnes:** In your written submission, you remind us of the diversity of the prison population, which comprises different groupings, including women, young people, long-term prisoners and remand prisoners. How do you ensure that the purposeful activity that is provided meets everyone's needs without taking too much of a one-size-fits-all approach?

**Colin McConnell:** In truth, not everyone's needs are met. In the current construct, that is simply not possible and I would not want to sit here and pretend otherwise. Our approach currently is that we can identify those who are most needy—at most risk—and who, by dint of either their sentence length or the risk that they might pose on release, will be the main focus of our attention to ensure that they get the broad range of services that are targeted at the right time to meet their needs. Other than that, more

generally we try to do the very best that we can—again, this goes back to Mr Finnie’s question—and to provide the most that we can. That is well intended, but I think that we need to recognise that it is probably lacking in ultimate impact and effect.

**The Convener:** On your point about the crowded landscape, we have known for a long time that a well-meaning voluntary sector and public sector are competing. Some organisations are a bit precious about their work. In the chain of command, do you require governors to review how things are operating in the prison and then look at it yourself? Things are happening all over the place, so how is control or accountability provided? Do governors report to you so that you can see how what is happening in their prisons compares with what is happening elsewhere?

**Colin McConnell:** As a service, we have not had a distinct approach. There is no policy position on how to do things or on which organisations are badged as acceptable—

**The Convener:** I did not mean that. I am just asking how you look at the many voluntary sector organisations involved. For instance, I know that the governor at Polmont is now looking at how everything integrates. As head of the SPS, how do you see that all prison governors throughout the system are doing that?

**Colin McConnell:** It is organic. It is exactly that. Currently, the governors pretty much have freedom, within their own situation, to determine which partners they work with. That provides strengths of local connectivity, but it also carries the risk of diffusion and lack of focus on the issues. I would like to be on a journey—I think that this is where we are going—where we give local flexibility to determine what makes the best local connections but also have a distillation mechanism, if you like, that helps the governor and the organisation to identify which organisations in which circumstances are likely to provide the best resource.

**The Convener:** Are you that distillation mechanism?

**Colin McConnell:** No, I would not be. That probably sits with policy colleagues in justice.

**The Convener:** That was what I was trying to get at, so that we can filter things out a bit.

**Jenny Marra:** Mr McConnell, when we looked at a diagram of community justice authorities a few weeks ago—I think that the Public Audit Committee is now looking at the effectiveness of those organisations—it struck us, from the evidence that we received, that there are so many partners around the table that some actions seem to fall through the cracks between partners.

In your answer to the question from my colleague Graeme Pearson, I was struck by what you said about the need for partnership working in education because, at whatever point they leave prison, prisoners will return to their communities. I completely understand and appreciate that, but this is also a time at which local authorities are experiencing harsh cuts to their budgets.

Given, for example, my recent problems in getting Perth prison to speak to Dundee City Council to match up homelessness lists so as to cut down on the abandonment of properties, I would be surprised if local authorities are really in a position, especially in the face of local political pressures, to put resources into the rehabilitation and education of prisoners, which is not their responsibility. In that context, is there not more of an imperative on your service, while you have that captive audience in your care, to deliver rehabilitation and to develop their physical and intellectual skills—skills that will be transferable when prisoners go back into the community—rather than wait for an integrated partnership approach to come together?

**Colin McConnell:** The answer to that is twofold—yes and no. I will start with the yes.

**The Convener:** I like your style.

**Colin McConnell:** Jenny Marra was right to put me on the spot. The Scottish Prison Service is allocated a tremendous resource from the Scottish Government, and the Government and public at large should have high expectations of what we do with the money.

As I said, the Victorian system still underpins what we are doing. We keep people in custody safely and decently. I know that the committee has seen the Audit Scotland report that talked about the four Rs—restriction, reparation, rehabilitation and reintegration. About three quarters of our resource is spent on restriction. It is spent on keeping people in custody safely and decently and ensuring that they can get to all the activities safely and decently.

As I said in the letter of introduction in response to the convener’s invitation, we must not view offenders as a homogeneous group. They are not a homogeneous group. Prison is a tremendously complex environment. I accept the challenge to do what we can do to transform people—we are in the human transformation business—but it is an incredible ask of the committee, the Government or the public to expect the Scottish Prison Service or any prison service to transform every individual who passes through its care in every set of circumstances. I do not think that the Scottish economy could afford to do that and, even if it could afford it, I doubt that I could ultimately

produce evidence that it had worked in every case.

As I said, nothing in itself works, but lots of things help. For example, more than 50 per cent of the education resource in the Prison Service deals with numeracy and literacy. That gives us an insight into the prison population. Nearly 60 per cent of the offenders in our care would struggle to compete with the average 14-year-old on numeracy and literacy. Our focus is very much on building people's capacity to cope. It is not just about education. Some 70 to 80 per cent of offenders who come into custody self-declare alcohol and drugs problems and addictions, much of which is associated with their offending.

I am beginning to set out for the committee the scale of the challenge that we face. We are not trying to distance ourselves from that challenge, but the idea that the SPS is funded in such a way that it can meet everyone's needs on every occasion and can do so on its own is probably not sustainable. We can do more and better by making links with other professions and particularly the communities that people come from and return to.

I should say, for the sake of clarity, that I am in no way saying that local authorities should sub-fund the Prison Service. However, we need to be clearer about the expectations for and of a custodial service such as ours and about the responsibilities of the communities of the people who are on a journey. We must think about how we bring those two elements together. It is about looking at the whole resource and not looking at resources separately.

11:30

**Jenny Marra:** Thank you for your answer. I appreciate that it is a massive challenge and I was not suggesting that you deliver everything on your own. Of course partners have to come in and work together.

The point that I was hoping to make is that we need to strike a balance to ensure that we do not get bogged down in some massive network as a result of which action does not happen and things are not delivered. I think that Rod Campbell alluded to this in his earlier summary but, when I visited Perth prison a few months ago, I thought that there simply was not enough purposeful activity going on. Walking around the prison at 4.30 pm that Friday afternoon, I found a lot of the classrooms and other such areas closed and in darkness. That seemed very early to me. Does Perth have a worse rate of purposeful activity than other prisons in the country and, if so, is anything being done to address that?

**Colin McConnell:** Again, there are two elements to my response.

First of all, making monochrome comparisons between the number of purposeful activity hours that various prisons generate holds dangers. We need to put such matters in context and bear in mind, for example, the age of the prison, its fundamental design and its mix of offenders. On the evidence that I have, the top performer in this respect is likely to be Low Moss, which is modern and has been designed with such activity in mind. With the older Victorian prisons such as Perth and Barlinnie—Edinburgh has been revamped, but you get the picture—that was never part of the concept. The governors and staff in that difficult group of prisons—one of which, as I have said, would be Perth—face tremendous obstacles just to make the daily routine work and have to deal with unconnected buildings, long routes to work or education and so on. As a result, I urge the committee against making single judgments on numbers and to look more at the degree of difficulty involved. The governor and his team at Perth do a good job with an infrastructure that has not necessarily been designed as efficiently and effectively as it might be—and certainly not in comparison with Low Moss or even Addiewell, which is a reasonably new prison where the connections are far easier to make.

Secondly, going back to community links, I urge the committee to look beyond what prisons in themselves can do. We are beginning to explore the boundaries of what prisons can do on their own—indeed, the Scottish Prison Service has been pretty good at that—and the next major development or leap forward is to open up the service and have in-reach and outreach services on a completely different scale that will really connect communities with offenders and connect offenders with the communities that they are going back to. If we can use the available resource more flexibly on that journey, we can make a far greater impact than we have been able to thus far.

**The Convener:** I am conscious of the time, the fact that members are in the chamber this afternoon and the fact that Roddy Campbell has not yet asked a question. Alison, do you want to start a fresh line of questioning?

**Alison McInnes:** I just have a follow-up to Jenny Marra's question.

**The Convener:** I will let Rod Campbell in because he has not yet asked a question but, looking at the schedule and recognising that members still have a lot of questions, I note that on 19 February we have pencilled in an evidence-taking session with the Cabinet Secretary for Justice. Might it be useful to bring Mr McConnell back at that time? I do not want to suppress members, but it could be that, by that time, other

issues might have arisen. We would then have an evidence-taking session with perhaps two panels on 5 February and another with the cabinet secretary and Mr McConnell two weeks later. Is that all right?

**Members** *indicated agreement.*

**Roderick Campbell:** First of all, following on from Jenny Marra's comments about Perth prison, I have to say that the figures are certainly disappointing, but my major concern when I was walking around the prison was that, if a member of staff was off sick or on holiday, the facilities were automatically closed down. I appreciate that sickness cover is much more difficult to put in place, but I wonder whether people could be brought in from elsewhere to cover, say, holidays. I simply felt that the facilities were being underutilised as a result.

**Colin McConnell:** It would be silly of me to disagree—you are absolutely right. Again, however, this brings us back to the fundamental construct of how the service operates and the fact that the rehabilitative, growth and reintegrative aspects of our work do not receive the same level of funding or protection as the restrictive, custody and safety aspects. We need to think more deeply about that issue as we move ahead.

**Roderick Campbell:** I have two other questions of clarification. First, in your submission, you suggest using the national directory of interventions and services to have more effective throughcare. What does this directory look like? Is it a book? Why is it so important?

**Colin McConnell:** The directory, which is a Government initiative owned by justice policy, sets out all the interventions or services that are available to offenders either in custody or in the community. The concept behind it—which I think is a good one—is to ensure that all agencies, organisations and professionals who work with offenders know what services are available, who is delivering them and how to access them. Part of the intention is not to reinvent the wheel, although, as we have discussed, some of that might well be going on. The directory simply shows what is out there that we believe has a positive impact on the offender journey, who to go to and how to access it.

**Roderick Campbell:** Who is responsible for preparing the directory and keeping it up to date?

**Colin McConnell:** Justice policy.

**Roderick Campbell:** My second question is about the community integration plan, which is obviously a big thing for an offender coming out of prison. Who else sees and has access to it?

**Colin McConnell:** For statutory offenders, it is the criminal justice social workers—if you like, the

community side of offender management—who will make the link. We try to make similar links for non-statutory offenders and, where we can, try to involve the offender, the family and the rest of the community-based justice system, but I have to say that the approach does not always work as seamlessly as it does with statutory offenders. Indeed, as I said earlier, the shorter the time offenders are with us for, the less valuable the integration plan will be. It comes back to the question of what constitutes time well spent but, of course, others will have views on that.

**The Convener:** You do not have to answer these questions now, but I want to highlight a few points that have not been responded to. First of all, we asked about the earnings policy's impact on purposeful activity and it would be useful to find out about the SPS's earnings policy for prisoners. Secondly, the committee might find it useful to see anonymised examples of a community integration plan for a statutory and a non-statutory prisoner coming out of prison.

**Colin McConnell:** I will write to you with that information.

**The Convener:** That will be very helpful.

Thank you very much for your evidence. I hope that you will be available to come back and give more evidence on 19 February, because I think that we will find it useful.

We now move into private session.

11:38

*Meeting continued in private until 11:59.*

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