



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Committee

**Tuesday 20 March 2018**

**Session 5**



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**JUSTICE COMMITTEE**  
**10<sup>th</sup> Meeting 2018, Session 5**

**CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)  
\*Maurice Corry (West Scotland) (Con)  
\*John Finnie (Highlands and Islands) (Green)  
Mairi Gougeon (Angus North and Mearns) (SNP)  
\*Daniel Johnson (Edinburgh Southern) (Lab)  
\*Liam Kerr (North East Scotland) (Con)  
\*Fulton MacGregor (Coatbridge and Chryston) (SNP)  
\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)  
\*Liam McArthur (Orkney Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Marie Cairns (CrossReach)  
Neil Clark (East Ayrshire Advocacy Services)  
Colin McConnell (Scottish Prison Service)  
Elaine Stalker (Families Outside)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Justice Committee

*Tuesday 20 March 2018*

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

### Decision on Taking Business in Private

**The Convener (Margaret Mitchell):** Good morning and welcome to the Justice Committee's 10th meeting in 2018. I have apologies from Mairi Gougeon MSP.

Item 1 is a decision on taking business in private. Does the committee agree to take in private item 6, which is consideration of our approach to scrutiny of police and fire and rescue services?

**Members indicated agreement.**

## Remand

**The Convener:** Agenda item 2 is an evidence session on remand—our fourth this year. The main focus today is on the experience of prisoners on remand, whether anything useful can be done in the remand period and the negative effects of remand on both prisoners and their families. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

I welcome our witnesses this morning. Marie Cairns is from CrossReach and is the manager of the family visitor centre at HM Young Offenders Institution Polmont; Neil Clark is the project co-ordinator at HMP Kilmarnock mental health advocacy service and is representing East Ayrshire Advocacy Services; Elaine Stalker is the deputy chief executive of Families Outside; and Colin McConnell is the chief executive of the Scottish Prison Service. Thank you all for your written submissions. They were really helpful to the committee in advance of our evidence session. I thank Marie Cairns in particular for making herself available this morning at very short notice. We really appreciate that.

We will move straight to questions, starting with Rona Mackay.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Good morning, panel. I will start with a general question about the impact that remand has on prisoners during their time on remand and then after release. Could you give a general summary of that?

**Neil Clark (East Ayrshire Advocacy Services):** As we say in our written submission, we tend to get referrals once the people we support are in custody. It is very rare that we are already supporting someone in the community and are in court when they are remanded. For the vast majority of the people we support, the referral comes once they are in custody.

As we also say in the submission, we work only with people who have some sort of mental health issue. The impact on them can start from when they are taken into custody. If their medication is removed, they can experience a delay in receiving medication, which can have quite a negative impact on their mental health. Some people have been on certain mental health medications for a number of years, but for whatever reason those medications are not available in the prison. There might be security concerns or a risk that they will be bullied for their medication. There is a lot of concern from prison management and healthcare staff about that, but delaying medication can have quite a negative impact on people who have a genuine need for it.

There can be impacts just from the uncertainty about what is happening, particularly if it is someone's first time in custody. We try to get the referrals as early as we can, which is not always as straightforward as perhaps it should be. Our other job is to facilitate communication with family members and legal representatives, to make sure that that support is in place for the people we are working with. I think that those are the main impacts that we deal with.

**Rona Mackay:** How is the medication monitored? How much time elapses before things get back on an even keel? Do they ever get back on an even keel?

**Neil Clark:** It varies. For the people who have regular contact with the healthcare department or the mental health team, it can happen relatively quickly. When they go in on reception, they might be told that their medication will not be available, but they should get an appointment relatively quickly with a general practitioner who can put things in place. If there has been an issue with prescriptions or issues in the community, some people may have to wait for a mental health assessment or psychiatric input, which can take time. It is probably more a resource issue on the healthcare side. Someone from the national health service would be able to speak to the issue better than I can, but for some of the people we have worked with while they have been on remand, it is basically a case of waiting until they have been back to court.

When I have raised such cases with healthcare staff, I have been told that they do not want to set up a treatment plan if someone is only going to be in prison for a couple of weeks, as they might not follow that treatment plan if they go back into the community. That is their concern. However, we have worked with some people who have been on remand for a number of months and have gone with no medication and no treatment, although they have taken medication and undergone treatment in the community. There is definitely a gap in provision for people on remand.

**Rona Mackay:** That is interesting. I am sure that we will want to follow that up as we go on. Does anybody else want to comment about the impact?

**Elaine Stalker (Families Outside):** Families Outside regularly hears from families who are concerned about someone having no access to support when they go to prison, whether for a longer-term sentence or a shorter period on remand. Families are not able to support their relative in prison and they are worried about their relative's medication. The stress that that puts on family members can be compounded by not knowing what is going on. That is an on-going issue. We know that the families of those on

longer sentences face very similar issues to those with relatives who are on remand. It is the fear of the unknown: what is going to happen, and how long will it take? The uncertainty about what is happening in their relative's life, even for what can be a short period of time, can be a real issue.

We have a national helpline that takes calls from family members as well as professionals. We can be the first point of contact for families who know that their relative has gone to prison. They ask us, "What happens? How do I visit? How do I tell my children? What is next? How do I get their medication in? What about housing?" There is a whole range of issues, not least the medical issues.

**Rona Mackay:** Is communication between the prison service and families lacking? It sounds as if it could be improved.

**Elaine Stalker:** It has improved over the years. I think that the prison service does an awful lot to engage with families at different times in the process. Remand is particularly difficult. It can be a very short time in prison—by the time someone is back in court, they are out again. There is not enough time for anyone to do anything with people who are on remand, or for families to find things out and start engaging. Those things usually happen when a custodial sentence is given.

**Colin McConnell (Scottish Prison Service):** Thank you for the opportunity to comment on that question. I am conscious that the committee has already had a number of views in the evidence, and I do not want to go back over what has been said. However, I would like to respond to some of the concerns that have been expressed.

It is important to remember that it is for qualified medical people to deal with an individual's medical care and, in particular, any prescription drugs. As the committee already knows, following conviction or a decision to remand, everyone sees a qualified nurse on reception and a doctor within 24 hours. I have heard the concerns expressed by colleagues and stakeholders, and I think that it would be important for the committee to hear from the medical profession, particularly those who work in prisons and deal with the many difficulties and challenges that people bring with them into the custodial space, whether those are general, health-related challenges or more complicated mental health challenges. I would not want to comment, either indirectly or directly, about whether it is a fact that people do not get the medication that they require. I think that we would need to hear from medical professionals who make those judgments on a day-to-day basis.

If I may, I will offer some commentary about experiences of remand. You can look at it in two ways. For many people, the experience of being

sent into custody, whether on remand or on conviction, can be incredibly disconnecting, troubling and confusing, particularly for those who are experiencing their first time in custody. However, whether we like it or not, it is also true that many people who make their way into custody, particularly those who, regrettably, are on a treadmill and those who spend very short periods of time with us, have chaotic lifestyles in the community. It is almost a perverse aspect of custody that it can bring stability and access to services and resources that may not be available to the individual when they are in the community.

I understand the committee's concerns about the reasons for remand or its potential overuse, and I think that the concerns about the disconnect, the worry and the impact on families are absolutely legitimate—we are as concerned about those issues as our partners are. However, perversely, there are positives that individuals can experience by being sent into custody, particularly those who have had chaotic lifestyles up to that point, and there are some good outcomes from that.

**Rona Mackay:** We have heard that people who do not get a conviction are in prison for just a short period of time. What do you do to prepare them during that short period? What are the positives if there is just that short period?

**Colin McConnell:** As our partners have suggested, it is very difficult and very challenging. The median number of days that people spend on remand in Scotland is 27. There is a range, but the median point is 27. Frankly, I think no matter which organisation you question about that, it is a huge challenge for us to do things that are not only immediately positive but positive in a sustained way, as people move through the process. Undoubtedly, the positives for those who have chaotic lifestyles in the community could be—will be—stability and access to medical opinion and support. There is also signposting and gateway access to the many specialised and caring partnership organisations that are in the community anyway but which individuals either may not be aware of or may not be accessing. I think that one of those perverse—some might say—positives that come from being sent to custody is that at least we can make those connections.

We would prefer this to happen only where it absolutely had to happen, but we are where we are. I think that it is important that the committee considers that, although there are many negatives, there are also a number of positives that come from that experience.

**Rona Mackay:** Does Marie Cairns want to come in?

**Marie Cairns (CrossReach):** I will follow on from Colin McConnell's final point. Families have told us that they feel relieved that their son or daughter is in prison, because for the first time in a while they have been able to sleep without wondering whether their son or daughter is going to come back or whether the police are going to come to the door. Some families feel that sense of relief when their family member is put in prison. However, for remand prisoners, the families do not know how long they will be in for: it could be seven days, but it could be up to a year before the case comes to court. That is always a concern: they cannot plan because they cannot gauge how long the person is going to be in prison for.

On access to medications, some families have told us that they are extremely concerned about a family member in prison because the person cannot articulate their problems to the medical services. I say in my submission that many families have told us that their son or daughter—although it is mainly their son—has attention deficit hyperactivity disorder or autism, although it has never been properly diagnosed. We are hearing about more and more of those cases. It is an issue that I would ask the committee to look at. Perhaps we should start gathering more data on it. If young people who have ADHD or autism that has not been properly diagnosed are sent to prison, they will not have the proper medication that they require.

Young people with mental health issues are a problem for families as well. They get extremely concerned if they are on a visit and feel that the mental health of their loved one is starting to take a downward spiral. They do not know whether there is access to nurses and doctors. We always try to reassure families that those aspects of their loved one's health will be monitored, and then we introduce the family contact officers. If any family tells us that they have been on a visit and are really concerned, we immediately raise that with the family contact officer or with a front-line manager to get that passed on to the hall staff, who can then closely monitor that young person.

**Daniel Johnson (Edinburgh Southern) (Lab):** I would like to put a brief supplementary question to both Neil Clark and Colin McConnell. Could you briefly outline the nature of the disorders for which people fail to receive their medication? What are the impacts of that? Given what Colin McConnell said, I recognise that this is anecdotal, but I am looking for the point to be elaborated a bit. Anecdotally, and in your experience, how long do people go without their medication?

10:15

**Neil Clark:** In our experience, as I said in our written submission, around 20 per cent of the

people in prison who have been referred to us over about three and a half years are on remand, so we are talking about only 30 to 35 people. Less than half of those people have had on-going issues with medication. We have dealt with only a small number, but there is nothing to make me think that that is not happening to other people in the prison whom we are not aware of or to people in other establishments. I can speak only about HMP Kilmarnock.

The mental health issues involved range from people who have depression and anxiety right through to people who have been on anti-psychotic medication that they have had to go a number of months without. We appreciate that in the prison environment there are security issues and medical issues, which the medical professionals can speak to. However, I have argued previously that the risk that someone might be bullied for their medication does not mean that everyone who is due that medication—there are people who genuinely need it and who sometimes go without—has to suffer because of the concern that it will be misused.

If I may, I will pick up on the point about ADHD and autism. We have dealt with a number of people who have had a diagnosis of ADHD or autism. Sometimes there is a dispute over when that diagnosis took place and even whether a diagnosis was made. Some people may have been on medication as a result of a diagnosis. If they are reassessed, there can be a mismatch between what the person thinks their diagnosis is and what their medication should be, and what the healthcare professionals are saying, which is based on a more up-to-date assessment. I think that lot of that is to do with communication between healthcare staff and the people involved.

**Daniel Johnson:** In my main line of questioning, which we will come to later, I will bring up the issue of ADHD again. At this point, I declare an interest. I am both diagnosed with and medicated for ADHD, which is why I am particularly interested in the issue.

Following on from that, given the nature of the prison population, there is a high degree of comorbidity involving such issues among people who offend. You said that mental health issues are more complicated. Can I probe that? Why are they more complicated? Indeed, given that comorbidity, should mental health not be a priority? Let me be flippant, although I recognise that it is not as simple as this. Why is the process not as simple as the prison picking up the phone to the family general practitioner and finding out what medication people need?

**Colin McConnell:** As a public servant, I would like to be as helpful to the committee as I possibly can be, but you would need to have a medical

professional here to answer that question, because I simply cannot do that. I say that not to be unhelpful. As a layperson, it strikes me that, given the very nature of the population we care for in prisons, many of the people we look after have incredibly troubled backgrounds and multiple needs and deficits. Sadly, that is the nature of the population that makes its way into prison. I simply say, as a layperson, that it is complex for us as an organisation, with our many partners—professionals and those in the third and voluntary sectors—to put together a package of appropriate responses and care plans to make sure that we cover all the needs and requirements of every single person who passes our way. That is our ambition—it is our ideal. However, I think that it would be a statement too far for me to say as head of the Scottish Prison Service that we manage to do that in every single regard. That is probably not the case.

I go back to some of the observations and anecdotes that Neil Clark has understandably shared. The committee needs to appreciate that neither I nor a local prison governor has any power or authority, be it legal or moral, to say to a medical professional, “You are not prescribing that”. I am a bit surprised, I have to say, by the sense that somehow we have power of veto over what a medical professional may prescribe.

The prison environment is challenging, as Neil Clark has touched on and as all committee members will know. Prisons are complex places to manage. In our prisons, bullying goes on and there is violence; I wish it were not so, but that is the case. As the chief inspector has often reported, however, our prisons are decent, safe and secure places, but—

**The Convener:** Can I just interrupt you? I did not hear anyone suggest that the prison service had a power of veto over any medication. I think that there is a real issue about information being passed on. If someone has been in prison who has

“severe and enduring mental health problems”

and who keeps ending up on remand and in prison, is there some record of that? I think that that is mentioned in the East Ayrshire Advocacy Services paper. This goes to the very heart of data collection. Is there any record that someone has been in the prison before, so you know that they have mental health issues or are prescribed certain medication? Is that information passed on?

**Colin McConnell:** I ask you to indulge me just for a minute so that I can make a point of clarification. I am concerned—and I think that it is important for the committee to consider this—about there being any inference that medical professionals are not prescribing appropriate



medication because of concerns that the prison service may have. I do not believe that that is the case, and I do not think that there is any evidence of it happening.

**The Convener:** I do not think there has been any such suggestion. I can put your mind at rest on that, so there is no need to labour the point.

**Colin McConnell:** That is fine. Thank you very much.

**The Convener:** There is a point to be made about the data collection. You mentioned a median remand time of 27 days. However, these figures are from between 2007-08 and 2012-13—that is the most up-to-date information available. Why is that?

**Colin McConnell:** Those are the figures that the Scottish Government's justice analytical services division produces so we are all in the same boat on that. Those are the figures that we use. The prison service does not keep separate data on the basis that these are court processes. I understand where you are coming from—there are data collection and data communication issues. However, that data is not something that particularly falls to the prison service to produce.

We are part of the justice system. From looking at previous committee meetings on the issue of remand, I can see that the committee has already identified the need for all the parts of the justice system to work more collaboratively to make sure that the data is available to people.

**The Convener:** How should that be done? Do we need someone to take responsibility for co-ordinating it? It is not being done just now. We have heard from Ms Cairns that someone can go in with ADHD or autism and that is not known about. Mr Clark's written submission states that people with

"severe and enduring mental health problems"

can end up in prison practically by default. How do we get the data on record to identify the problem and, therefore, the need to be addressed?

**Colin McConnell:** The question of who ends up in custody is not a matter for the prison service; it is a process for the courts.

**The Convener:** You misunderstand me. I am talking about the collection of data once people are in prison. I understand that you do not determine who comes before you—you are referred prisoners. It is about the collection of data once they are there.

**Colin McConnell:** It is a challenge for the justice system as a whole. I do not think that it is for me to determine how the different parts of the justice system should come together to do that. I simply accept your point, which is well recorded,

that the data appears to be lacking and that improvements are required.

**The Convener:** But you have suggested that there should be a more holistic approach to data.

**Colin McConnell:** That is an incontrovertible point to make, yes.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I have a follow-up question for Colin McConnell. Do you notice any difference when somebody comes from court on remand with a mental health condition or with a physical health condition? For example, in the case of a physical health condition, someone might need heart medication that night. I think that that is the crux of the matter here. It is not about you implementing a veto or anything like that. I think that you work really hard and I do not think that anybody is suggesting that you are implementing a veto. I think that the issue that families raise, which the committee has heard before, is that there is a delay in medication.

When somebody is sent from remand, whether or not they are new to the system, do you see a difference between how mental health problems are treated and how physical health problems are treated?

**Colin McConnell:** As I said right at the start of my evidence, from my perspective, it is very clear that the medication a person has in their possession is a judgment for medical professionals. Whether that is something that is related to mental health, to physical health, or to both, these are issues that have to be determined and properly considered by medical professionals.

**Fulton MacGregor:** We have been over that point. If anybody is on any medication for anything, their need for it has already been determined by a health professional, albeit in the community.

What I am trying to ask is, rather than put all the onus on to the prison services, what can be done to make sure that that information—the prescription of any medication—is relayed to you as quickly as possible?

Following on from the points made by Daniel Johnson and the convener, how can that information be relayed to you as quickly as possible so that it does not cause any delay? Whether it is hours or days or weeks, it does not matter—how do we stop that delay? What can be done at the stage of remand?

**Colin McConnell:** It is a communication issue for the NHS. The issue of communication between health boards and the prisons in their jurisdictions has to be addressed. I am going to labour the point, because I think it is really important, that decisions relating to the medical care of an

individual passing into custody are made by properly qualified health professionals.

**Liam McArthur (Orkney Islands) (LD):** I am slightly disturbed by this. I can appreciate why decisions about medication and any other care needs are a matter for the health professionals. There is surely a duty of care on the prison service and on you, as chief executive of the prison service, to ensure that those who are within our prison estate are receiving the care and attention that they need.

If suggestions are being made that this is not happening either in particular prisons or in particular circumstances, I would hope that that duty of care extends to you, not to veto anybody's decision but at least to challenge and question the advice that is being received and the way that it is being received.

If there are issues of bullying and threats of violence and medication is being misused, that is surely a question of how the medication is administered, rather than withholding the medication entirely.

**Colin McConnell:** I entirely agree with the point that you make. The responsibilities, as you have described them, that we hold for people passing into our care are absolute. However, there are issues that we address in partnership with other agencies and the discussion this morning has related to health issues and the added complications when people have multiple needs and deficits. The fact remains that these are issues that we work on in partnership with the NHS, and issues relating to what medication is prescribed and how it is administered fall within the purview of qualified medical professionals.

**Liam McArthur:** Indeed, but qualified medical professionals are not necessarily generalist across the piece and they may be qualified in some areas but less qualified in others. One of the issues that has been raised relates to mental health. People may have undiagnosed conditions prior to coming in, but there is an opportunity when they enter the prison estate to actually identify and respond to those needs. I think that the question mark is around whether the medical professionals have the expertise to provide that diagnosis and advice in relation to some mental health conditions.

**Colin McConnell:** I cannot comment on whether the medical professionals are appropriately qualified. I take it on assurance that they are appropriately qualified for the decisions that they make.

The general provision of services in the SPS is overlapping and multifaceted. Our staff work on an advocacy basis when people in our care express concerns or demonstrate behaviours that might cause us concern, as do our partner

organisations. We also have, as you know, monitors who represent Her Majesty's chief inspector of prisons working in our prisons, who also act on an advocacy basis.

10:30

People in our care have levels of support that may not be present elsewhere in relation to making sure that their concerns and worries are properly presented to the professionals or organisations that are there to provide those services. I wish that I could give you a more convincing answer than I appear to be giving you, by the sound of it. However, the reality is that for specialised issues to do with the nature of the illnesses or otherwise that someone coming into custody may bring in with them or may develop, we rely on suitably and properly qualified colleagues to make those judgments and then work with us to make sure that people are properly cared for.

**The Convener:** Can I put it another way? You are the first point of contact when they come into the prison and therefore, they may say to you, "I do not have my medication", or they may display behaviour that may be indicative of a mental health problem. Is there not some way for you to record that and take up those concerns with the appropriate medical staff? If so, how quickly is that done?

**Colin McConnell:** On the day of reception, there is a standard process—I hate to describe it like that—that everyone who is received into our care goes through. Part of that process is seeing a fully qualified nurse, who goes through a series of questions and discussions about health and mental health and wellbeing with every single individual who is referred into our care.

**The Convener:** At what point does that happen? It will not be the minute they come in and they are presented to you, when they may well say, "Look, I have just arrived here and I do not have my medication".

**Colin McConnell:** Yes, it is, within reason. Let me try to explain that, because it is part of the reception process. Before someone leaves reception and moves to their place of residence, they will already have seen a qualified nurse, who will have taken them through all those issues. We also address concerns about self-harm. All of that is discussed as well—any history of self-harm plus any concerns that people may be—

**The Convener:** What happens to that information then? If the nurse has seen them within hours of them being presented, why is there still a gap that means they end up without any medication?

**Colin McConnell:** I am certainly concerned about the evidence of that. I hear anecdotes that people go without medication, but we have health professionals making judgments about what medication—if indeed someone brings medication with them—goes with them into their place of residence.

I would also expect those medical professionals to make onward connections to pharmacists or GPs if there are concerns that different medication or more medication is required. However, it is not something that I can particularly comment on.

**The Convener:** All right. I do not think that we are going to get much further with that, but I think that you have gathered that there is quite a lot of concern around the table about how this is operating in practice.

**Colin McConnell:** I understand that, yes.

**Liam Kerr (North East Scotland) (Con):** We have explored how things appear to be at the moment. Two of the submissions mention possible solutions or developments, as Marie Cairns has done this morning. The fact that mental health concerns are an issue is not revelatory. We have known that people with mental health issues are coming into the system for some time, so it begs the question: what is in train to look at this area and to improve the system? How far are we from a possible solution?

**Marie Cairns:** Can I make a suggestion? I have worked in social care for almost 20 years, mainly working in Glasgow in residential care with homeless people. Many of our service users were in and out of prison often.

I was really shocked when I came to work at HM Young Offenders Institution Polmont when I realised that all the care plans that are made while a person is in residential care are not transferred over to the prison. That is a massive amount of information regarding that person. Obviously data-sharing issues and relevant legislation would need to be considered before the information is passed on, but they are missing out on such a wealth of information. It can help SPS staff to know the triggers for somebody who may be going to self-harm or to know the medications. There is a wealth of knowledge in those care plans that I feel would be a great advantage to SPS staff.

**Liam Kerr:** You have proposed a solution there—you have said, “This could be better”—

**Marie Cairns:** It is only a personal opinion and suggestion.

**Liam Kerr:** That is fine.

There are various suggestions in the East Ayrshire Advocacy Services submission about how the situation could be made better. Solutions

have been proposed; what is being done about that? Who is taking that ball and running with it?

**Marie Cairns:** This is the first time I have had a chance to make that suggestion about the care plans. I did speak to the governor one day at a briefing and said that I was really surprised that that did not happen. They hoped that maybe in the future that could be looked at.

I know that SPS staff now are being trained to take a more holistic approach to a person and that they are looking into doing care plans, but as I understand it, that is not something that is done as readily as it would be done if someone was in social care, for example.

However, even in the two years that I worked in secure care with young people, all that information was transferred if they moved on to Polmont or to prison after they had reached the age of 16.

**Neil Clark:** From the perspective of East Ayrshire Advocacy Services, it comes down to information sharing and communication, particularly within the NHS. For a few of the people we have supported, the mental health team and a psychiatrist have had to wait for their medical records to be sent on from a previous establishment or the local authority. You would think in this day and age that everything is on a computer and would be accessible, but that is not always the case.

More locally, we are working on speaking to new prison officers during their training. We are also working on referral pathways. There is a multidisciplinary mental health team meeting between prison management and the NHS. Where there are concerns about someone’s mental health, we are working on developing a way to access information and try to link it up and make sure that the communication is there.

**John Finnie (Highlands and Islands) (Green):** Good morning, panel. What are the particular issues for females and young people on remand?

**Marie Cairns:** We find that we engage with many families of young male offenders. The impact on females is colossal. The stories of the families we have engaged with who are visiting females are really quite sad. I think often of one wee girl who came in with her grandpa. I had a chat with her and asked whether she liked colouring in. I said, “Would you do us a favour? We are really looking for somebody to design a wee voucher that we can put in the induction packs to invite people to come on to the bus and to come into the visitor centre”. She said, “Yes, I would love to, but I will need to ask my mum.” I assumed that she was going up to visit her brother, because at that time the girls had just come to Polmont, and I was shocked and so sad when I found out that her mum was one of the

prisoners she was going up to visit. A week or so later, she was supposed to hand in the voucher and she did not, and her grandpa said that she did not have any colouring-in crayons or anything to do it with. That wee girl's grandpa obviously adored her and had full custody of her, but she was only nine and I thought about how much she needed her mum.

The stories of several families we have engaged with are just so sad. It is so sad for anybody who is in prison, but I always feel that when females are in prison it has a major impact on the children, who need to have their mum with them. We are told that females get very few visits from their families; it tends to be the young males who get most of the visits. They tend to get visits from their partners, mums, dads and grandparents, but the male partners of females who are in custody are less likely to visit; they tend to have other things to do. I have spoken to prison staff who worked in HMP Cornton Vale and they said the same: the visit numbers for the females were very low.

**John Finnie:** Do the other panel members have comments?

**Elaine Stalker:** Families Outside is doing a piece of work with the Prison Reform Trust on the transforming lives agenda. It is a three-year project that is focused on reducing the use of imprisonment for women. One notable model that has been highlighted through the project is the positive work that is being done on triage between Police Scotland and the national health service. It brings the bodies that are concerned for women into focus, and they share information. It is about directing women away from imprisonment, which is key.

Women going into prison have additional difficulties. They might have children who need to be accommodated. There is also the loss of housing and income. Some of their difficulties are similar to those that the male population go through, but, as Marie Cairns highlighted, the support networks are not there for women as much as they are there for men. It is a constant battle when women go into prison, whether on remand or on a longer sentence. We are working on ways to dispel that.

**John Finnie:** Do you have any comments about younger people on remand?

**Elaine Stalker:** We tend to hear a lot from parents and grandparents who are supporting young people who might have lost their way. They might be struggling to cope with the enormity of someone going into prison; some of them might have seen their children going to prison and now their grandchildren are there. A number of very good projects, which are mostly run at Polmont, or in the community, are working with young people,

but I think that it is probably an on-going battle at the moment.

**John Finnie:** Mr McConnell, given your responsibility, are there particular challenges in dealing with females and young people in your estate?

**Colin McConnell:** As the committee has already heard, women and young people—young men or young women—face the same challenges and difficulties that adults face, and then some. As others have quite rightly expressed here, there are particular issues associated with women and adolescents and young people. For people like me who have worked in the system for a number of years, it is particularly distressing to see young people coming into custody, whether on remand or for a conviction—we are talking about remand at the moment—who are absolutely bewildered by the experience. I agree with the comments that all my colleagues have made: there are a lot of good things happening to try to ameliorate some of the worst aspects of it, but being sent into custody on remand, particularly someone's first experience of it, is absolutely traumatic.

**John Finnie:** Does the SPS, along with partner agencies, pick up the issue of throughcare? Indeed, does that apply at all to remand prisoners?

**Colin McConnell:** One of the particular strengths of the SPS in this case—which has been touched on—is the all-encompassing aspect of the responsibilities that we have for those who pass into our care, and for society more generally. We have a group of specially trained staff—throughcare support officers—working across the service and we are expanding that service to those who are sent to us on remand, where they want it. It is not a compulsory service; it is provided where people want help. We are linking with other organisations and agencies that pass through the boundary between prisons and the community to try as best we can to provide wrap-around services for people who pass in and out of the custody continuum—for some people, that is what it is.

I am really grateful that the development of staff in the SPS has already been commented on here. One of our major development programmes is the prison officer professionalisation programme, which will in a few years' time deliver a professional workforce for the SPS with a professional qualification and professional standards, much of which will pick up the approach that social work takes, as well as the advocacy services that other organisations helpfully provide.

**John Finnie:** What is the uptake of throughcare among people on remand? There are a relatively

small number of officers involved. Have you talked about expanding it?

**Colin McConnell:** I can certainly write to the committee about that. It is a voluntary service and is more difficult to follow up, but I will certainly write to the committee with the details.

**The Convener:** That would be helpful.

**John Finnie:** Is the increasing number of staff significant? Is the service spread out geographically?

10:45

**Colin McConnell:** All but three of our prisons have locally located staff, but the service is available nationally. The prison officer professionalisation programme, for which we will have the fundamental basics in place by the summer of 2019, will in fact deliver that level of training to all 2,500 prison officers in Scotland from thereon in.

**John Finnie:** Does Ms Stalker want to comment on throughcare?

**Elaine Stalker:** We are making links with throughcare officers within the prison establishments, but that is at the other end. It is not with remand prisoners; it is with those who have served short sentences. We are linking with throughcare support officers to support family members. When that person comes out of prison, we hope that they are going back to a home—they are going back to some sort of care—but sometimes the families need additional support at that point as well.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** You said a few moments ago that there was a specific programme at Polmont that was advantageous and you mentioned others in the third sector. Will you elaborate on those programmes and why you think that they are effective?

**Elaine Stalker:** We are not involved directly with all the programmes, but a number of very good programmes are going on, such as parenting programmes in Polmont, which Marie Cairns can probably give you more information about. However, there is unfortunately nothing that people on remand can access. We are talking about remand here, but probably none of the programmes is for those who are on remand.

Transforming lives is a three-year project that looks at reducing the use of imprisonment. It happens out in the community—before someone goes into prison. We know that the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders—the Bangkok rules—are looking at women with

care-taking responsibilities prior to admission. That does not lie with our prisons or with us in the community; it probably lies more with sheriffs or judges. I will read this in case I get it wrong. The Bangkok rules state:

“Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.”

Families Outside is certainly happy to support that, but it is for any person with care-taking responsibilities. What we are finding more, whether through the helpline or through our regional support co-ordinators who are working one to one, is that a number of elderly people are now going into prison on remand. Care-taking responsibilities also have a knock-on effect on them.

We are involved in a number of activities where we work with family members to ensure that while someone is on remand, or even in custody for a longer period of time, we can support them through that trauma—it is trauma for many of the families who contact us.

**Ben Macpherson:** Does Marie Cairns want to elaborate on Polmont specifically?

**Marie Cairns:** I cannot really say too much about all the services that are going on within the prison. My understanding is that if people are in prison on remand they do not get access to lots of things that are available there. The boys do not get access to any of the work placements or other things that are going on. If they are on remand, they really do not get access to anything. The provision is very poor. That even goes as far as their benefits. They get no money—nothing at all. In fact, the chaplains have told me that they have often provided deodorants, clothes and stuff to wash their clothes. If those boys—and girls, I assume—do not have family going in to visit, they have nothing at all. Unless they have been convicted, they have no access to anything that is going on in the prison.

**Fulton MacGregor:** My question is on mitigating the potential negative effects of remand. We have already talked a good bit about that. Is there anything more that you think could be done? The main thing that has come up today is about information sharing. I do not want to put any additional pressure on any other agency, but a lot of work has been done over recent years around when people go into a custodial sentence. We know that they would probably have a social work background report and stuff like that.

A lot of information is available to the prison service, but who makes the information available for folk on remand? Marie Cairns mentioned an

example, but whose responsibility would that be? Would it be the responsibility of the prison service to get the information from the service? Would it be the service's responsibility? Would it be the responsibility of somebody at the court to pull all that together?

Does the panel think that it would be helpful if the court was to appoint somebody at the point of remand whose responsibility it was to make sure that the information was passed on? I am guessing that that could be done quite simply without a huge amount of resource.

**Neil Clark:** That would be a good idea. There is an example from HMP Kilmarnock, which only relates to short-term prisoners. Turning Point Scotland runs a prison support pathways project. It interviews every short-term prisoner within about eight weeks of release, and then every fortnight, there is a meeting with all the external agencies.

We go through the list and make sure that support is at least offered to everyone who is due for liberation within the next couple of months. It could be something along those lines, where there is a central agency or person collecting information and then making sure that other agencies are aware of people offering support through the community, whether it is picking up people on the morning of liberation or taking someone to the jobcentre to get their universal credit sorted out. At the very least, it is about offering that support to people who are due for release.

**The Convener:** Housing is a key issue—it may be the major issue—when someone is released from prison. The throughcare should be available. It is not rocket science for any of us; we know that it is a major issue.

Is there someone in the local authorities or in any other sector that you have contact with where this problem can be addressed head on, especially when there might be cross-boundary issues? The prisoner could be in one location such as HMP Addiewell, which is in West Lothian, but the majority of prisoners come from the Lanarkshire area, so they would go to North or South Lanarkshire on release. Is there a way to address that so it is not a case of being released from Addiewell and then having someone from Lanarkshire say, “You were in prison in West Lothian—your housing is nothing to do with us”? Can anyone comment on that aspect?

**Marie Cairns:** My understanding is that if the person lived in Lanarkshire, the housing department in Lanarkshire would have a duty to place the person in that area. If the person was in a tenancy before they went into prison, the council will keep their house for them for about three

months, I think. If the custodial sentence goes beyond that, they lose the tenancy.

If we become aware of any families who need support with housing, we support them to phone the housing department. However, often the families will be told, “No, you need to wait until the person has been liberated and then they need to declare themselves homeless”. If someone has been liberated from prison and has no home to go to, that is a major problem.

Even when I worked in secure care, I witnessed social workers coming up to the secure unit and taking children at 16 years of age who were being liberated to Hamish Allan centre in Glasgow, which is homeless accommodation. They are being put into the worst place. I am sorry—I am away on a tangent now.

In answer to your question, prisoners are normally told that they need to wait until they have been liberated and then they declare themselves homeless at their local social work department.

**The Convener:** Should we take that up with the local authorities to see if that situation can be changed?

**Marie Cairns:** Absolutely, yes.

**The Convener:** They should be in contact—they will know, roughly, the date of liberation, and something could be done within the prison.

**Marie Cairns:** For some families, when a person goes into prison, the family feels that that is the last straw. They cannot cope anymore. They have made that decision. As Colin McConnell was saying earlier, these young people are leading chaotic lives. Young people who are being liberated who do not have any family support at all are very much on their own. They need some kind of support, but if they are on remand, they not have access to throughcare workers—and other agencies, possibly—that could help.

**The Convener:** In the panel's view, is that one of the most important things, if not the most important thing? After all, there is the potential that someone will fall into all sorts of problems if they are released and do not have a secure place to go to and a programme of not only how to avoid going back to their offending behaviour but how to continue the regime that they started in prison.

**Elaine Stalker:** If they are going back to the same chaotic lifestyle without a house, maybe in a high-rise block with no family support and no prospects of employment, what are they going to do?

**The Convener:** How can throughcare help with that when it starts in prison?

**Elaine Stalker:** We certainly know that the throughcare officers who are allocated to people in

prison—again, as Colin McConnell says, this has to be on a volunteer basis—will help those people, including young people and females, go to the housing department. They will walk the walk with them and make sure that they are being heard. Whether that is on a Friday afternoon—it invariably is a Friday afternoon—or at another time, they will have someone there to support them to do that.

That is not always the case with remand. Some people will have had quite a few weeks on remand. They may have lost their house because they have gone past the point where they can keep the tenancy and they have nothing else to go back to. They might not have access to a throughcare support officer because of the time spent in prison—they might not have known about that provision—so there can be difficulties there as well.

**The Convener:** You make a valid point about Friday afternoon. Sometimes constituents phone up on a Friday afternoon. It is an emergency and it can be very difficult to find a solution in a hurry.

**Maurice Corry (West Scotland) (Con):** I visited Low Moss prison the other day; in fact, I have been there twice now. I say to Mr McConnell that the prisoner support programme seems to be working very well, and I am encouraged by that. I have a particular interest on the veteran side in those from the armed forces who may be inside.

I absolutely agree with the point that Marie Cairns made. We had the same problem with veterans and service leavers in the armed forces. For years, we battled to get the records from the Ministry of Defence health side into the GP practices. We have now achieved that and it is a model that I suggest you look at because we have now overcome that problem.

When a veteran or a service leaver presents themselves at their local GP, the GP now has access to the full record of what that chap or lady went through. It can have quite a substantial impact on making a decision to treat them. I recommend that model. It works for the armed forces and the GPs. The NHS has gone a long way to get to that point. I recommend that Mr McConnell goes to speak to the NHS about that because there is a model there. I absolutely back up what Marie Cairns says.

Are there any other comments on that? Do you think you could have a go at that?

**Colin McConnell:** Thank you very much for identifying that. I think that the appropriate forum is the health and justice collaboration improvement board, which is chaired by Paul Gray and Paul Johnston with the very improvement in mind that you have just described. With the committee's agreement, I will refer it to that board.

**George Adam (Paisley) (SNP):** I have a small supplementary on the back of what Maurice Corry has already said. We are all aware that there are so many good programmes happening in the prisons, but the concern we seem to be hearing now is that, given that the average is 27 days on remand, which is what Colin McConnell said, are these people just falling through the net? I just want to know the very basics. Are they falling through the net? Is there a process where they can get that support, or are they not getting that option when they are on remand?

**Colin McConnell:** Twenty-seven days is the median point, but it is not a lot of time to try to do something particularly productive with someone. It is not a lot of time—to put it crudely—to join the dots.

If I may turn that on its head, these people who are coming into the prison system are not entirely unknown to us. They are citizens with some sort of history. The point that has been made by the committee and the point that colleagues are making here is that all the information that we know about that particular citizen does not necessarily come to the one point and I accept—

**George Adam:** Sorry to interrupt, but you mentioned that earlier. Is it the process that is the problem, or is there a data protection problem? Why is that information not shared when it could make your life a lot easier and the individual's life easier as well?

**Colin McConnell:** I think it is about all of that. There are information-sharing blockages that are related to particular permissions that are not allowed to be given across organisations without the individual giving their say so.

Without doubt, there are system and process issues that simply get in the way because systems are incompatible. That is not beyond us to resolve, but it is a huge challenge for us.

11:00

When the convener was understandably challenging me earlier, my own thought processes took me to the point that when someone passes into the custodial system, we would expect to know quite a lot about that citizen. There is a need for a collective view at that point, which is probably related to the judgment to send someone into custody, so that a package of knowledge is sent with the person into the place where he or she is going to stay for a period of time.

**Ben Macpherson:** The convener's point about housing provision when people are leaving custody after remand is important. On a related matter, another area that is sometimes problematic—I know this from constituency

casework and elsewhere—is accessing social security from the Department for Work and Pensions. Could you elaborate on any interaction that the DWP already has with the service for those leaving remand and whether there is any scope for improvement? Marie Cairns is nodding her head, so perhaps she could go first.

**Marie Cairns:** We can only go on the information that families share with us on their particular needs. We have heard many stories of families having difficulties, particularly if they are receiving their benefits in a joint account. It is really difficult for the person who is left at home to get their benefits because the other person is in prison. It is a big hullabaloo for them to try to get through to the DWP the fact that one person is in prison but the other person still needs to get their benefits. It can create all sorts of problems.

We do not have much access to the prisoners themselves when they are liberated, or even when they are in prison, so I cannot really speak for the individual prisoners; I can only speak about what the families have told us.

**Elaine Stalker:** We, too, are aware of the family issues and the impact of imprisonment, whether it is for a week on remand or a custodial sentence. It can have a huge effect on the family and it affects income, housing, relationships—all of the above. Sometimes you just cannot pigeonhole one factor. One factor can probably start the ball rolling but it impedes on all the other thought processes and all the other situations that the family is going through. That includes the person in prison, who is also part of that family.

**Neil Clark:** In the link centre in HMP Kilmarnock where most of the external agencies are based, there are two work coaches from the DWP. We have quite a lot of contact with them. Remand prisoners can ask to see the work coaches in the same way that they can ask to see the housing advisers.

**Ben Macpherson:** Can that happen before release?

**Neil Clark:** Yes. They make a point of seeing all prisoners before liberation. With remand they may not necessarily know when they are going to be back in court or liberated, but the prisoners themselves can request an appointment. They can put a referral in to the link centre so that if they have any queries, they can be face to face with an adviser.

Some of our agencies—this is mainly for short-term prisoners on liberation—can pick up the prisoners in the morning. They will take them to the housing office and to the jobcentre to make sure that all of these things are put in motion immediately.

**Colin McConnell:** It is a very good point. All of our prisons across Scotland have a link centre or something with a similar title. The focus is to bring the person who is in our care into contact with the service providers that are going to support him or her when they are released. That happens right across the country. The minimum contact is six weeks ahead of the point of liberation. Again, to pick up on some of the convener's earlier points, the intention is to make sure that someone has a home to go to, has connections with the DWP, has some connection with a GP appointment, and so on. That happens right across the country.

**Ben Macpherson:** Is that obligatory rather than voluntary?

**Colin McConnell:** The link centres work for every single person who has been convicted regardless of the time that they spend with us, but there is a need for a distinction here. For those people who are sentenced to four years or over, there is a statutory provision, which criminal justice social work provides. That link is there for the longer-term people in our care.

For those who are serving short sentences, there is no statutory provision, so SPS grew the throughcare support service initially to plug that gap. Because it is not statutory, it can only be done on a voluntary basis. We reach out to the people in our care. We try to encourage them, as do our partners, to engage with us so that we can have a robust plan. Again, as has been touched on, this is for people who are serving sentences so that when they are released, someone goes with them. In a number of cases, it might be a prison officer. In other cases, it will be someone from a voluntary agency or a third sector organisation who will act as support and advocate for the person with other contact agencies.

There is a difference between stock and churn and again it is a statistic worth considering. For the remand population, the stock is about 17 per cent of the people living in a prison on any given day, but the actual churn is about 50 per cent. About 50 per cent of the throughput of the prison through reception is driven by those on remand, although the day-to-day stock is about 17 per cent.

When you factor in the 27 days median point, you begin to get a sense of the scale of the challenge in trying to join all those dots—to make all those connections—for the thousands of people who are passing in and out of our receptions for very short periods of time, many of whom are passing into our care having spent years living a chaotic lifestyle.

**Daniel Johnson:** I will follow up some of the points that we have touched on around the opportunity to engage and intervene when people are on remand. I will begin by looking at the



specifics of ADHD. Some studies have concluded that about 20 per cent of the prison population have ADHD, which stands in comparison with the statistic that about 3 to 4 per cent of the general adult population have it. Studies show that up to half the prison population might have had ADHD as children. Given that, what particular interventions do you think could be made? I note that a study is taking place at Polmont whereby young offenders are being screened for ADHD, which is immediately followed up. Do you think that that is a sensible and helpful practice and does it show what we might want to do in relation to other conditions or issues that people have?

**Marie Cairns:** I was unaware that that screening was taking place in Polmont, so I am delighted to hear that it is. However, the families who we have spoken to have said that they found it very difficult to get support either from the GP or from the education system, first to get the child assessed and then to get a proper diagnosis. The issue starts right from childhood. If more support could be given to families of young children when they suspect that their child might have ADHD, that would be a great starting point.

If screening programmes are taking place in Polmont, that is good to hear and I hope that that would continue in other places. That applies not just to ADHD but to any mental health problem that a young person might not be able to articulate or explain if they do not get the opportunity to speak to the right person, whether a qualified nurse, community psychiatric nurse or whoever else is required.

**Daniel Johnson:** An issue that I come across regularly in talking to support groups for ADHD and other underlying mental health conditions is the lack of recognition of the fact that many people with addiction problems are self-medicating. For example, the ADHD medications are fundamentally stimulants, so people abusing those sorts of substances are quite often self-medicating. That is also true of other disorders. Is enough work going on within the Scottish Prison Service to not just address substance misuse problems but peel back and interrogate whether a fundamental mental health or neurodevelopmental disorder might be at play? I will come back to Colin McConnell on those points, too.

**Marie Cairns:** I do not work in the prison—we work only with the families—but I think that it must be a minefield for the prison staff when a person is brought into custody, because they know nothing about that person. Where can they possibly start? It is overwhelming for somebody when they get brought into prison. I know that the family contact officers and other staff speak to them when they come in; there is an induction period in which the staff will go through everything that is available to

them in prison. Often, the staff say that it is such an overwhelming experience for people that it is difficult for them to take in all the information. They might not want to admit that they want to speak to a doctor or a nurse because they might be made a fool of by their peers. I imagine that it is a such a minefield when someone is in prison. I really do not know whether I am the right person to answer your question.

**Daniel Johnson:** Do Elaine Stalker or Neil Clark have any thoughts about the opportunities that there might be to identify and address issues, whether addiction, mental health issues or other things, as people enter remand?

**Elaine Stalker:** It is unfair to put all the blame at the prison door.

**Daniel Johnson:** I am not; it is actually the other way round—I am really asking whether there is an opportunity, rather than putting any blame anywhere.

**Elaine Stalker:** I would like to say yes, but I am trying to think where that opportunity might be. Certainly, there is scope for working. There are many possibilities and opportunities in the community now, but young people who have chaotic lifestyles are not able to access them before they get to the prison. It is a cart-and-horse scenario. The young people who need support the most are probably not being directed to where they can get it in the community, so they end up in a prison environment, by which time it is probably too late. A number of family members contact us to say, “We have been let down every step of the way”—whether by early education, the NHS or social work—“and now we find that our son is in Polmont and that is going to be for the rest of his life”. You asked whether there are earlier opportunities to engage with such young people. I would like to say yes, but the issue is getting them there.

**Neil Clark:** There are definitely opportunities. In our experience, the addiction service in HMP Kilmarnock is an area of good practice because it is very good at getting people stable. Normally, people who are not on remand are there for a number of weeks or months. The service is very good at getting people stable and then allowing them to try to plan ahead for liberation. There is definitely an opportunity, possibly for mental health support. Some people struggle to articulate their experiences or their views—that is where we can support them. We aim to get referrals as early as possible so that we can support people, assist them to articulate how they are feeling and, hopefully, link them up with services so that they can start to plan ahead for liberation.

A lot of the people who we work with are motivated to try to turn their lives around. They

might have a chaotic background, but they want to use the time that they are in custody to try to get stable, whether that means being on methadone or getting mental health support, and to try to avoid entering the revolving door of ending up back in custody.

**Daniel Johnson:** I understand that the study at Polmont is based on work in Sweden that found that doing that sort of screening and getting people on to medication reduced recidivism by up to 50 per cent. What are your thoughts about the opportunities and the limitations? I recognise that within the 27 days all you might be able to do is stabilise someone with a substance misuse problem. Any thoughts or insights that you have in this direction would be interesting.

**Colin McConnell:** Whatever discussion we have in relation to remand is a discussion that is appropriate for the entire custodial population. Mr Johnson introduced the question why—why is someone behaving in a particular way that we and the courts find unacceptable? That is the route towards working with people on a basis of greater understanding, in order to help them not only avoid coming back into the justice system but grow and lead fulfilling lives. Ultimately, that is what we all want.

11:15

The SPS has, in a sense, gone on this journey somewhat later. Harry Burns has helped us, as have many other academics. We learned quite recently about the effects and impacts of adverse childhood experiences and, in the past few years, we have learned about the effect of dyslexia, and so on and so forth. People who pass into our care present multiple deficits, needs and complexities. The challenge for the custodial organisation—the Scottish Prison Service—is to find ways of working with partners and experts to help us understand the complexity and totality of the individual and to work with them to achieve a more flourishing outcome. The work on ADHD that you highlighted is a key intervention to help us work with people more productively and progressively in the future.

**Daniel Johnson:** One of my key concerns in this area is the evidence that we have seen about the lack of access to activities that people on remand have. That becomes particularly acute for anyone with either autism spectrum disorder or ADHD. Putting someone with ADHD into a small room without any stimulation and expecting their behaviour to get better rather than worse is mildly absurd, if I can put it in a slightly inflammatory way. What can be done to improve access to activities for all prisoners on remand, particularly those who benefit from doing practical things, which is definitely the case for people with ADHD?

**Colin McConnell:** As you have described, it is about taking an approach to inclusiveness based on a better understanding of the individuals who we are caring for. We are not a perfect organisation; we are not there yet, but we are learning. I hope that the fact that we are engaged in research and in building a service response on the back of that is a good indication to you and the community that the Scottish Prison Service is live to the issues. We understand the limitations and the challenges that we face, but we are live to most of the issues and we are trying to work on them.

**Daniel Johnson:** Do you have active programmes to look at what improvements can be made and to make recommendations for those improvements for the service as a whole in respect of triage and identifying and addressing underlying issues?

**Colin McConnell:** Yes, as you would expect me to say. That is a continuum. We are working on developing the tool to help us understand where a particular person is and what their needs are. By working with experts in the field, we will build a response to that.

The prison officer professionalisation programme and the training and education package that goes along with it, to which I referred earlier, picks up the very issues that you just talked about.

**Liam McArthur:** This question may require a response involving anecdotal evidence rather than anything more concrete, but it has been suggested that those on remand pre-conviction are sometimes unwilling to engage with the support that might be available, perhaps because of a belief that doing so would be a tacit admission of guilt, or for some other reason. Whatever support may be available, if there is an unwillingness to engage with that support, there is a limited amount that the prison service and partners can do. To what extent is that a factor? Is it a problem of any magnitude or is it a peripheral issue that applies to only a small number of individuals?

**Colin McConnell:** It is difficult to give a direct answer to that. For some people who pass our way, it may be a career choice that they have made, and they may see things in very short-term bursts of activity and consequence. For others, it is a consequence of history, lifestyle and community. All of those things influence people's preparedness, or otherwise, to engage productively with the those around them.

However, my recent experience in the Scottish Prison Service is that, with the assistance of the wide range of partners that now come into the custodial space, we are managing to reach out and make contact with more of the people who live

with us—even those who live with us for a short period—than we have successfully done in the past, but that is because of our intention and determination to do so.

**Liam McArthur:** Does anybody else have any views on that?

**Neil Clark:** We do not really have experience of that. The nature of our service is that people will make a referral when they have a specific need for which they require support. With the people who do not engage, we do not have any feedback on their reasons for not using the service, even if they have a genuine need.

**Liam McArthur:** Among the people who approach you for support, what is the balance between those who are pre-conviction and those who are post-conviction?

**Neil Clark:** About 20 per cent of referrals are remand prisoners and the other 80 per cent have been convicted. The majority of people who we work with are on short-term sentences. A lot of that is to do with awareness of the service. As much as we have been in the prison for three and a half years, it is still hard to get the word out on the wing and get people who need or would benefit from the service to be aware of it. The short-term prisoners definitely seem to have a more urgent need for support ahead of liberation.

**Rona Mackay:** I want to clarify something with Mr McConnell, although he may have answered the question in responding to my colleague Daniel Johnson and I might have missed it. When someone comes into remand who clearly has addiction problems and those are identified early on, given that 27 days is a long time for someone with addiction problems, do they go on to a methadone programme?

**Colin McConnell:** That would be a decision for the medics, but we know that the national approach is to provide that medication. My expectation is that, if that is a requirement, the person would go on to the programme, but I would be guided by the medics on whether that was appropriate.

**Liam Kerr:** It seems that we all accept that there are opportunities and possibilities to provide more support to prisoners on remand, which could have favourable outcomes. Is it possible to identify any specific barriers to the provision of that support?

**Elaine Stalker:** For a number of people on remand in prisons, most of their support comes from visits from family members or from people who make an effort to visit them. There is not very much else for them. The difficulty is in supporting families so that they can do that. Someone on remand can have visits six days a week. That puts

a lot of pressure on family members, who might not be able to afford to go there or to put money into a personal cash account.

When I was at a local prison last week, a mum was standing beside me trying to get a bundle of books in, but she was told that she could not do that—rightly so, for reasons of security—because she did not have two forms of identification. She had taken two buses to get there. Her son was on remand and she was struggling to get something to him. She had to take the books away and either post them in or come back at a later date on that two-bus journey to get the books into the prison.

The assisted prison visit scheme helps with visits, but that is only for two visits a month whereas, as I said, people on remand can have up to six visits a week, which can be problematic for many families. A bit more support with that might be helpful for families, thus giving a little more support to those on remand.

**Neil Clark:** There can be barriers to accessing healthcare because of waiting lists and times. If there is an average waiting time of four or five weeks and someone is on remand for 20 or so days, they may not be able to access the care or treatment that they need. For my organisation, it is also about awareness. There is always a high turnover of people on remand, so we try to get the word out and raise awareness among the prisoners.

More broadly for the third sector, there is an issue about sustainable funding. We often hear of pilot projects that have quite a big impact, but then there is no money for permanent funding. That is common across the third sector. Good work might be getting done with good outcomes for individuals, but that service is not there after 18 months or two years.

**Liam Kerr:** Does anyone else want to comment on the barriers?

**Colin McConnell:** I just make the observation that, at the end of the day, remand, however we seek to describe it, is sending someone to prison, with all the barriers and rules and regulations that go with that. There are particular respites or easements of the rules and regulations because the person has not been convicted but, for the most part, someone on remand experiences the full panoply of being sent to prison. In those circumstances, there are loads of barriers to providing someone an accelerated, acute and personalised service.

**Liam Kerr:** I want to explore the issue from a slightly different angle. Right at the start, we talked about data. Mr Clark talked about awareness of what is going on. I realise that I am talking at a very general level, but do you have any idea whether the bulk of people being remanded are

repeat remanders, if I can put it that way, or individuals who are on remand for the first or second time and who do not come back again? If they are repeaters, do you have any idea of whether they are coming back and being remanded or refused bail for the same reasons each time? If we had that data, specific interventions could be made relating to the reason for the refusal of bail. Does that make sense?

**Colin McConnell:** It makes absolute sense. Regrettably, you leave me in the embarrassing position of not being able to give a comprehensive answer, because I simply do not know. For some, remand is a fairly well-trodden path, and we would recognise that locally. However, I cannot answer your question specifically, because I do not have the data.

**Liam Kerr:** Throughout our meetings on remand, we have picked up that concern about data.

**Liam McArthur:** As the MSP for Orkney, it would be remiss of me not to pose a question about the implications of being on remand for those who find themselves some way distant from home and the support structures there. I suspect that you will all have some experience of that, although perhaps not to the extent of those in parts of the country that John Finnie and I represent. What are the particular challenges in that respect and what can be done to try to minimise the knock-on impacts for those affected to ensure that the disconnection between the support structures does not happen to an even greater extent, therefore making the post-release situation that bit more difficult?

**Colin McConnell:** We have touched on the disconnection that occurs through being sent into custody—in this case, we are talking about remands—and it matters not whether people can get visits six or seven days a week or even twice a day seven days a week. The further that people have to travel and the more complex their arrangements, the crazier that is. However, that can apply to those who are travelling through busy cities as much as to people who have longer journeys.

There are possibilities for us to explore increased use of technology to keep people in contact. If the committee will indulge my wry smile, some members may remember that I once suggested to the committee that we might even consider putting telephones in people's rooms, and I was excoriated in the press for about 48 hours thereafter—rightly so, some might say. However, I still hold the view that we should try to keep people in contact with their relatives or families or those who are important to them, particularly during that period of what can be absolute trauma and bewilderment, as we have

heard from colleagues and friends here. I want to explore the use of technology, particularly video connection and video visits, and we have some experience of making that work. I appreciate that, in some quarters, that is a suggestion too far, but it is something that I would like to do.

11:30

**Liam McArthur:** I have some sympathy with the idea of having phones in cells, particularly in the context of the crackdown on mobile phones. It would be far more difficult to provide any reasonable reason as to why a mobile phone might be present if there were phones in cells that were subject to appropriate restrictions. I understand that, currently, the videoconference facilities are limited to a fairly small number of prisons. What are the rules for those on remand accessing those facilities? Although I accept that there are difficulties for people crossing large busy cities, the remedies for that are a lot more straightforward than they are for those who go from Orkney or other parts of the Highlands and Islands to Inverness or further south still.

**Colin McConnell:** This is 21st century Scotland, and high-speed broadband cables are being laid everywhere, which is great for the community and the nation. With that in mind, and with a more liberal view—I use that term deliberately—there are potentially real opportunities to keep people in contact, such as those that the committee has been considering. Those are the very contacts that we hope will sustain people when they go back to the community. If we break the contacts, some of them are irrevocably broken. The trauma and the difficulties that people experience in adjusting to the custodial environment—I assure you that there are no hotel Hiltons in the Scottish Prison Service—could be ameliorated to some point by keeping people in more regular contact, including visual contact, with their families and loved ones.

**Elaine Stalker:** I absolutely agree with that. There was a pilot on that when some prisoners were sent down to Barlinnie from the north of the country, and that worked well. Family members went to a safe place—an office—in partnership with another organisation, and were able to have contact with their family member in the prison environment. That does not take the place of a good visit, but it goes some way to ensuring that the family member is still in contact with his or her family.

**The Convener:** Over the years, the evidence that we have heard is that on-going contact with a significant other really strengthens the resolve of the prisoner to continue with the behaviour that they have learned in prison as opposed to offending behaviour. Teleconferencing makes

sense on many different levels. When prisoners have to be taken to a location that is pretty far away, that takes prison officers away from duties in the prison.

**John Finnie:** I recall Mr McConnell making that comment about telephones, and I for one thought that it was highly appropriate and that the response in some quarters was completely ignorant. I want to understand the politics, with a small p, behind that. Has that response dissuaded you from progressing that sort of idea? Everything that we hear suggests that contact of that nature not only makes things better for the individual but collectively has a positive impact in the prison estate, including for your staff.

**Colin McConnell:** It is problematic publicly, and you will know better than I whether it would be problematic in a parliamentary sense. The Scottish Prison Service has not, as a matter of policy, pursued that idea. It remains an idea and there is an intention to do it at some point. There would of course be resource implications in doing so, but it also links to what we do through our education provision. If you will allow me this thought, convener, without digressing too much, there are opportunities to further develop education provision with the use of information technology and connection with internet services, where they are carefully governed through education authorities. There is a direction of travel that reflects the IT upscaling that the country in general is experiencing, and we must work carefully to ensure that the prison environment is not excluded from that. As Mr McArthur and Mr Finnie have pointed out, many of our citizens would benefit from that.

**John Finnie:** Have any upgrades that have taken place in the prison estate, particularly new facilities that are coming on stream, been future proofed so that that idea could be put in place?

**Colin McConnell:** That is certainly part of the specification.

**John Finnie:** Thank you.

**The Convener:** I should make it clear that I was thinking more of a video or teleconferencing facility in prisons that could be accessed generally, as opposed to something individually in cells, which may be problematic.

Does the national prisoner healthcare network cover information sharing between agencies?

**Colin McConnell:** Yes.

**The Convener:** Can you provide the committee with any information on the guidelines on that? That would be much appreciated.

**Colin McConnell:** I can write to the committee on that. I reinforce the point that I made earlier

that, as the committee will know, the Scottish Government has set up a health and justice collaboration improvement board, which is chaired jointly by Paul Gray and Paul Johnston. That is a real engine room for driving connectivity between health and justice. There is some locus for that in what you have been talking about.

**The Convener:** That would be helpful, as has been this evidence session in teasing out some of the communication issues and areas where more support is needed and that we need to highlight and address. I thank the witnesses for attending.

I will suspend the meeting briefly to allow the witnesses to leave and for a five-minute comfort break.

11:37

*Meeting suspended.*

11:43

*On resuming—*

## Subordinate Legislation

### Premises Licence (Scotland) Amendment Regulations 2018 (SSI 2018/49)

**The Convener:** Agenda item 3 is further consideration of a negative Scottish statutory instrument. I refer members to paper 3, which is a note by the clerk.

Members will recall that, when we considered the regulations at our meeting on 6 March, we agreed to write to the Scottish Government for clarification in relation to the point that was raised. As members will have seen, the Cabinet Secretary for Justice has responded, and his response is included as part of paper 3.

Do members have any comments? I note that the cabinet secretary has clarified the point that we raised.

**Maurice Corry:** Indeed, convener. It is fine.

**The Convener:** Thank you. Does the committee therefore agree that it does not wish to make any recommendation in relation to the regulations?

**Members** *indicated agreement.*

### Sheriff Court Fees Order 2018 (SSI 2018/81)

### Sheriff Appeal Court Fees Order 2018 (SSI 2018/82)

### Court of Session etc Fees Order 2018 (SSI 2018/83)

### High Court of Justiciary Fees Order 2018 (SSI 2018/84)

### Justice of the Peace Court Fees (Scotland) Order 2018 (SSI 2018/85)

### Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2018 (SSI 2018/86)

11:45

**The Convener:** Agenda item 4 is consideration of six negative instruments. I refer members to paper 4, which is a note by the clerk. Do members have any comments? I call Liam Kerr.

**Liam McArthur:** You have done it again, convener.

**The Convener:** I am sorry—I have done it again. I call Liam McArthur.

**Liam McArthur:** I am going to start wearing my name badge. [*Laughter.*]

My comment is not on anything overly substantive. In the Government's explanation of the instruments, there is a bit of detail in paragraph 4 about some aspects of the provisions that apply in each instance. In paragraphs 5 and 6, it goes on to talk about the consultation, and paragraph 6 fairly boldly states:

"22 responses were received and almost all stated their opposition to increasing court fees or the charging of court fees at all."

If we take the trouble—I have done so, as you would expect, convener—to look at the details in the Scottish Government's publication on the website, we see that a number of changes were made as a result of the consultation responses, including

"Enhancements to the means-related exemptions",

"Special provision for victims of domestic abuse"

and

"A reduction to the permission to appeal fee".

It would be helpful if, when putting such papers together, the Government made explicit, in broad terms, the changes that were made on the back of the consultation instead of including them elsewhere. Paragraph 4 is fairly broad, and although it seems to touch on the changes, it does not make explicit that they were made as a result of the consultation. It then goes on to mention a consultation that, to the casual observer, looks like a tick-box exercise.

**The Convener:** I would make the same point. We have no idea who the 22 responses were from or exactly what was said, yet it is clear that they have been taken on board. What you suggest would be very helpful.

**Liam McArthur:** There are probably still people who are concerned about aspects of the instruments, but it would be in the Government's interest as well as in the interests of transparency more generally to make a more direct link between the consultation process and the changes that were implemented. That would reassure us that the Government was not just going through an academic exercise.

**The Convener:** Absolutely. Some of the concerns have clearly been taken on board.

**Daniel Johnson:** Following on from what Liam McArthur has pointed out, I would like two points to be clarified, but I would start my remarks by making the general observation that the impact of this is significant. Fees increased by an average of

24 per cent in 2016, and this proposal adds 2.3 per cent this year and 2 per cent next year. I recognise the Government's stated aim of ensuring that court fees more fully reflect the costs of the processes that are involved, but I would observe that that is a change in philosophy. There is a point of view that the court service should be a civic institution and therefore accessible to all, whereas this proposal changes it to one that people pay to access.

I seek clarification on two points. First, either this is a policy decision to make sure that fees reflect the true court costs or it is about keeping them in line with inflation. I would like the Government to clarify the nature of the increase. Payroll costs, which I would guess form the largest part of the cost base, will increase by about 1 per cent. Will the Government clarify why 2 per cent is required?

Secondly, I note from the equality impact assessment that no particular numbers are involved. I also note that a number of exemptions are being put in place, but I would be interested to know the Government's assessment of the impact on people's ability to bring actions to court. What might the increase in costs do to their ability to do that?

**The Convener:** I note from the papers that

"A final equality impact assessment was undertaken as was a business and regulatory impact assessment."

Do you want more detail than that?

**Daniel Johnson:** Yes. It does not appear—certainly from my reading—that any particular numbers have been cited.

**The Convener:** When there have been court fee increases in the past, the Faculty of Advocates and the Law Society of Scotland have not been slow in sending in a separate submission if they have any particular concerns. Perhaps a little more detail about the impact assessment might give the committee more reassurance.

Is the committee content that it does not wish to make any recommendations in relation to these instruments, other than the points that we have just raised?

**Members** *indicated agreement.*

**The Convener:** We will send a letter just for future reference.

## Justice Sub-Committee on Policing (Report Back)

11:51

**The Convener:** Agenda item 5 is feedback from the convener of the Justice Sub-Committee on Policing about its meeting of 15 March 2018. Following the verbal report, there will be an opportunity for brief comments and questions. I refer members to paper 5, which is a note by the clerk, and invite John Finnie to provide that feedback.

**John Finnie:** Thank you, convener. As you have rightly said, the Justice Sub-Committee on Policing met on 15 March and took evidence on Durham Constabulary's reports on Police Scotland's counter-corruption unit from Deputy Chief Constable Rose Fitzpatrick and, also from Police Scotland, Duncan Campbell, interim head of legal services; and Superintendent Andy McDowall, professional standards department.

The session was held to consider issues raised by Chief Constable Michael Barton when he gave evidence at the sub-committee's previous meeting on 22 February, including his concerns about Police Scotland changing the Durham Constabulary's remit from an investigation to an inquiry; about Police Scotland's obstruction—as he saw it—particularly in relation to the views of its legal department; and about the risk-averse culture that Police Scotland had adopted unnecessarily prolonging the process.

DCC Fitzpatrick explained that the legal advice that she had received indicated that, in accordance with the Police Service of Scotland (Conduct) Regulations 2014, the person appointed to investigate complaints cannot for reasons of impartiality be the same person who investigates any conduct issues that arise from those complaints. DCC Fitzpatrick assured the sub-committee that Police Scotland had taken on board the lessons to be learned from Durham Constabulary's report.

The sub-committee agreed that it would review at a later date whether Police Scotland had implemented the 39 recommendations in Her Majesty's inspectorate of constabulary in Scotland's independent assurance review of Police Scotland's counter-corruption unit. It also considered its forward work programme and agreed to meet next on 19 April to consider Police Scotland's review of custody provision.

I am happy to answer any questions.

**Liam McArthur:** I would just add that I found the session to be useful. We had an acknowledgement from DCC Fitzpatrick that there

had been a fairly fundamental failing in the duty of care to the four officers concerned, with regard to the delays in approaching them initially about what had happened and thereafter throughout the course of the investigation. That duty of care still remains, and I hope that Police Scotland will learn the lessons from what has happened and do what is necessary to provide that support.

Another helpful aspect of the session was that, whereas before we had been told that the Police Service of Northern Ireland's conduct report had led to no recommendations for action, DCC Fitzpatrick acknowledged that, had certain officers not been retired, recommendations might well have been made for substantive measures to be taken in relation to them. That was an important distinction from what had originally been revealed.

Finally, although I do not think that there is necessarily more that the sub-committee can do at this stage, I was not, on the basis of the evidence that we heard, entirely convinced that there is likely to be any move away from Police Scotland's risk-averse, overly legalistic approach. The legal department representative was at pains to say that his role was about being

"risk aware, rather than risk averse".—[*Official Report, Justice Sub-Committee on Policing*, 15 March 2018 c 13.]

That does not suggest much of a willingness to learn lessons from what happened or to take a more co-operative approach in future. I hope that such events do not happen again, but that is my abiding concern after that evidence session.

**The Convener:** I certainly share that concern. Although we had an assurance from Police Scotland that lessons had been learned, we also heard that a risk-averse culture had been adopted unnecessarily. That had prolonged the process, and it was the prolonged process that affected things so badly. We will most certainly want to keep a watching brief on that. However, there is nothing more to be done just now, other than to look very closely at how these legal decisions and advice are being taken and how that so-called risk-averse culture can be safeguarded against.

**Maurice Corry:** I am concerned about the reference to Police Scotland's "obstruction". What did you mean by that?

**John Finnie:** The whole thing hinges on the interpretation of the conduct regulations. My reading of it is that the issue started right at the beginning, because there was no clarity about the task that was being allocated. The chief constable of Durham Constabulary, perhaps understandably, assumed that he was to go through the whole paraphernalia of an investigation, whereas his remit was to look just at the complaint, not at the conduct that might have resulted from the complaint. I do not want to put words in his mouth,

but that was part of what Mr Barton viewed as obstruction.

There was also an unwillingness to provide the names of the retired officers, the counterargument to which was, according to the legal department, that they could not disengage data protection legislation. However, it is extremely disappointing that the senior officer at the heart of this—who was less than helpful when they sat at the table—did not avail themselves in respect of this inquiry. That is where the word "obstruction" comes from.

**The Convener:** The telling thing is that information that had been requested was provided three months later, in the first instance, and two months later in the second. We did not get a satisfactory answer about why that had happened. As I have said, we should have very much keep a watching brief on the matter.

**Liam McArthur:** It is also worth saying that, as John Finnie has indicated, there are data protection rules around releasing the details of retired officers to allow contact to be made. Something that was recognised in the evidence session was that, as preparation for inviting Durham Constabulary to undertake the investigation, there should have been an understanding about what would happen when the request for access to those details came in. That understanding was not there, and that, as the convener has said, delayed the whole process further.

**The Convener:** As there are no more questions, we will move into private session. Our next meeting will be on Tuesday 27 March, when we will take further evidence on remand.

11:58

*Meeting continued in private until 12:13.*



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