



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# JUSTICE COMMITTEE

Tuesday 5 November 2013

Session 4

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**Tuesday 5 November 2013**

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**JUSTICE COMMITTEE**  
**30<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Elaine Murray (Dumfriesshire) (Lab)

**COMMITTEE MEMBERS**

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

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

\*Colin Keir (Edinburgh Western) (SNP)

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

\*Margaret Mitchell (Central Scotland) (Con)

\*John Pentland (Motherwell and Wishaw) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Andy Bruce (Scottish Government)

Lillian Cringles (North Lanarkshire Council)

Tom Halpin (Sacro)

Kenny MacAskill (Cabinet Secretary for Justice)

Colin McConnell (Scottish Prison Service)

Jane Moffat (Scottish Government)

Anne Pinkman (Scottish Working Group on Women's Offending)

Kerry Twyman (Scottish Government)

Stephen Woodhouse (Scottish Government)

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

Committee Room 4



# Scottish Parliament

## Justice Committee

*Tuesday 5 November 2013*

[The Convener *opened the meeting at 09:30*]

### Draft Budget Scrutiny 2014-15

**The Convener (Christine Grahame):** Good morning. I welcome everybody to the 30th meeting of the Justice Committee in 2013. I ask everyone to switch off mobile phones and other electronic devices completely because they interfere with the broadcasting system even when they are switched to silent.

No apologies have been received.

Item 1 on the agenda is the Government's draft budget; this is our third evidence session on the Scottish Government's draft budget 2014-15. Today we will hear from a panel evidence on the budget for women offenders, before concluding our evidence gathering on the budget with the Cabinet Secretary for Justice.

I welcome to the meeting Tom Halpin, who is the chief executive of Sacro, and Lillian Cringles, who is the manager of justice services for North Lanarkshire Council. Anne Pinkman will join us once the Edinburgh traffic eases up at the west end. It is not because of the tram works; I think that those road works have all gone.

I thank you for your written submissions. We move straight to questions.

**Roderick Campbell (North East Fife) (SNP):** I will kick off by asking for comments on the operation of the reducing reoffending change fund and on its impact on services for women offenders. Perhaps the witnesses could give answers from their own experience.

**Tom Halpin (Sacro):** Shine, the women's mentoring service, has been funded through the reducing reoffending change fund. It has brought together eight voluntary sector organisations working with our partners in local authorities, community justice authorities, and the Scottish Prison Service. Already, we have mentors in all eight community justice authority areas. More than 200 women have already engaged with the service. At the individual level, the case studies are feeding back some quite inspiring stories. We have worked with analytical services on how we will evidence the impact that that service is having and we are beginning to collect data on intermediate outcomes in an agreed format.

The change fund has offered us an opportunity to co-design the service. Most important is that the women themselves were involved. We have had focus groups inside HM Prison Cornton Vale, we have had focus groups with women who have engaged with criminal justice services in the community, and we have involved in design of the service people who are working with those women. That initiative has already begun to deliver promising results.

**The Convener:** I am sorry to interrupt. Rod— would you repeat your question for Anne Pinkman, who has been released from the Edinburgh traffic?

**Anne Pinkman (Scottish Working Group on Women's Offending):** I apologise, convener.

**The Convener:** It is all right; we have all been there.

**Roderick Campbell:** My question was about the reducing reoffending change fund and the impact that it is having on provision of services for women offenders. Mr Halpin had kicked off.

**The Convener:** I will leave Ms Pinkman to catch her breath. Have you been here before Ms Cringles?

**Lillian Cringles (North Lanarkshire Council):** I have not, convener.

**The Convener:** Welcome.

**Lillian Cringles:** From the perspective of local authorities, the change fund has certainly offered opportunities, especially for the women with whom we work who are integrating back into the community after serving custodial sentences. I have to agree with Mr Halpin, my colleague from the third sector, that that resource has been invaluable in helping us to assist women in particular to settle back into their communities in North Lanarkshire, which is the area that I can speak about. We have had a positive intervention from our colleagues in the third sector, which has assisted in our trying to integrate women back into the society against which they have offended. The interaction has been very positive and local authorities have welcomed it.

**Tom Halpin:** Beyond the shine mentoring service, we also have active involvement in co-design of women's justice services in the Glasgow, Edinburgh, and Fife and Forth valley areas, and we are involved in co-ordination of women's services, building on the lessons that we have learned from the whole-systems approach to young people who offend. The work that is being done through the reducing reoffending change fund is wide and varied across Scotland.

**Anne Pinkman:** I would echo the comments by Lillian Cringles and Tom Halpin. The Scottish working group on women's offending welcomes

the funds that have been made available through the reducing reoffending change fund. I apologise if Tom Halpin has already touched on this, but one issue relates to sustainability. The change fund is a three-year fund, but the new projects, particularly the shine mentoring service, have only recently got started and there will be pressure to gather sufficient robust evidence over a short period to satisfy the need to evidence sustainability. That is the concern in relation to the change fund.

**Roderick Campbell:** I am slightly confused about the establishment of women's centres. Mr Halpin talked about centres in Glasgow, Edinburgh, and Fife and Forth valley. I thought that there was one in Dundee, and that there were only three.

**Tom Halpin:** That is correct. I was talking about Sacro's involvement in the initiatives.

**Roderick Campbell:** Okay. Have we got more than three women's centres?

**Tom Halpin:** Yes. In some areas, because of geography and demographics, they are physical resources, but in other areas the approach is about ensuring that services are joined up and integrated, so there might not be a physical building—instead, there might be a virtual way of working. That is reflected across Scotland.

**Anne Pinkman:** As chief officer for the Fife and Forth valley CJA, I will add that the additional funding for women's centres is welcome. Initially, three centres were funded—in Edinburgh, Glasgow and Dundee—but additional funding has allowed additional centres or one-stop shops to be created, including in Fife. In Fife, different use was made of existing funds to establish a women offenders team, and additional funding to the tune of almost £200,000 has been allocated by the Government to establish three one-stop shops for women offenders across the area.

**Elaine Murray (Dumfriesshire) (Lab):** The criminal justice social work budget is static at £86.45 million next year. That is identical to this year's figure so, in real terms, it will be a slight decrease. Are there concerns about that in relation to women offenders and the work that is being done to reduce offending?

**Lillian Cringles:** Local authorities have certainly faced a difficult challenge in continuing to deliver criminal justice services within the budget, which has been static for a significant period. Women offenders present resource challenges for all of us who deliver the services at local level. As my colleagues have said, we welcome the additional funding that has come through the change fund and the on-going funding for women's projects.

The overall criminal justice budget continues to be a challenge, because there is never more than one year's funding. That can be problematic in planning services for women offenders and for male offenders. The Association of Directors of Social Work has raised the issue a number of times, because if we do not get a budget until November or December for services that are needed on 1 April, that presents a challenge in terms of the sustainability of developments and our links with the third sector and other partners from which we commission services.

There is a challenge, but we continue to try to ensure that the spend on criminal justice services provides best value. Since the introduction of the community payback order, there has been a significant increase in the use of community disposals. We absolutely welcome that, but it brings obvious challenges in respect of continuing to deliver and manage the service. From the point of view of local authorities and the ADSW, yearly presentation of the budget is a challenge, but we will—obviously—continue to try to meet that challenge.

**Anne Pinkman:** As Lillian Cringles said, increasing numbers of males and females are being placed on community payback orders, which is very welcome. Also, however, increasing numbers of individuals are being sent to prison, and there has been a decrease in the number of individuals who receive financial penalties via the courts. My concern, especially with regard to women offenders, is that welfare reform and the introduction of universal credit may mean that the courts—especially the justice of the peace courts—will impose more community penalties. More women will therefore, rather than face financial penalties, be placed by default on community payback orders, which will in turn place additional demands on criminal justice social work services.

**The Convener:** Lillian Cringles said that there are specific resource challenges in preventing women from reoffending. What, specifically, is different?

**Lillian Cringles:** Women offenders generally present a range of difficulties in terms of their experiences. They are generally victims as well as perpetrators of crime. Women offenders often present for social work a range of welfare issues that we have to address along with their offending behaviour and its impact on communities. A great deal of input, support and welfare is involved in working with women offenders. I agree with Ann Pinkman on the impact of welfare reform. In addition, women offenders often have children and experience many problems with childcare.

Men also present some of those difficulties, but in general—and for social work in particular—

women present a wide range of problems, other than their offending behaviour.

**The Convener:** Thank you for expanding on that.

**Elaine Murray:** On criminal justice social work budgets, is there an argument about preventative spend, in the sense that an increased budget for the work that you are doing would enable savings to be made elsewhere? Are we getting the balance right?

**Lillian Cringles:** We would all like to do preventative work to prevent women—and men—from reoffending. In local authorities, there is a statutory requirement on criminal justice social work to meet the demands that are caused by people being placed on community disposals or criminal justice licences. We all hope that we could do early intervention and take a whole-systems approach with young offenders, and that it would have an impact further down the line on the ongoing cost of delivering those interventions to people who are in the justice system.

**Tom Halpin:** There is no doubt that women offenders as a group offer an opportunity for early intervention because of the range of underlying issues that are definitely related to offending behaviour. We can see that already happening through mentoring support and other opportunities.

For example, in Edinburgh we operate the another way service, in which we work with women who are sex workers. A third of them have to be referred for mental health issues. Of 60-plus women we work with in one year, seven are able to come out of the sex industry altogether while being supported. That indicates the type of support that can work early doors in taking women out of the criminal justice system.

Such mentoring projects mean that some women, who gain very much from being part of a group and from having that support, are already volunteering in projects across Lanarkshire: they are working in the community, rebuilding their own self-esteem and moving on. They openly describe how that is changing their lives. All that is much more effective than sending someone to prison for a short sentence.

**Anne Pinkman:** There is still huge potential, with regard to preventative work, for investing in arrest referral or diversion schemes before women become involved in the criminal justice system, and for creative use of support for women to avoid their being remanded in custody. Very often, women who are remanded in custody do not go on to get custodial sentences, but remand has the same damaging impact as a short custodial sentence; relationships in the community, relationships to do with housing and so on are all

fractured in the same way. There is huge potential for additional investment in preventative measures.

09:45

**The Convener:** At our previous meeting, it came up that social workers had for the first time discussed the issue with sheriffs. Do teams such as yours discuss with the bench the impact of and alternatives to remand? Of course, a sheriff is entitled to take a view on what should happen to someone, but do you have such discussions?

**Anne Pinkman:** Certainly, we do. Such discussions often take place at criminal justice boards. We share figures that we access from the Scottish Prison Service, albeit that the figures have not been available to us for some time. We share with the sheriff principal, who in turn shares with sentencers, data about the number of individuals who are remanded but do not go on to custodial sentences. The issue is a challenge and a concern. Remand is extremely costly and has a significant impact on the offender, in relation to housing services, for example.

We have done work, but more needs to be done, on why individuals are remanded. Very often it is because of a breach of bail; it is not necessarily because the person is homeless. Sometimes individuals do not make themselves available, for example for a criminal justice social work report, because they lead chaotic lives and not because they are unwilling to co-operate.

**Lillian Cringles:** I absolutely agree with Anne Pinkman. The difficulty is sometimes that a woman's lifestyle is such that she will not come forward. She might not trust the social worker to do the criminal justice social work report. As a consequence, she will be remanded. We think that it would be better if there were an opportunity to do the court report while the woman appeared in court, but the sheriff or sheriff principal will not always agree to that. We negotiate locally and can get local agreements, but we will not get collective agreement with all the sheriffs in a jurisdiction.

**The Convener:** I see that John Pentland wants to come in. Is your question on remand?

**John Pentland (Motherwell and Wishaw) (Lab):** No, I am going back to the budget.

**The Convener:** Remand is relevant to the budget, because it is costly and we are thinking about moving money about. That is why I am allowing the discussion to continue.

**John Pentland:** That is fine. I will come in later.

**Roderick Campbell:** Last week we heard from Councillor McNamara, who said:

“engagement with the judiciary is rather patchy across Scotland.”—[*Official Report, Justice Committee*, 30 October 2013; c 3473.]

Does Anne Pinkman think that engagement with the judiciary is adequate?

**Anne Pinkman:** I agree with Councillor McNamara that “engagement ... is ... patchy”. I am fortunate in that I am a member of the central and Fife criminal justice boards—in fact, the boards recently merged. However, such representation is not replicated everywhere. In some criminal justice boards there is representation from local authorities, and the chief social work officer might be a member, but that is not the case throughout the country. There is a missed opportunity in that regard because they are stakeholders in the criminal justice system and have positive contributions to make.

**Roderick Campbell:** Given the financial implications of alternatives to custody, do you think that more could be done to engage with the judiciary on the matter?

**Anne Pinkman:** I absolutely do think that.

**The Convener:** Is it possible to put a figure on the savings that might be made if we were to reduce the number of people on remand and deal with people in the community instead? You might not have such figures.

**Anne Pinkman:** I do not have figures to hand, but I am sure that we could produce them.

**The Convener:** That is what we would like to see, to enable the money to be used elsewhere in the criminal justice budget.

**John Pentland:** I go back to Elaine Murray’s question on the criminal justice social work budget remaining static. Lillian Cringles said that, even though doing so is challenging, the service still seeks best value. I ask her for clarity. Is the service being diminished because it is still working on a static budget or do we not need the level of service that we needed for 2012-13?

**Lillian Cringles:** In no way is the service not needed; demand for it increases. I can speak only for North Lanarkshire Council, but we try to work closely with third sector partners to maximise the universal services that are already available.

The way forward is for offenders to be reintegrated into their communities and for the universal services that are already available for other citizens to be made available to offenders. Sometimes, the challenge and difficulty that we face is in getting our local partners and universal services to accept that offenders, and women offenders in particular, are a priority. They are our priority and they are society’s priority for

reintegration, but that often may not be the case in respect of universal services.

We try to overcome the gaps in the budget and some of the services that we would like to develop by considering how we can have other services take responsibility for offenders as part of community reintegration. The service has not decreased but has, actually, increased. However, we need to get better at linking with other universal services—in particular in our work with the third sector, in order to ensure that services are provided for offenders.

**Tom Halpin:** Our knowledge of the needs of offenders—especially on throughcare and associated services—is much more sophisticated now than it was, so we are becoming more effective in that we know what works, and we continually redesign services based on evidence.

The crux of the matter is that often we do not necessarily need a new service; it is about ensuring that existing services are joined up and that people have fair and equal access to them. At the forefront of that is housing. The person who does not have a place to put their head at night has a very chaotic lifestyle.

I very much welcome the focus on throughcare.

**John Pentland:** Lillian Cringles mentioned that some gaps are appearing because of the static budget. What gaps are appearing and who is filling them?

**Lillian Cringles:** Certainly, no gaps are appearing in the delivery of statutory services. However, what we would like to do to rehabilitate offenders and to reintegrate them into their communities goes beyond statutory services. For example, we often have people on community payback orders who do their unpaid work and would like to continue to do voluntary work and pay back the community, but we do not have the capacity to allow them to continue to work with criminal justice services. We try to network them into other services but, oftentimes, the demand on those services is such that the person does not get the placement so, consequently, the routine that they have got back into their life is lost. To go back to our earlier point about preventative work, if the budget was such that we could use some of the resource to do such work, we could continue to deliver more effective services.

**John Finnie (Highlands and Islands) (Ind):** Good morning, panel. Obviously, we are here to scrutinise the justice budget, which is then divvied up.

Let us take the scenario that we often hear about, of the individual with a chaotic lifestyle who is the subject of remand for failure to adhere to bail conditions or who may well not have been

under bail supervision anyway. Ultimately, when it comes to paying for that, the money will come from different budgets, so the sophisticated knowledge to which Mr Halpin referred is crucial. I do not doubt that everyone is acting in good faith, but who should be responsible for that level of co-ordination?

I will add something on electronic monitoring and bail supervision. Ms Cringles's comment about statutory requirements being met suggested to me that, not only in relation to justice but in relation to much third sector involvement, the squeeze means that there has been a retraction back to the statutory authorities, perhaps leaving gaps.

The reality is that there are budgetary demands whoever is in charge in Government and whoever is in charge in local authorities. Where is the co-ordination? We keep hearing the same story about that, and it is not because people are not acting in good faith.

**Tom Halpin:** From the perspective of someone who works in the third sector, co-operation on projects does not necessarily come from the key social worker or the third sector but from individuals who take ownership of the issue and work their way through the system. For me, there is a lesson to be learned from MAPPA and the duty to co-operate that is placed on organisations and public bodies. I think that that should be replicated in this agenda because, as I have said before, the issue tends to be discussed by criminal justice experts, with housing officers and health professionals off to the side. In MAPPA, there is certainly—

**The Convener:** It might be helpful, not for the committee but for members of the public who might be interested, if you explained what MAPPA is and what it does.

**Tom Halpin:** MAPPA stands for multi-agency public protection arrangements under the Management of Offenders etc (Scotland) Act 2005, through which we manage the risks associated with certain groups of offenders in the community, typically those who have been convicted of sex offences. We work out a plan to manage the risks.

An organisation with a duty to co-operate will certainly be aware of its responsibility and of any failures in the system. With regard to co-ordinated services for women coming back into the community from prison, an individual might not be seen as a priority and they might be unable to access services. For example, we have dealt with women who found it difficult to access mental health services because of their chaotic lifestyles. They might also abuse alcohol, so they need

support to get them ready to access services and move on.

It would be unacceptable to me for an agency to say, "We've got someone else on our housing list and this person is just not there yet." All the work going on around strategic priority in Scotland just falls down if agencies do not think that it is their priority.

In the context of the budget and saving money, we know the costs of people being in prison, including the costs of those on remand. However, we could have a small number of supported accommodation places as an alternative to remand, with workers providing intensive bail supervision and support, managing the person so that they comply with their bail conditions and address their underlying issues. There would be knock-on savings everywhere from such an alternative to remand; although they might be quite complex to capture, common sense tells us that there would be savings. Such an alternative seems to me an awful sensible way ahead, but it will happen only if people feel that they have a duty to co-operate.

**John Finnie:** So you suggest that that sort of approach should be in a statutory framework.

**Tom Halpin:** We have seen the benefit in MAPPA of having things on that footing.

**Anne Pinkman:** My day job is being chief officer of a community justice authority. When CJAs were established, there were a number of partners, but among them the Scottish Prison Service and local authorities were ascribed the status of agencies with a duty to co-operate. Lillian Cringles spoke earlier about our efforts to obtain access to universal services for offenders, and Tom Halpin has just touched on remanded individuals and the housing situation. CJAs have been able to facilitate and co-ordinate access to universal services in local authorities. We now have housing services going in, either directly or via Sacro, for example, to hold housing clinics in prisons. That ensures that prisoners complete their housing benefit forms and makes housing services aware that a tenancy is empty, which means that they can secure it so that it does not become a party place for the duration of a young offender's period on remand, for example. It provides a real saving for local authorities if they can secure a tenancy while a young offender is in custody. That is an example of how, if we all work together, everybody is responsible. I hope that that helps Mr Finnie a little.

10:00

**John Finnie:** It does, but I wonder what happens at the other end. Someone's release from prison is not a surprise, but then they go

straight into emergency bed-and-breakfast accommodation and there is a delay in benefits, although I appreciate that that is outwith the gift of anyone here or indeed anyone in this building. If we think that we have problems now, we should wait until April next year. There is still a challenge regarding housing for people who are released from prison.

**Anne Pinkman:** Absolutely.

**Lillian Cringles:** Absolutely.

**The Convener:** Mr Halpin, given that we are trying not just to prevent people from reoffending and to sort out their chaotic lifestyles but to save money in the justice budget so that we can use it for early intervention, what are the cost implications of your suggestion on supported accommodation?

**Tom Halpin:** Across Scotland, a number of services already provide supported accommodation. We are talking about intensive support and bail supervision alongside that. A service in Glasgow, Edinburgh or Dundee would typically involve two members of staff plus administrative support plus management on-costs. I am doing this in my head, but we are probably talking about less than £0.5 million.

**The Convener:** For what?

**Tom Halpin:** For Scotland—for bail supervision.

**The Convener:** For how many people? This is a bit like an arithmetic exercise.

**Tom Halpin:** We are talking about a specific group of women offenders, so we are probably talking about fewer than 20 bed spaces in Scotland. However, that would be a sizeable chunk of the remand population.

**The Convener:** Rather than have you do the sums in your head, it would be useful if you wrote to us to expand on that. We are considering how we can save money, and we have already touched on the point that remand is costly. We will not be able to discuss that information with the cabinet secretary, because he is coming today, but it would be useful for us to consider the issue in detail before we produce our report.

**Anne Pinkman:** The average daily remand population for women offenders in 2012-13 was more than 100—I think that it was 107—and the majority of those women do not go on to get a custodial sentence.

**Lillian Cringles:** As an example, I can point to an initiative that we undertook in North Lanarkshire. We recognised that, for many women offenders who come out of prison, the challenge is always Saturday evening. They are fine during the week while the support is in place but, on a Saturday night, their violent ex-partner or whoever

comes round wanting them to be involved in misusing substances. We have identified two people—they are not social workers but paraprofessionals or justice support assistants—who are available on the phone. If women need support, they can call those support assistants. On occasion, they have gone out, spent time with women and got them over the initial hurdles so that, consequently, those women did not reoffend.

One woman had been in and out of prison since the age of 16. She was 48, and the longest that she had ever been out of prison was seven weeks. However, she has now been out for nine and a half months. For us, that is a significant result and comes at a very small cost. I have to find money for that from other areas of my budget, as she is now off her criminal justice licence. However, we are committed to trying to do that.

We can work out the costs, but I think that they could be quite small compared with the outcomes for women.

**The Convener:** Yes, because the outcomes have an effect on a range of budgets, if that work is successful.

**John Finnie:** I have a final brief question, convener. Ms Pinkman, 100 seems to be a ridiculously high figure for the number of women on remand. Do you have a comparable figure for the number of women who are on bail supervision?

**Anne Pinkman:** I do not, but we can get that to you.

**John Finnie:** That would be excellent. Thank you very much.

**Colin Keir (Edinburgh Western) (SNP):** Good morning. Ms Cringles said something earlier about the possibility of taking money from the budget that would be used for statutory work and putting it into non-statutory work. What effect would that have on your ability to fulfil statutory arrangements?

**Lillian Cringles:** It is clear that that presents a significant challenge for us. As I said earlier, it is about how to maximise the use of universal services to supplement the criminal justice social work budget. Again, I can speak only for my local authority. It tries to support the justice service and ensure that we can access universal services, particularly integrated addiction services, which we will need to tap into for the majority of our offenders. It is important to keep the services local.

When some of the statutory budget is taken for a non-core service, we must ensure that we still continue to deliver the service in relation to offenders on licence or community orders. We would never compromise on statutory delivery.

**Colin Keir:** May I ask another question?

**The Convener:** Is it a supplementary? There is a queue.

**Colin Keir:** Okay. I will wait until the end.

**The Convener:** If you are wrinkling your nose, it is not a supplementary.

**Alison McInnes (North East Scotland) (LD):** Good morning. I want to return to community justice centres, about which I have a couple of further questions.

The Angiolini report recommended a major redesign, in anticipation of which it looked at the 218 centre and the willow project. I have heard this morning that we are getting some improvements, but Anne Pinkman spoke about virtual ways of working rather than centres on the ground. Can we explore how sufficient those new ways of working really are?

**Anne Pinkman:** One of the services that are being created in the area that I cover—Fife and Forth valley—is a dedicated women offenders service. Quite simply, existing resources were reallocated to establish a women offenders team. The opportunity then arose to get additional funds from the Government. Additional health and addictions staff have therefore been added to the team to broaden the range of services that will be available to those women.

The funds have also been used to broaden the access points. Unlike in Edinburgh and Glasgow, where there will be purpose-built facilities, three existing facilities will be identified across the Fife area to allow ease of access to a range of holistic services for women offenders in Fife.

Things are quite different in Forth valley, where it is more about developing the group work services and support that have been developed in the past couple of years. Those will be extended to provide additional addictions and mental health services.

**Alison McInnes:** Is that properly aligned with Dame Elish Angiolini's vision, or are local groups going off in their own pet areas?

**Anne Pinkman:** It is certainly in line with the direction of travel that Elish Angiolini envisaged. It would not be realistic to expect that we would have purpose-built women's centres across the country. Perhaps what is happening is not perfect, but it is certainly more than what we had. There is great willingness for the services to work together, and things look extremely promising.

**Alison McInnes:** It is certainly more than we had, but the question for the panel is whether the approach is ambitious enough.

**Anne Pinkman:** The challenge will be sustainability. The additional funds that the Government recently gave us—I think that the figure is £3 million nationally—are for the remainder of this financial year and the following financial year. It will be very challenging if the local authorities and CJAs have to address the sustainability of those women's projects alongside the sustainability of the change fund projects, which will terminate around the same time, given that, as has already been mentioned, we have a standstill criminal justice social work budget. The trick will be in getting other services to contribute to ensure that those services can continue, if we are able to evidence that they work.

**Tom Halpin:** The money and co-ordinated effort to deliver the women's centres are very welcome. Women offenders' needs have been placed high on the agenda and everyone is thinking about them, which is to be supported.

As you know, Scotland is a diverse country and, to be pragmatic, different solutions are needed in different areas to reflect geographic and demographic differences. From a practitioner's viewpoint on getting the services out there, I think that we are being ambitious.

The issue that has come up time and again is that we do not want to get caught out by a loss of impetus at the end of year 2. It takes months to get a service up and running and it takes months to get the information back in. We are talking about a two-year funding window, in which we have had to create a workforce, infrastructure and technology.

We all understand the issues to do with future commissioning, procurement and so on. However, there is a real plea from public sector and third sector partners that we need funding from public funds for the other years.

**Alison McInnes:** If it is a national priority for us—and the cabinet secretary has agreed that it ought to be—surely the funding should run for a significant length of time, to allow things to settle.

**Tom Halpin:** The women themselves need consistency and the knowledge that the service will be there. The uncertainty created around funding would directly impact on the women's self-esteem.

**Lillian Cringles:** I agree with my colleagues. We have also been successful in securing some of the women offenders funding. I hope to use that opportunity to hold to account other universal services on how they deliver services. Women offenders in particular face real challenges in accessing health services such as primary healthcare. Generally, that is because they might have been abusive to a general practitioner or a receptionist. The question is how to reintegrate

those women and have their communities accept them back.

Over the next two years, we hope to use that additional funding to try to get partner agencies to take responsibility for women. I agree that it would be beneficial for the funding to continue, but over the next 18 months we will try to develop services within that parameter.

**The Convener:** You talked about using the funding to get other partner agencies to get women to engage with primary healthcare. Can you put in simple English what you would do with the money? I am not being rude; I just want in simple English what that means in practical terms.

**Lillian Cringles:** North Lanarkshire Council already has established women's services. Along similar lines to the arrangements that Anne Pinkman talked about, we are going to grow the service in the urban and rural areas in Lanarkshire, so that we get more of our services out to women in their local communities. We will work with our health partners to try to have health and integrated addiction workers linked to the team, who can identify the service that the woman needs, so that they do not have to go back to a doctor's surgery and get an appointment to get a script, for example, which would be traumatic for some of them. We will use a health worker to broker that.

I hope that, in the fullness of time, that will be accepted as a priority service that will continue, so that, if our funding ceases, at least those relationships will be established and there will be a fuller understanding of the needs of women offenders in our local communities.

**The Convener:** I understand that now. You want to get women's confidence back and get them into a relationship with the system through a health worker, and perhaps get them to move on to being back to seeing a GP.

**Lillian Cringles:** Absolutely.

**Margaret Mitchell (Central Scotland) (Con):** Good morning. I probably share a little of Alison McInnes's concern. The Elish Angiolini report looked at a shared location, which I understand is not always possible because we have rural communities and diverse, dispersed communities. With regard to sharing information and having a holistic approach, would the ideal for criminal justice centres be shared locations?

10:15

**Lillian Cringles:** Certainly, from our point of view, the ideal would be to have six women's centres in our six local areas that delivered six local services. If we had an unlimited budget, that is exactly what we would want to do. Different set-

ups are needed for different communities. In my community, we have women who will not travel three miles across two towns. Consequently, if there were a centralised women's service, they would not come to the centre.

Our view is that we should set up a centralised service, with representation from health and other services, and take that service to the women, so that we can engage with them in their local community rather than at the central point where the team is located. I think that relates to what Anne Pinkman said. It would be physically impossible to have a women's centre in each locality, because it would be too costly to provide all the services in each area, but we can certainly have a consistency of service from a centralised point.

**Tom Halpin:** I recognise that it might not be possible to have shared locations throughout Scotland, but where it is possible that is undoubtedly the right way to do things. We know that from our experience of the willow project. The gynaecologist within the Chalmers sexual health centre talks about the benefit from having a health worker in the mobile unit along with the Sacro worker at night, accessing saunas and doing outreach work. Equally, there is benefit from having the Sacro worker in the clinic along with the health workers to provide confidence to the women who come that they will be dealt with effectively and in the right place. The issue is not just about co-location but integration.

**Margaret Mitchell:** I understand that. Thank you.

I also want to tease out the issue of mentoring. This morning, the focus seems to have been on mentoring as an alternative to custody. To what extent is mentoring carried on with women who are already in prison?

**Tom Halpin:** The whole design of the service, which was co-designed with the Prison Service, criminal justice social work and the third sector, is founded on early connection between the worker and the woman in the prison. That should happen at least six weeks—it may be more—before release. There is a relationship before the woman comes through the gate to the community and the worker goes through the gate with her. Rather than people being referred to one person and then being met by someone else outside, the same person takes them through. Integration through the gate is absolutely critical to service delivery.

**Margaret Mitchell:** I want to dig a little deeper by looking at mentoring not just on release but as a kind of advocacy. We know that the vast majority of women in Cornton Vale have mental health problems. What is being done to address that

huge issue, which is not adequately dealt with just now?

**Tom Halpin:** That relates to the new arrangements for prison monitoring and the issue about who is the advocate for a prisoner inside prison. There is a right to mental health advocacy in any case, but I would perhaps question how effective that is. As an organisation, Sacro would undoubtedly have welcomed a rethink around advocacy for prisoners, but we are watching with interest the development of the new prison monitoring arrangements.

**Margaret Mitchell:** You question how effective advocacy is, but how available is it?

**Tom Halpin:** In my experience, I know of one woman who left Cornton Vale who had self-disclosed that she had mental health issues. Her view—never mind anyone else's view—was that she could not access mental health services either while she was in Cornton Vale or after her release.

From working closely in the willow project, we know that, often, the services are available but they are not accessed because of people's chaotic lifestyles. The project brings the person to the mental health services and makes them more effective. Sometimes it is easy to say that the service is available, but if the woman's lifestyle is so chaotic that she has not gone through the door, that cannot be the best provision of service.

**Lillian Cringles:** Sometimes, women get very short sentences, so there is little opportunity for a referral to be made to the mental health team while they are in Cornton Vale. Consequently, when they come out, they will not accept the voluntary throughcare service and, as Tom Halpin has mentioned, they will not go to the mental health services. One challenge that we face in delivering local authority throughcare is how to provide that intervention while the women are serving a custodial sentence, so that we can ensure that the services are available when they come out through the gate.

Often, the health service says that it will take the referral when someone is released and not before. Locally, we have done work to try to have the referral in place so that, when someone comes out of prison, we can take them to the service on day 1. That is sometimes a challenge, and we would certainly like more support from our SPS and health service colleagues.

**The Convener:** I do not know whether you have had the opportunity to look at Colin McConnell's evidence last week, when he said that he is looking for a change whereby prison officers move outside the gates with the parties who are released and people who work outside the prison come into it, so that we do not have a solid brick wall between them. Colin McConnell will give

evidence again later today; Mr Halpin was present last week when that evidence was given. Is work on that approach going on just now?

**Lillian Cringles:** Yes. Lanarkshire's justice throughcare service is part of a pilot that is currently being run. We are responsible for women offenders who come out of Cornton Vale, Greenock and Edinburgh. We are working with SPS colleagues to trial the opportunity to have engagement before release and to link in with services on release.

The short answer is yes—the work is on-going. The evaluation still requires to be concluded.

**Tom Halpin:** That approach is not universal yet, because it is early days.

**The Convener:** How long has the pilot been running?

**Lillian Cringles:** It has been running for just over a year—for 15 months.

**The Convener:** When will it be evaluated?

**Lillian Cringles:** The evaluation is due to start in January. We will continue to deal with women offenders and Dundee City Council will deal with male offenders. We hope and understand that the report will be ready around June 2014.

**Margaret Mitchell:** I will go back a little. We are talking about mental health services for conditions such as depression. I know that pilots have been run in Cornton Vale to work with all the people who have been victims of childhood sexual abuse, for example, and that the pilots have made a tremendous saving by preventing reoffending. Is that kind of thing going on?

At the other end of the spectrum, there are—undoubtedly—women in Cornton Vale with mental health problems that are so serious that they should not be there at all. What is being done to address that? There is a revolving door, which has a huge cost and does not address those people's needs.

**The Convener:** I do not know whether the witnesses can comment on the last point, because whether someone is put in prison is a matter for the judiciary.

**Anne Pinkman:** I can speak generally about advocacy for women prisoners, regardless of whether they have mental health problems, addiction problems, both of those or other problems.

The shine project is relatively new. It can offer any woman a mentoring service, regardless of where in Scotland she will return to, which is a first. As Tom Halpin said, the crucial point is that the focus is on establishing a relationship with the

woman prior to her release. We know from evidence that that is key.

Advocacy is part and parcel of the mentor's role. That might involve assisting a woman to access housing, addictions and mental health services or a GP practice. If—unfortunately—the woman goes back into prison, we hope that the mentor will follow her. That all happens notwithstanding the support that exists through criminal justice social work services.

I agree that many women who are in prison should not be there, but at least we now have a service that will offer every woman a mentor and advocacy support.

**Margaret Mitchell:** I will press you on that. You mentioned that you are a member of a community justice authority—is that correct?

**Anne Pinkman:** Yes.

**Margaret Mitchell:** I know that at least one CJA has had the flexibility to give funding to Circle, which has worked with offenders in prison and continued that support in throughcare, with tremendous results. Do CJAs have the flexibility in their budgets to commission such support?

**Anne Pinkman:** As, for example, Audit Scotland has acknowledged, the way that CJAs were set up means that they are unable to commission services directly. However, we can influence things and ensure that criminal justice social work budget allocations take cognisance of the offender population's various needs. As a consequence of that, money has been allocated to Circle in a number of CJA areas; indeed, it is also supported through the shine women's mentoring project.

**Margaret Mitchell:** Thank you.

**The Convener:** We will move on to questions from Sandra White. I do not wish to curtail your questions, Sandra, but I want to move on quickly. We have a couple of long sessions ahead of us.

**Sandra White (Glasgow Kelvin) (SNP):** As most of the questions that I was going to ask have already been put, convener, perhaps I can summarise what has been said this morning and ask for the panel's thoughts.

From what I can gather from the panel's evidence, it seems that community payback orders, the mentoring project and the change fund have been very successful and are going in the right direction but that funding for a two or three-year projected period should be made available.

One issue that has emerged from our questions and your responses is integration, and one might argue that that is what is missing. On my visits to prisons, I have seen services being duplicated. From a budget point of view, do you think that we

could save money by getting rid of such duplication and making the whole process more free-flowing for the women in question? Am I correct in assuming that you would agree with John Finnie's point that integration and working together must be put on a statutory footing?

I am also reminded of Ms Pinkman's comment about new benefits legislation that is coming in and the fact that the Scottish Government is seeking to integrate health and social care. How will both of those developments affect the services that you provide?

Was that all right, convener?

**The Convener:** Absolutely. You have provided a compendium of questions.

**Anne Pinkman:** I do not have any answers to your question about the integration of health and social care—

**The Convener:** That's it, then. [*Laughter.*]

**Anne Pinkman:** However, over the next couple of years, challenges will arise with regard to that integration and Government decisions on future arrangements for the delivery of criminal justice social work services. Although we do not yet know where such services will sit, we certainly cannot look at such issues in isolation. Over the past few years, we have done much to improve integration, but we are not there yet and my fear is that, unless we consider both issues together rather than in isolation, integration will, if you like, disintegrate.

**The Convener:** Disintegrating integration—it is going to be a long morning.

**Tom Halpin:** An ugly truth is that many organisations that work with offenders in prison have sought to deliver their own agenda. The focus on women offenders and the reducing reoffending change fund have given us a great opportunity to co-produce and to go right back to basics and focus on the needs of the offender rather than the needs of any organisation. That is the strength of projects such as shine, which was designed through a collaboration that included the statutory partners to examine an individual's needs and which offers us real lessons that we can learn.

The third sector itself recognised that point. I chair the criminal justice voluntary sector forum—a collaboration of organisations. In a significant piece of work and with support from the Robertson Trust and the Scottish Prison Service, we have designed a partnership development agreement to ensure that any proposed service is co-designed with the Prison Service and the partners that are involved. That agreement has been accepted by the funders and the third sector.

In short, we recognised the position that we were in and we are now moving forward. The change fund has definitely added value to the process.

**Lillian Cringles:** The ADSW has been active in engaging with our health service partners on the adult health and social care integration agenda. As Anne Pinkman has said, we are unclear about where criminal justice social work will be managed from, but we are trying to pre-empt the need for certain services that help women to reintegrate into their communities, which will have to continue to be delivered. The ADSW and the NHS are certainly doing some work on this matter.

10:30

**Sandra White:** I have a very small follow-up question. I completely understand what you are saying—after all, whether or not someone is a prisoner, health services are universal. Do you agree that the money to ensure that prisoners and ex-prisoners can access health services should come from the health service budget rather than the criminal justice budget?

**Lillian Cringles:** I certainly agree, but finding out how that might happen would give rise to other challenges.

**The Convener:** But, Sandra, the approach you have suggested would take us away from integration and back into disintegration. We are trying to ensure that budgets are not fighting other budgets.

**Sandra White:** I am simply helping things on their way, convener.

**Lillian Cringles:** It is really a matter of universal services, particularly health services, taking responsibility and prioritising women.

**Anne Pinkman:** I should also point out that the transfer of responsibility for the provision of healthcare in prisons from the Scottish Prison Service to local health boards has very much raised the profile of prisoner and offender health with boards. That is very welcome and will help to ensure that all offenders either in prison or in our communities have access to universal health services.

**John Pentland:** Your submissions highlight difficulties with funding, be it long-term funding or whatever, and I want to give you the opportunity to put on record what you believe would be the ideal solution. Most strategic plans probably run parallel with a three-year budgeting process, but do you think that significant improvements could be made in the services that you are trying to deliver and that things could come to fruition if there were not so much uncertainty about the availability of funding?

**Anne Pinkman:** As the chief officer of a CJA, I can tell you that we provide three-year area plans and would very much welcome the ability to have three-year budgets that fit with them. Indeed, that would also be welcomed by our voluntary and third sector partners.

**Lillian Cringles:** Three-year funding would certainly bring benefits by ensuring the retention of staff who have gained particular expertise in engaging with women offenders and securing our links with the third sector.

**Tom Halpin:** It is the one point that is consistently made. I would also say that, although we understand that such funding would need to be reviewed every year and adjustments made—after all, that is business planning—both the third sector and local government have made it clear that the lack of three-year funding and the inability to address that situation are directly impacting on the confidence of those who receive the services. Women offenders, in particular, have very low self-esteem, and creating uncertainty in their lives has an adverse impact on what self-esteem they have.

**The Convener:** I have been hearing this call for three-year funding for the past 14 years. Is it right that it has never been put in place?

**Anne Pinkman:** Yes.

**Tom Halpin:** Yes.

**Lillian Cringles:** Yes.

**The Convener:** We can put that point to the cabinet secretary, although we should bear in mind Mr Halpin's comment that you have to prove your worth to get three-year funding.

I thank the witnesses very much for their evidence and will suspend for 10 minutes—would members prefer seven?

**John Pentland:** Ten, convener.

**Elaine Murray:** Seven.

**The Convener:** John Pentland wants 10, others want seven—let us say eight.

10:34

*Meeting suspended.*

10:39

*On resuming—*

**The Convener:** We are all back at our places early.

Item 2 on the agenda is further evidence gathering on the Scottish Government's draft budget for 2014-15. I welcome the Cabinet Secretary for Justice and his Scottish Government officials: Kerry Twyman, finance programme

management division; Andy Bruce, deputy director, community justice division; Kerry Morgan, community justice division; and Stephen Woodhouse, police division.

If committee members like—and I think that it would be appropriate—they should keep questions on the women offenders budget to item 3, under which we will deal with the Commission on Women Offenders. We will ask general questions now.

I remind members that the cabinet secretary is not responsible for the Crown Office and Procurator Fiscal Service budget. That lands in the lap of the Lord Advocate, as I understand it. *[Interruption.]* I am getting a nod—that seems to be correct.

Before we get on to questions, the cabinet secretary wishes to make a brief opening statement.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Thank you, convener. I am grateful for the opportunity to appear before the committee today. I would like to talk about the real benefits that we have brought to our communities since coming to office.

Only this morning we published the “Scottish Policing Performance Framework Annual Report 2012-13”, which shows that, against the previous year, overall crimes recorded by the police in Scotland fell by 13 per cent to a 39-year low; detected crimes committed by children and young people fell by 22 per cent, continuing the downward trend of youth offending; racist incidents are down by 16 per cent; recorded antisocial behaviour community crimes and offences have fallen by 13 per cent; and complaints against the police are down by 1.7 per cent.

We believe that that is proof that our commitment to 1,000 additional police officers remains the right one. Maintaining that local presence in communities continues to drive down crime, which is in stark contrast to the position south of the border, where police numbers have fallen by 8.7 per cent between March 2007 and March 2013. Had we taken the same approach to policing as they have in England and Wales, we would now have approximately 2,500 fewer police ensuring the safety and security of our people.

In delivering such benefits to our communities, we have been at the forefront of public sector reform and now have a single police service and a single fire and rescue service. That was the biggest and most complex public sector reform since the Scottish Parliament came into being in 1999.

Reconviction rates in Scotland are now lower than in each of the past 14 years and the clear-up rate for all recorded crimes is at its highest level for more than 35 years. Violent crime is down by almost a half and offences involving a firearm are down by almost 60 per cent. Crimes of handling an offensive weapon are also down by 60 per cent and custodial sentences for such crimes are up for the seventh consecutive year. The number of homicide victims is down by 48 per cent.

Our draft budget for 2014-15 is focused on maintaining services despite Westminster budget cuts, while realising the benefits of police and fire reform, continuing to modernise our justice system and focusing attention on preventative spending to tackle the root causes of crime and help communities and individuals to realise their potential.

I note that the committee wishes to focus today’s discussion on policing, prisons and alternatives to custody, and I am happy to respond on each of those issues. I hope that I have given the committee a sense of the achievements to date and of our intention to work to continue them. I am happy to take questions.

**The Convener:** Colin Keir has got in first. Does Sandra White want to get in second?

**Sandra White:** Yes.

**The Convener:** You said that it is good to get in before everyone else has asked all the questions. You have got to get off your mark. *[Laughter.]*

We will have Colin, Sandra and then Margaret Mitchell.

**Colin Keir:** Good morning, cabinet secretary. Constitutional arguments aside, I will ask about the austerity that is coming from south of the border. Looking to the longer term, even beyond next year, how difficult will it be to maintain services given the rate at which cuts are being made?

**Kenny MacAskill:** It is very difficult and challenging, but the Cabinet Secretary for Finance, Employment and Sustainable Growth has set out the budget and we have managed to budget within that. I am grateful to all the various organisations, whether they appear separately here before the committee or are dealt with by me.

It is challenging, but we believe that it can be done. The Cabinet Secretary for Finance, Employment and Sustainable Growth has spelled it out. Equally, I would say that it does not need to be this way. Things can be done in other ways; other nations operate in a different manner from the austerity budget. However, while we are constitutionally constrained to deal with it, deal with it we will.

**Colin Keir:** You and I have similar views on the constitution and the like. However, if austerity carried on, would we have a problem with the viability and sustainability of the reforms that are in place? Would we be forced to go down the road of what is happening down south?

10:45

**Kenny MacAskill:** The position depends on how swingeing are the cuts that have been and continue to be made. We have managed to budget and to do what we believe is necessary, which is not necessarily what we would like to do. I have to meet the Scottish Police Federation tomorrow, and I will feel its members' pain about the swingeing attack on their pensions, which I know that they feel—understandably—aggrieved about.

We do what we can to mitigate matters. We will continue to do what is working, and the direction of travel is supported across a swathe of the criminal justice landscape. If austerity continues, I cannot say what the situation will be, although it will not be as good as it could be. If we have control of our budget, we will build on what are remarkably good results in difficult circumstances.

**The Convener:** I am looking at the figures. By how much is your justice budget being cut in real money—not as a percentage? I ask so that we know what we are talking about.

**Kenny MacAskill:** If we had not reformed the police and fire services, the challenges would be greater. The reform puts us in a position to deal with the buffeting that we know is coming. I do not know whether Kerry Twyman can assist with the precise figure.

**The Convener:** Can we get it at some point?

**Kenny MacAskill:** We can provide it in writing.

**The Convener:** It would be useful to have the figure, so that we know what we are talking about.

**Sandra White:** Good morning, gentlemen and ladies. Last week, Chief Constable House said that work needs to be done to establish the optimum balance between police officers and police support staff,

“but it would be foolish to try to do it within the first 12 to 18 months of the new organisation.”—[*Official Report, Justice Committee*, 29 October 2013; c 3407.]

When I questioned him on the length of time, he said that the service would have to speak with human resources and trade union representatives, which could take two to three years. Could the work to find the optimum balance have been done before police reform? Would that have alleviated the pressures on police support staff or would it have been impossible to do the work before the single police force was established?

**Kenny MacAskill:** I do not think that anything other than what has been done could have been done. We dealt with 10 organisations—the eight legacy forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency. It is for the chief and his command team—subject to accountability and answering to the Scottish Police Authority—to work out how to configure arrangements.

Good work was done by those who planned for and looked towards the establishment that went live on 1 April and which has been shown to be remarkably successful. However, the configuration must be left to the chief and his command team, so it could not be dealt with before we went live.

**Sandra White:** In further questioning, Chief Constable House and Stevie Bailey—I think that that was his name; he was the Unison rep—talked about working with trade unions.

**The Convener:** It was Stevie Diamond.

**Sandra White:** I am sorry—I should have remembered a name such as Diamond. The point was forcefully made that the organisation has to talk to HR and trade union representatives before a decision can be made about voluntary redundancies for support staff. Have you talked about that with trade unions or Mr House, or is that a completely independent issue?

**Kenny MacAskill:** I meet trade unions and the chief constable regularly. Some matters require to be dealt with between the management and the unions. The Government's sole stricture is that there will be no compulsory redundancy scheme, which the chief constable and the Scottish Police Authority accept. I will meet Unison again and Unite shortly.

The precise terms of the voluntary redundancy scheme require to be sorted out by the SPA, the chief constable and the unions, but it appears to me that work is on-going—people are applying and some people have already gone. I understand that the scheme is to be continued and I welcome that.

**Alison McInnes:** I have a supplementary question. You said that you leave it to the chief constable to decide how to deploy his resources. At what point will you release the chief constable from the arbitrary figure of 17,234 officers?

**Kenny MacAskill:** We made a manifesto commitment and we stand by our manifesto. The policy is working, as there is a 39-year low in recorded crime and there is the lowest number of homicides since records began. The policing framework report, which was published today, indicates that a visible police presence in our community is making Scotland a safer place. We stand by our manifesto commitment.

**Alison McInnes:** We now see an imbalance coming through in the service with backfilling and proposals for the closure of police counters. When you write your new manifesto, will you reconsider the matter?

**Kenny MacAskill:** I do not recognise that interpretation of the evidence from last week. I was not here but I read the *Official Report*. It seemed to me that the chief welcomed the number of officers. He said that he could envisage a scenario in which he could have worked with more. There is also no strategy of backfilling; indeed, he pointed out in response to the committee's questions that he thought that it was inappropriate to have officers stuck in police stations awaiting an individual who may or may not come when they could be out in the community. Fundamentally, however, those are operational matters.

The Government has a commitment that we fought an election on about the visible police numbers in our communities and we stand by that. The chief was quite clear that there was no strategy of backfilling, although there were instances when it happened because of sickness, people being on courses and whatever else. I stand by the chief constable and support his efforts.

**Margaret Mitchell:** Can you confirm that the vast majority of counter services are staffed by police support staff as opposed to police officers?

**Kenny MacAskill:** The police would require to comment on that matter. I could not confirm that, as it is an operational matter. It will depend on the station, the time of day and the shift pattern. I cannot comment on that. I can only go by my anecdotal evidence and I have to say that, in the city of Edinburgh and elsewhere, it depends on which police station I go to, on the time and on whether it is during the week or at the weekend.

**Margaret Mitchell:** But if the situation that I outline is the case and if any of the police staff are being replaced by police officers who are doing the administrative work that the staff do when they are not busy, surely that is not really a saving—it is a false economy.

**Kenny MacAskill:** That is not what I think the chief constable said last week in evidence to the committee. He was quite clear that he did not see or seek a strategy that was a false economy. He thought that it was not a good use of a police officer's time to be stuck in a police station just to man it and to ensure that if somebody came in, somebody was there; it was a better use of the officer's time to be out and about.

Ever since I became the Cabinet Secretary for Justice I have been obligated not only not to interfere in operational matters but to take the best

advice available. I think that the best advice available from the chief constable is that there is no strategy of backfilling. The police think that there are stations where the counter is not serving the public because there is insufficient use, and it is certainly not serving the public if an officer is stuck in the station when they could be out doing something constructive.

**Margaret Mitchell:** But that argument is predicated on the assumption that it is police officers that are staffing police counters and we understand that, by and large, that is not the case. Perhaps we could get more information on that, because it is an important point given that the average salary of police support staff is about £21,000 and the average salary of a police officer is about £36,000.

**Kenny MacAskill:** I have no doubt that the chief constable would be able to give you further information. If Ms Mitchell wants to argue that we should be reducing police numbers to support police service staff, that is an argument that the Conservative Party is entitled to make.

I am confident that, as he has made clear, the chief constable welcomes the police numbers that we have, which have delivered results that I think are outstanding, and believes that the counter closures and variations—some of which are to increase hours—are appropriate and are the best use of resources in terms of both police officers and police staff.

**Margaret Mitchell:** I am not sure about your logic, cabinet secretary. If it turns out that the majority of the police counters are staffed with support staff, it does not make sense to have police officers covering the administrative duties that staff do when they cover the counters.

**Kenny MacAskill:** I accept that the police require to make savings because of the budget cuts that we, as an Administration, face from Westminster. We have carried out reforms, which—as I said earlier—have mitigated the situation, but I would rather see people going under a voluntary redundancy scheme when the job in which they serve is not crucial to core policing. That is why the police has such a scheme, for which people are applying.

If the chief constable can work out a scheme in which we keep up the number of police officers in the community and there are counter closures or hours are perhaps restricted and those who would have served go under the voluntary redundancy scheme, that seems to be a win-win situation. The civilian staff member is allowed to go, having served well; the police station remains open and productive, albeit that the counter hours are restricted; and the police presence in the

community is provided, which is fundamentally what communities want.

**Margaret Mitchell:** We are not going to agree on the matter, cabinet secretary, because you refuse to recognise that police staff who run the counter services are not twiddling their thumbs but are engaged in administrative work that will still have to be done.

Perhaps we can move on. Unison has estimated that approximately 200 police officers are currently working in the police reform unit. Given the figure of £36,000 that I quoted as an average salary, that amounts to £7 million a year being spent in that area. Do you have any comments on that? Do you think that it is an effective use of the budget?

**Kenny MacAskill:** You asked the chief constable that question last week, and he said that he did not recognise those figures. I stand—

**Margaret Mitchell:** Equally, he could not give a figure.

**Kenny MacAskill:** The chief constable is not aware of the figures to which you referred. There was a police reform team, but it seemed to be proportionate to the reforms that were being introduced. Those figures are unknown to the chief constable, and I cannot speculate or comment beyond that.

**Margaret Mitchell:** That is strange, because Unison has the figure of 200 staff, so I am rather shocked that the chief constable is not aware of it. If that is the figure, will you comment on it and on the use of that money?

**The Convener:** Let me halt the session for a minute. We have asked the chief constable to clarify the difference for us, so we will have that information. It is perhaps a question that the chief constable has to answer for himself. We have asked him to clarify why there is a conflict here—

**Margaret Mitchell:** Convener, this is our only opportunity to ask the cabinet secretary about this very important issue, so it is reasonable to ask him to speculate—

**The Convener:** He has answered it, actually.

**Margaret Mitchell:** If the number is as high as 200, cabinet secretary, do you think that it is a good use of money?

**Kenny MacAskill:** The chief constable was unequivocal in his response last week that he did not recognise that figure. You are seeking clarification, which I have no doubt that Sir Stephen House will provide. I stand with him: he does not recognise that figure, and nor do I.

**Margaret Mitchell:** So you have no comment. Would you be shocked if that turned out to be the figure?

**Kenny MacAskill:** Those are policing operational matters over which I have no control. They are decided by the chief constable and you must ask for that information from either Sir Stephen House or Vic Emery. It is not a matter—

**Margaret Mitchell:** There is a huge implication for the budget, cabinet secretary.

**Kenny MacAskill:** That may be, but when we brought in police and fire reform, we set out structures, and it was quite clear to all political parties that the Cabinet Secretary for Justice— whoever he or she may be—would not have operational control. That was done for the correct reasons, and that is how things stand.

You are asking me to answer a question about something that I have no control over. If it is not dealt with by those two gentlemen, it can be dealt with by the Justice Sub-Committee on Policing, which has specific powers and was set up by the Parliament to look into those matters. I cannot comment on the issue, other than to say, once again, that the chief constable was unequivocal—he was quite clear—in saying that he did not recognise those figures. You have asked for clarification, and he will provide it. I am certain that that will satisfy the committee.

**The Convener:** Right—we will move on.

**Margaret Mitchell:** It will be interesting to see the budgetary implication when the figure is known. Perhaps you will have a view then, cabinet secretary.

**The Convener:** Oh dear, it is getting quite chilly in here now. I am warm though.

We will move on to Elaine Murray, to be followed by Roderick Campbell and John Finnie.

**Elaine Murray:** We have referred quite a lot to the evidence from the chief constable last week, cabinet secretary. You will accept that there is a direct conflict between that evidence and the evidence from Unison. Even Police Scotland has said that 800 police staff posts will be lost by the end of this year. Unison says that backfilling is already happening—whether or not there is a strategy for it—because of the reduction in police staff. Moreover, the reductions that will have taken place by the end of this year will contribute only £25.5 million to the savings that will be required in the following year. Sir Stephen House said that he thinks that additional police staff will be lost in subsequent years. Does that cause you concern?

11:00

**Kenny MacAskill:** It does not, because I do not recognise the landscape that you refer to. We have always said that redundancies would occur, as we were going from 10 organisations to one

and as we had clear duplication. That was one of the drivers for the single service—we wanted to have an improved service throughout and to balance the books. We knew that some posts would be surplus. That is why we gave the assurance, which the SPA and the chief have accepted, that there would be no compulsory redundancies.

We accept that some people have been made redundant voluntarily. We know that some people want to go but currently cannot exercise that right, and we are working with the SPA on that. It was clear from the chief that there has been and will be no strategy of backfilling.

Chief Constable House acknowledged that some backfilling has always taken place because of illness, pregnancies and people going on courses. However, it is fair to say that, when I spoke to the previous Her Majesty's inspector of constabulary, he said that there was no evidence of backfilling, other than what has gone on.

We continue to monitor the matter, but I have trust and faith in the clear view that Steve House expressed last week, which is that there is no strategy of backfilling and no on-going backfilling to replace civilians uniformly with police officers.

**Elaine Murray:** Many of the staff have already gone—that happened before the new structures and the new control rooms were brought in. Are you suggesting that those police staff were not doing anything and were not contributing?

**Kenny MacAskill:** No—I am not suggesting that at all. Police staff work remarkably hard, whatever role they are in. Some are specialised and some do jobs that police officers cannot do, because they involve forensic science or intense work that a police officer would have to do a great deal of training for.

I am saying that a number have gone because the voluntary redundancy scheme has been in place for some time. The control rooms position has still to be resolved between the police, the SPA and the unions, but I have no doubt that that will happen in due course.

We accept that more people will go on voluntary redundancy. However, the chief made it clear last week that there has been, is and will be no strategy of backfilling.

**Elaine Murray:** Do you still feel that 800 police staff leaving by the end of this year will have no effect on policing?

**Kenny MacAskill:** The statistics are continuing to improve and are remarkable. That is the case even in today's annual report on the policing framework, especially in relation to youth crime, which can be the precursor to further offences as people mature. I see no issues there. A lot of the

redundancy numbers will relate to the final position that the Police Authority and the chief constable take on control rooms, where significant numbers are involved.

**Elaine Murray:** Last week, Unison made the point that work on the appropriate balance of employees in the police service has not been done, but it was argued that the disruption now means that such work cannot be done for another 18 months. Perhaps that work should have been done before the new police structures were put in place.

**Kenny MacAskill:** That comes back to a point that Sandra White raised. The work could not have been done then, because we were not necessarily sure who would come in and what their skill base would be. It is for the chief constable, subject to the Police Authority's approval, to decide how to configure arrangements.

We accept that people have gone under voluntary redundancy. We are proud that there have been no compulsory redundancies, unlike what is happening south of the border. As I said, there will be no compulsory redundancies; a voluntary redundancy scheme will apply.

It is sad that many people want to go but cannot be released. I welcome the on-going work between the Police Authority, the chief constable and the unions to provide clarity on who needs to stay and who can go.

**The Convener:** John Pentland has a supplementary question. Is it on the balance of civilian staff and officers?

**John Pentland:** It is a supplementary in general terms.

**The Convener:** In that case, I will put you on my list. You have sabotaged yourself.

**John Pentland:** That will mean that I miss the point, convener.

**The Convener:** We will see. I await your question with bated breath, but I will bring in Elaine Murray at this point. On you go, Elaine.

**Elaine Murray:** I want to move on to the Scottish Prison Service. We see a—

**The Convener:** Can we keep to policing, for the sake of our report?

**Elaine Murray:** Okay. I will come back to that later.

**The Convener:** Roderick, you are next on my list. Is your question about policing?

**Roderick Campbell:** Yes. I have two questions on policing.

**The Convener:** Good. We will do all the policing stuff, and then we will move on to the Crown Office and Procurator Fiscal Service and then prison and alternatives to custody, if members do not mind. John, is your question on policing?

**John Pentland:** It is.

**The Convener:** Well, there you are. You can come in after Roderick.

**Roderick Campbell:** Good morning, cabinet secretary. Lord Carloway, in his report, mentioned court hours being extended to keep to a minimum the number of people who are kept in police custody. In light of recent changes of approach to the use of cells to keep people in custody, is the Government considering doing a cost benefit analysis of the extension of court hours to evenings and weekends?

**Kenny MacAskill:** You are quite correct. Lord Carloway mentioned the issue in relation to the requirement to get people before the available court as soon as possible. I am aware of the pressure on police cells and the difficulties that have been caused by changes in operational approach, not just for the police but for the people who are incarcerated.

There would be savings for the police in a Saturday-court scenario; equally, there would be costs for other justice partners, particularly the Scottish Court Service. We have to try to work that through. I am glad that the matter has been raised at the justice board, and it is on-going work between the partners who are involved. Some of it can be dealt with by greater use of information technology, but some of it probably requires new thinking. I therefore welcome the establishment by the justice board of a tripartite group that is led by the police but which also includes the Scottish Court Service and the Crown Office and Procurator Fiscal Service, which will look at specific matters relating to weekend costs.

There would be savings to the police, but there would be costs for the courts and the Crown. The truth is probably somewhere in the middle. Lord Carloway has clearly expressed that weekend courts would have benefits, but we need to ensure that, in supporting one section of the criminal justice system, we do not undermine or damage other aspects. That is why I welcome the on-going work. You raise a good point, which we have taken on board.

**Roderick Campbell:** The chief constable said last week that, if he was being questioned by any panel about how many police officers he would want, 17,234 would be a bottom-line figure. He was not able to give complete clarity on whether that figure and the extra 1,000 officers include the approximately 320 officers who are funded by local government, some of whom were funded

before that pledge came in. Can you throw any more light on that issue?

**Kenny MacAskill:** I remember that the chief was clear that he found it difficult to work out what had come in before and what had come out. We can try to provide greater clarity, but a lot of this is dealt with directly by the police as opposed to by us. I do not know whether Stephen Woodhouse wants to comment.

**Stephen Woodhouse (Scottish Government):** We can have a look at that for you. I cannot comment now as I do not have the information, but we should be able to get a breakdown of the numbers of officers that councils are providing.

**The Convener:** John Finnie has a question. Is it on policing?

**John Finnie:** Yes.

**The Convener:** I will take you first. John Pentland is waiting, but John Finnie was already on my list. John Pentland is also on my list and he is definitely next. I am trying to keep in with him, although I think that I am failing.

**John Finnie:** Has any work been done on the benefits of economies of scale? At one stage, Scotland's police forces had 23 chief officers, many of whom were chauffeur driven, and it cost £5 million to run their staff association. How many valuable police support staff have been retained as a result of dispensing with many, if not the overwhelming majority, of those officers—and, I hope, their chauffeurs?

**Kenny MacAskill:** I do not have precise details on that in front of me, but I recall that one driver for police reform was to reduce duplication, at senior level or in other matters.

I have the details now, so here we go. Before reform, there were eight chief constables, nine deputy chief constables and 13 assistant chief constables. Those cost around £3.5 million every year. The executive team now costs around £2 million—it costs £11 million for the force command, but that does not compare like with like—so there is a saving of £1.5 million there.

However, there are savings across the board. I remember Deputy Chief Constable Richardson giving evidence not simply on those matters but on the duplication in terms of motorcycles, access to legal advice and you name it. Things were done eight or 10 times over that are now dealt with, if not on a single force basis, certainly on a more shared basis while providing the same level of service.

**John Finnie:** I have a further question on courts, but that is for later.

**The Convener:** We will move on to courts next, after John Pentland's question.

**John Pentland:** Cabinet secretary, no disrespect but I am beginning to wonder why you are here today—

**Kenny MacAskill:** The committee asked me.

**John Pentland:** Perhaps with hindsight we could rethink the invitation—

**The Convener:** Now, now.

**John Pentland:** As I said, I am beginning to wonder why you are here because, whenever we have asked a question on the budget, you have said that it relates to operational matters. I think that you have probably been quite selective in how you have answered our questions.

Questions have been asked on a number of things, including the impact of the cuts that are being applied in operational matters. Do you agree that backroom staff should lose their jobs and that counter services should be reduced? Do you think that it was probably right for those cuts to be applied? Stephen House said last week that it would take between 12 and 18 months for any review to see what service is required. If we are already finding that £60 million-worth of cuts must be applied, when the review is completed in 18 months' time, we might well find that we do not have the money to provide the service that Stephen House would like.

**Kenny MacAskill:** There were a variety of questions there. First, do I answer for the budget? Yes, I answer not simply for the policing budget but for the budgets for the courts, which we will come on to. I will also doubtless have to answer questions on criminal justice social work. That is why I am here. Those matters are separate from the Crown Office, for which the Lord Advocate will answer, and that is why I was invited here.

I wish that there were no budget cuts, but in the world in which we live this Parliament is constrained by the money that is given to it by Westminster. That is the basis on which the Cabinet Secretary for Finance, Employment and Sustainable Growth lays out a budget. We have faced swingeing cuts and we require to address them. Justice is not exempt from that. If any political party or individual committee member wishes to suggest that the justice budget should be exempt, they are entitled to do so but they will require to say where the cuts to alternative budgets would be made.

That means that we face challenges in some aspects, whether in the courts, which we will come on to, or in policing. There are operational matters, which I do not interfere with. Equally, I think that the chief constable has done an outstanding job and he is ably supported in that by the Scottish Police Authority. They are making hard decisions. In an ideal world, probably nobody would ever lose

their job through a voluntary redundancy scheme, but that is not the world in which we live. I much prefer the scenario that we have north of the border, where we are not seeing the haemorrhaging of police officers or a movement towards privatisation or cuts across the criminal justice spectrum, including 70 per cent of probation services going out to tender for privatisation. I support the chief constable in the hard decisions that he has made, and I stand by him.

**John Pentland:** Cabinet secretary, am I right in assuming that you support and agree with the cuts that have been made by the chief constable?

**Kenny MacAskill:** I stand by the actions of the chief constable.

**John Pentland:** Regardless of the consequences of those cuts?

**Kenny MacAskill:** The chief constable is operationally independent, but I can put on record for you, Mr Pentland, that I have the highest regard for Sir Stephen House. I think that he has done an outstanding job and I support him in the work that he is doing.

**The Convener:** We move on to the courts—sorry, I beg your pardon; we move on to the Crown Office and Procurator Fiscal Service. Who wants to start? John Finnie; he will be followed by Sandra White and then Roddy Campbell.

11:15

**John Finnie:** Thank you, convener. Cabinet secretary, last week we heard evidence from the Crown Office about delays in the specialist domestic abuse courts and, of course, we know that there are not specialist courts everywhere. There will be some court closures, albeit that special measures are in place. Is the budget robust enough to deal with the intensity in the rate of court cases?

**Kenny MacAskill:** It is. The Scottish Court Service, under the steerage of the Lord President and the chief executive, Eric McQueen, has done a remarkably good job. It is a matter of public record that, due to Police Scotland's efforts to address domestic abuse, there have been some increases, which have caused some initial difficulties that are being worked through.

However, across partner agencies we have the right manner of prioritising domestic abuse, which is essential. We have specialist domestic abuse courts in Edinburgh and Glasgow and in other areas we try to ensure that we have ways of prioritising dealing with domestic abuse—going back to the same sentencer, for example.

Good work is on-going, although more progress can always be made. The issue is not just about money but about how the system is applied and how matters are worked out in court. Some cost savings will have to be made in buildings, but the issue must be processed from within, and not just by one part of the equation, but with regard to how the Scottish Court Service ties in with the Crown Office and Procurator Fiscal Service, the police who report in and those who support those who are required to give evidence. That work is under way. With more money we could do a lot more, but within our constraints, good work is under way to deal with what is in some respects a systemic problem.

**John Finnie:** I know that you would not wish to intrude on the operational independence of the Crown Office and Procurator Fiscal Service. However, to provide the expected level of service on domestic violence, a lot of personal contact is needed. Are you content that there are sufficient resources in the Crown Office and Procurator Fiscal Service to properly support victims?

**Kenny MacAskill:** That matter is probably more for the Lord Advocate, but I think that victims are properly supported. Domestic violence is one of Police Scotland's three priorities and the current Lord Advocate fully accepts the problem, as did his predecessor. We have seen a desire to tackle the problem and the appointment of people into key leadership roles in the Crown Office and Procurator Fiscal Service. The problem is accepted by the Crown and it is working to deliver on it.

**John Finnie:** A lot of organisations have moved to centralise telephone systems, so that if someone in the Highlands, say, phones the Procurator Fiscal Service, someone in Dumbarton answers. Does that in any way undermine the ethos that there will be special support for domestic abuse victims?

**Kenny MacAskill:** No. The Lord Advocate is doing a remarkably good job. I met the procurator fiscal in Campbeltown, who, when he was not busy in court, marked papers that had come through from other jurisdictions, and did so electronically. The Crown has done a good job on ensuring that we have that presence there when it is needed. Rather than people having downtime or dead time, they are made use of in the system. There will be instances when things go to Dumbarton and instances when things from more populated areas go to Campbeltown. The Crown has been quite innovative and I support it in its efforts.

**John Finnie:** I will push you on this point. I understand that domestic violence cases are dealt with by the fiscal in Orkney on the same basis. For argument's sake, a key component of that might

be the fiscal explaining why proceedings have not been taken, which can be traumatic. That requires personal contact, not phoning a call centre to try and find the way through. Are there sufficient resources to ensure that that happens?

**Kenny MacAskill:** I think that there are. There are good reasons why one person should do it: it gives consistency of marking and moves us away from a postcode lottery. There should also be personal, face-to-face contact, which is preferable, but that can be done by a procurator fiscal depute with the legal knowledge to explain matters, some of which might be the complexities that we know that there can be in domestic abuse cases, such as problems of corroboration. A legally trained procurator fiscal depute can explain that action cannot be taken because of a lack of corroboration, which might be quite astonishing to the victim.

**John Finnie:** Indeed. Last week, I asked the Crown Office and Procurator Fiscal Service about the potential of using technology to gather additional evidence. Would you consider putting additional—and, I would think, modest—resources into, say, camera support for alleged victims?

**Kenny MacAskill:** To be fair, I think that that is part of the making justice work programme. I would be more than happy to feed in your suggestion or, indeed, encourage you to feed it in directly. A couple of things are under way under that programme, one of which is the introduction of Saturday courts that has already been mentioned, and in our discussions on court closures the Scottish Court Service has committed to making better use of technology. However, even without the court closures, there are good reasons for making use of technology, not least of which are cost savings and convenience. After all, many victims in criminal cases can be saved a lot of trauma by being able to give evidence from a remote destination.

We are happy to see what we can do to feed in your suggestion, but I assure you that it is part of the work that is on-going under the making justice work programme.

**Sandra White:** An issue that I raise quite often is churn, which has a huge effect on the police, the Crown Office and other agencies. What steps is the Scottish Government taking to reduce that and make savings?

**Kenny MacAskill:** Churn is a significant problem and a huge inconvenience and incurs massive costs. Good work is being done on that. For example, following a successful pilot, the Crown has introduced a witness texting service to remind witnesses of their requirement to turn up at court; the pilot found that 90 per cent of witnesses found the service to be helpful and, indeed, that 7

per cent said that they would not have remembered otherwise. Moreover, steps are being taken to reduce the kind of incidents that tragically still occur of trials proceeding of people who are already in prison and one part of the criminal justice system has simply not been notified that another part has them in its custody.

I have also seen what has been called the witness bus; instead of sitting forlornly at Glasgow sheriff court, police officers who are waiting to give evidence are dispatched in a police vehicle to get witnesses to come to court. Of course, there is a balance to be struck—they are not there to provide a bus or taxi service for individuals—but it has certainly got things going.

In short, work is being undertaken to reduce churn. Technology is part of that, and we must also ensure that agencies discuss and let each other know about certain matters. After all, it was absurd that trials were being cited without the key person being brought in. However, although you make a very good point about the need to reduce churn, I should say that it will never be eliminated. I recall hearing during discussions on the making justice work programme about certain individuals who said that nothing other than a warrant would get them to court and, until such time as we can issue a warrant to people before they fail to turn up, getting those individuals to court will be a challenge. However, we can reduce an awful lot of needless delay, the kind of trauma that Mr Finnie referred to and cost to the public purse.

**The Convener:** How do you measure whether churn is being reduced and are you doing that?

**Kenny MacAskill:** I think that the Crown, in particular, would measure that. In any case, no matter whether the Crown or the Court Service does so, the making justice work programme brings all the players together. Nevertheless, I can provide the committee with details. I assume that it will be a mixture of both, because the Crown deals with certain matters and the Court Service deals with others, but any delays and adjournments will be formally recorded by the Court Service.

**The Convener:** It would be useful to have that information in any event, even if we cannot get it in time for this budget scrutiny. It would also be interesting to see the cost implications of measuring churn. After all, everyone talks about this issue but how is it being measured, monitored and reduced and what savings are being made to be put back into the justice system?

**Sandra White:** I was going to ask that very question, convener. I also wonder whether that information will make clear various technicalities such as whether it is the Crown Office, the PF's office or indeed the defendant's lawyer who has told an individual to plead this or that way.

**Kenny MacAskill:** Some of that will be difficult—

**The Convener:** The lawyer in me would say that people are entitled to offer a certain plea, Sandra.

**Kenny MacAskill:** The best that I can do is to get you a formal briefing from those involved in the making justice work programme. The sheriff clerk will record motions of the Crown and motions of the defence; those minutes will not necessarily say that the person in question was sick, that their mother had died or that they were somewhere else. Some of this is about drilling down below all that, which is why we have carried out pilots and so on.

I think that there is a general recognition that everybody has to do more, that new technology provides some solutions and that interoperability also offers solutions. If the Crown and the Court Service are not on the same page electronically, so to speak, difficulties can occur that cannot be solved overnight, because it is about changing IT programmes and so on. However, we will provide the committee with a briefing. Some aspects, such as costs, will be estimates because they come from, for example, a police officer being at court from 10 till 2, then being discharged, which would presumably mean that his day had been wasted. However, the police have tried to improve such situations by ensuring that officers can go in later and be on call. As I said, I will get the committee chapter and verse on all that.

**Sandra White:** I would like that. Thank you.

**Roderick Campbell:** Cabinet secretary, I think that you have largely answered my question, which was on churn. However, Catherine Dyer said in evidence last week that reducing churn is down to not just individual organisations but the criminal justice system as a whole. In that respect, the Government has a particular role in trying to pull the threads together if we are to reduce churn. Do you agree with that?

**Kenny MacAskill:** Absolutely. I think that Catherine Dyer articulated the position much more clearly than I have. That is why the making justice work board is convened by officials from my department and is mainly led by them. However, it is a partnership issue, because all agencies must work together—Catherine Dyer has hit the nail on the head.

**The Convener:** She is pulling threads together and hitting nails on the head at the same time.

**Alison McInnes:** There are at least two instances in which there has been a significant decrease in capital budgets within your portfolio. There was a £19.1 million decrease in the capital budget in the Scottish Prison Service and the

capital budget for the Scottish Fire and Rescue Service has, apparently, completely disappeared. Can you explain some details of the revenue-to-capital switch that I understand is expected to happen?

**Kenny MacAskill:** I will ask Kerry Twyman to comment on that, but I point out that our capital budget has been cut hugely and significantly.

**Kerry Twyman (Scottish Government):** There are two slightly different issues. On the prisons budget, the partial capital cut reflects the ending of Grampian prison construction the year before; there is also in-year operational flexibility to switch resource into capital, depending on how the budget looks, to make the best use of resources.

The Scottish Fire and Rescue Service budget reflected a budget classification issue. Its capital budget remains what it was set at, which is £22.3 million, but for budget classification reasons that is shown within resource. That was made transparent in the level 3 budget briefing that was published and made available to Parliament. It just reflects an in-year switch through which it will all go back into the capital pot, and there will be absolutely no operational impact.

**Alison McInnes:** There will be no operational impact whatsoever.

**Kerry Twyman:** None. The service will have exactly the same amount of capital that has always been shown: £22.3 million.

**Alison McInnes:** Okay. What impact on capital projects will the Prison Service cut have?

**Kerry Twyman:** That is probably one for prison colleagues to come back to you on, but my understanding is that there is no impact and that it is in line with what is being planned. Again, on an operational level, it just gives the Prison Service increased flexibility to adjust its plans and do the best for the prison estate.

**Kenny MacAskill:** I should put it on the record that the budget cut in capital imposed on the Scottish Government by the United Kingdom coalition Government was a 26 per cent cut.

**Alison McInnes:** Are there any other areas in your portfolio in which there has been a revenue-to-capital switch?

**Kerry Twyman:** There are no planned switches. As budgets progress we become aware of areas in which greater efficiency could be gained by moving small amounts of resource into capital. That tends to happen in-year and will be reflected in in-year budget revisions.

**The Convener:** We have moved on to prisons and alternatives to custody.

**Margaret Mitchell:** Cabinet secretary, you will be aware that one of the major concerns about court closures is fair access to justice. You have spoken a lot about witnesses being able to use new technology, Saturday courts and so on. However, that will not help those accused who have chaotic lifestyles—you referred to them—who will have to cope with the logistics of having to travel further to get to court, so there could be a false saving in that respect. Can you comment on that?

11:30

**Kenny MacAskill:** We have heard that argument before. I remember pointing out to one of the member's colleagues that, for example, it is easier and quicker for people in Prestonpans to get to Edinburgh than to go to Haddington. There are swings and roundabouts, but the police and the Crown will address that situation.

**Margaret Mitchell:** It is all very well to say that there are swings and roundabouts, but an individual's or accused person's right to access to justice may be affected—it is a human right to have a fair trial and access to justice—and that cannot be dismissed in the cavalier way that you have just done.

**Kenny MacAskill:** I regret very much that you think that it is cavalier. When we discussed court closures, we had an assurance from the police and the Crown that the matter to which you referred would be addressed. I note how significant you think the issue is and that you believe that it involves a clear breach of human rights. I will not comment on what the European perspective might be on what is happening south of the border, where more courts have been closed than have been closed here, but that is a matter that you might take up with your colleagues.

**Margaret Mitchell:** With respect, cabinet secretary, this is a devolved Parliament and you are here as the Cabinet Secretary for Justice in the Scottish Government. It would be a better use of our time if you restricted your comments to what is relevant.

**The Convener:** I want to get back to budget implications, because that is the focus of today's evidence session. Can we therefore, without suppressing any questions, go back to the issue of the budget and the target that we are aiming at? Do you want to take that up, Margaret?

**Margaret Mitchell:** Clearly, there will be an effect on the budget if people do not have access to justice and the problems of churn and reoffending continue.

**Kenny MacAskill:** We have had the debate on court closures, and assurances were given in that respect by the police, the Crown and, indeed, the Scottish Court Service.

**The Convener:** I will move on, if I may, to Roderick Campbell, then to Elaine Murray.

**Roderick Campbell:** Cabinet secretary, we heard evidence at last week's meeting about the public-social partnership initiative at Low Moss, which I think is being funded by the change fund. Given that that fund has a limited life, how does the Government think that the partnerships might be taken forward?

**Kenny MacAskill:** There are two issues here. I am very supportive of the PSPs and attended the launch. Obviously, we must see how they work out, which is why we will ensure that we review them. Equally, on the broader issue of the reducing reoffending change fund, many suggestions came from the Angiolini commission. We have provided money to set things in motion, but it is fair to say that Elish Angiolini and her colleagues believed that it was not about providing additional money but about working to get the best system and practice, which should be mainstreamed thereafter. It is about working out what works and whether we are doing it in the right way, and that should be picked up and dealt with thereafter. However, we keep the matter under constant review.

**Roderick Campbell:** I presume that the money for home detention curfews comes from the Scottish Prison Service budget. What is the Government's view of their use and what are the budgetary implications of greater use of them?

**Kenny MacAskill:** There is no budgetary issue. We would need to talk through the matter not only with the Scottish Prison Service but other justice partners and seek the judiciary's views, in particular. We are open to the use of the curfews. There have been some amendments to the classification and criteria, but I think that the practice is working well in the main. We are open to reviewing it but, as I said, that would require discussions with not only the Scottish Prison Service and partners in criminal justice and social work but the judiciary. However, I am happy to have such discussions.

**The Convener:** On the reducing reoffending change fund, the previous evidence session today and last week's evidence session raised the issue of providing three-year funding so that organisations can do sustained planning and that people working in the system can have some security, which is important. Would you care to comment on that proposal, which people have strongly expressed? I accept that reviews might be taking place and that there must be evaluation and

so on, but three-year funding would be very helpful.

**Kenny MacAskill:** I understand the concerns of those who work in that environment. It is fair to say that the concerns come from across the board and not simply from the criminal justice area. This is about the manner in which funding is given to the Scottish Parliament that we as the Government in power can allocate. I do not seek to bind our successors, but we are open to discussions on that. I understand the difficulties and we try to work with organisations. The reducing reoffending change fund is intended to ensure that we see what works and mainstream it.

**The Convener:** I understand about not binding successors, but the Government was elected for four years—the current Government's term is five years—so there was the opportunity to provide sustained funding for three years. Why was that opportunity not taken?

**Kenny MacAskill:** The period of three years was used.

**Andy Bruce (Scottish Government):** The change fund is a three-year programme. The witnesses might have raised the issue that it took time for projects to get under way, so the time for delivery is two years.

The point of the change fund is to leverage money from lots of partners and not just the community justice budget; it is an innovative way of bringing in new funding. We challenge the partnerships that are delivering projects to continue to deliver the utility of what the PSPs are delivering in the two years, so that they can find ways of convincing other mainstream funders to continue to support the mentoring projects thereafter.

**The Convener:** Do the disparate sources cause the issue?

**Andy Bruce:** No—the disparate sources are part of the advantage of the change fund.

**The Convener:** Are you telling me that the issue is getting three-year funding if it is from various trusts as well as central and local government?

**Andy Bruce:** No—I am suggesting that the change fund acts as something of a catalyst. It provides a new way of bringing together money, but that is not intended to be for a sustained period. The worth of a project is demonstrated through the change fund mechanism, after which mainstream funding sources are expected to pick up and sustain the project.

**The Convener:** I do not know whether I understood that. Did all the other members understand?

**Members** *indicated agreement.*

**The Convener:** Can somebody give an explanation? I am sorry; I did not quite follow—maybe this is just a long day.

**Andy Bruce:** Shall I try again?

**The Convener:** I hear what you say but, if projects had three-year funding, they would know that they could employ people, who would stay with them, and they would know that the project would continue. That is not happening—is that correct?

**Andy Bruce:** No—that is happening. People have been employed and the projects will run. I think that some people are complaining about the three-year point because some of the year 1 money was not used, as it took time to get projects going and to employ people. That means that projects have a full two years under the change fund.

**Kenny MacAskill:** There is a variety of projects, which are at different junctures. As I said, we are happy to keep the matter under review. I have seen the PSP at Low Moss, which is working outstandingly well.

We are conscious of what Elish Angiolini made clear. We have leveraged in money from a variety of sources and we are bringing agencies together. In Low Moss prison, we have people who deal with housing, addictions and all the other issues that are faced.

We are working collegiately. We are not talking necessarily about funding one individual or one post but about working in a better way and finding out what works. At the end of the period—whether it is two or three years—some projects should be mainstreamed, because we will have found out how we should do things.

**The Convener:** Does Alison McInnes have a supplementary to my misunderstanding of everything?

**Alison McInnes:** Yes. I absolutely agree that this is not easy to do. Elish Angiolini said that we need political leadership. You have provided that by setting up the change fund, but we have heard that it has had lots of difficulties in getting up and running. A little more political leadership is needed for a little longer, to embed the changes in thinking and practice that we need. Will you seriously consider extending the programme, to provide the political leadership and ensure that the work is mainstreamed? If a programme is for a short period of two years and it does not demonstrate whole-heartedly that it is absolutely working in that time, just one partner needs to draw back from funding it to affect it.

**Kenny MacAskill:** I assure you that we will constantly monitor the situation. If the project is working at Low Moss, we will want that to be shared elsewhere. If the shine mentoring project for women offenders is working, we will look at doing something like it for others, although that will not necessarily be exactly the same thing, because dealing with young offenders and male offenders can be different.

We are using the reducing reoffending change fund to find better systems for operating and to find out what works and how to bring people together. If a project works, it will be all hands to the pumps. We should be mainstreaming some of the stuff—it should be done within the core budget—but equally, I am more than happy to give you an assurance that we will continue to look at what works. If some projects are not working, it might be that we will have to look at trying something else. However, we will try to encourage the projects that are working and, I hope, continue them. I give my assurance that the last thing that we want is for the projects to just come to an end, especially if they are working.

**Alison McInnes:** If I may, I will push you a little bit further on that. While you are in control of the change fund you are at the table—you are driving it with your leadership. As soon as you step back and say, “We would like a project mainstreamed but it is for the other partners to pay for it,” you have lost that momentum. How do you ensure that you can drive this forward?

**Kenny MacAskill:** We are not funding the PSP at Low Moss, to give one example. Some people’s wages will be paid because they work with the local authority in the housing department or the criminal justice department, or because they work with the health board and they are part of the NHS. Some of this will never be funded by us—it is about finding a better way of working. I am not going to offer to pick up the wages for people who are paid by the local authority.

**Alison McInnes:** I am not asking for that.

**Kenny MacAskill:** Remember that within the reducing reoffending change fund, there is a variety of projects—they are not all the same. How the shine mentoring project is being supported is different from what is being done with the PSP in Low Moss.

We are aiming to find out what works and to ensure that we get good practice in place and share it. Sometimes individuals are being funded and we will have to look at how that is managed—it may be mainstreamed into somebody else’s budget or we may reconsider it.

Some of the projects—the Low Moss pilot, for instance—are more about answering the question about how we work smarter. All these people are

working hard and doing their jobs at the moment. Nobody has been magicked up, so to speak, from anywhere else. We have just put people together—it is about getting them to work collegiately. However, I give the assurance that we keep what is happening under constant review.

**John Finnie:** A specific example of that nature was discussed in the previous evidence session—I do not know whether you heard it, cabinet secretary. Mr Halpin from Sacro talked about a situation that we would all understand: an individual with a chaotic lifestyle, perhaps with addiction issues, who was the subject of remand for breach of bail and perhaps had not been under bail supervision. We heard that there are perhaps 100 women on remand in Scotland on any given day.

**The Convener:** We are covering women offenders under the next agenda item.

**John Finnie:** Yes—this is about the budget, convener.

**The Convener:** Yes, but the next agenda item is about the budget and women offenders. That is what we said at the beginning.

**John Finnie:** Okay, do you want me to stop?

**The Convener:** If you are going to talk generally about remand, that is fine but if it is about women in particular—

**John Finnie:** It is about the budget—it is about process, convener.

**The Convener:** Och, just ask it. I am not going to be pernickety. Away and ask it. I am feeling kind.

**John Finnie:** Mr Halpin commended the approach that was taken in relation to MAPPA. He said that that was a very good example of how all the agencies could come together and he recommended a similar approach in relation to offenders, on a statutory basis. I suppose that the expectation is that the change fund projects will happen without the requirement for legislation. Will you look at the requirement to legislate to ensure that the agencies work together if, for argument's sake, those experiences do not work?

**Kenny MacAskill:** We are looking at the structures of criminal justice social work and the possible alternatives—whether they are enhanced CJAs, a national agency or local delivery. I tend to think that such things are better dealt with by a willing volunteer than a reluctant conscript, but I am more than happy to discuss that matter with the Convention of Scottish Local Authorities as we work on resolving where we are going with the model for CJAs.

**John Finnie:** Thank you. The background is, of course, the tensions that are felt, given the various budgets that contribute to the overall package.

**Kenny MacAskill:** I have met Tom Halpin as part of this process and I have sympathy with some of the difficulties that he faces. We are holding on-going discussions and negotiations with the ADSW and with COSLA.

**The Convener:** There we are. We got there. Roderick, you have a supplementary.

**Roderick Campbell:** Is the timetable for an announcement on the CJA reviews still the end of the year? Also, can I clarify that in view of the reduction to the criminal justice social work budget, whatever decision you take would not have a budgetary implication in the years that we are considering?

**Kenny MacAskill:** My decision will not have a budgetary implication in that regard as far as I can see and yes, we are on track for making that announcement to that timescale.

**John Pentland:** In 2008, the Scottish Prisons Commission recommended that the Government should pursue a target of reducing the prison population to an average daily figure of 5,000. I believe that, last week, the figure was sitting at 8,500. Do you share that aspiration? If so, how is it reflected in the allocation of budgets?

11:45

**Kenny MacAskill:** The number of people who go to prison should be decided by the judiciary. The decision should always be made by a sheriff or a judge. It is then the responsibility of the Government, along with the Scottish Prison Service, to address the matter.

What we have always said as a Government is that we have to get the right people into prison. We need to make sure that those who are a danger to our communities or have committed an offence for which no other sanction would be appropriate, given the public opprobrium, face jail. Equally, however, those who will not benefit from it, do not require such a sanction and are not a risk should not routinely be put there. That is why we have made changes to short-term sentences and invested in community payback orders.

We are heading in the right direction. I would prefer to see prison numbers coming down, which would make matters easier for the Scottish Prison Service, but for as long as the judiciary feels that individuals require to go to prison, they will go to prison. What we are looking at here is making sure that we have enough secure prisons for those who have to be there, and enough alternative sentences that the judiciary have faith in, particularly the community payback order. That

means that those who transgress at a lower level can be dealt with by tough community payback and not by a short prison sentence.

**The Convener:** Elaine, you are next. I am sorry.

**Elaine Murray:** No problem.

**The Convener:** It was one of your colleagues I let in before you, so there you are.

**Elaine Murray:** Indeed.

Cabinet secretary, the criminal justice social work budget is static in cash terms between this year and next year, so in real terms there will be a slight reduction. Previous witnesses said that that could present what they described as challenges. There are statutory services that they must provide, but they might not be able to afford to provide some of their other interventions. Some of those prevent reoffending, so if they could continue, there would be savings in other parts of the justice budget. Will you comment on that?

**Kenny MacAskill:** As I said in previous answers, we face swingeing cuts from Westminster and we have to budget. However, we have to remember that the offender services line in the draft budget does not represent the only budget line that is available for criminal justice social work expenditure. There is also £86.5 million in the local government chapter of the draft budget, and we receive a transfer of £1 million from colleagues in the third sector division, which helps to fund change fund activities.

In terms of the money that goes out the door, we are managing to keep our heads above water, but it is challenging when we face the cuts that are imposed on us by the coalition Government.

**Elaine Murray:** I have a specific question on the level 4 figures for electronic monitoring and intensive support packages. Electronic monitoring sees a reduction of 25 per cent. The explanation is that it is a demand-led budget and there will be a new contract, but is it not the case that things such as electronic monitoring are alternatives to custody, and continuing to invest in them would enable you to save money in other areas, such as prison sentences, which are a lot more expensive?

**Kenny MacAskill:** Yes. That is a fair point. Savings will come from the new contract, under which we have a significantly better deal but will continue to provide the service that existed before. However, I have a lot of sympathy with the point that you make. John Finnie has also made it.

We are happy to discuss the matter with the judiciary and others. Public safety has to be given primacy, but beyond that there are ways in which we can work with the judiciary and find out what it wants.

**Elaine Murray:** Are those discussions on-going?

**Kenny MacAskill:** Yes. We have renewed the contract and made significant savings to the public purse, and I am grateful to my officials who were involved in that. As I said, we are out to discussion on where we can go with technology and what we want to use it for. The technology is not only coming in cheaper but coming in with a bit more ability to be used. We are open to ideas about what we should use it for, and we are discussing with partners and agencies what we should be prepared to look at and where we should take it. Technology can never be failsafe, as we know in our private lives, but we can probably do more things with the technology that is now available because it has moved on from the technology that existed before.

**The Convener:** There is an on-going case in England involving the suspected removal of an electronic tag. How secure are electronic tags?

**Kenny MacAskill:** They can be forced off, but that immediately triggers an alarm, which has consequences. Any damage to the tag or its removal simultaneously triggers an alarm at the control room.

We are not in a similar position in Scotland as I do not think that we envisage such a situation here, although it would be for the Home Secretary, given that it would be a terrorist matter, to decide whether somebody should be dealt with in that manner. It would not be a matter within the current powers of the Scottish Government.

**Margaret Mitchell:** You will be aware that submissions that the committee has received express concern that the real-terms cut in the criminal justice social work budget will affect the running of community payback orders. Do you have a comment on that?

**Kenny MacAskill:** We are doing our best to minimise and mitigate the swingeing budget cuts that we face from the coalition Government. With the reducing reoffending change fund, the best way to do that is to get partner agencies to work smarter. I do not think that they could work harder because they work very hard at the moment, but if they work smarter we will be able to get economies and efficiencies. However, unless you suggest cuts to another budget, the budget that we have is the budget that I am faced with.

**The Convener:** I am looking down as I ask whether there are any other questions, so I cannot see whether there are any more. Thank you for coming to the committee and giving those answers, cabinet secretary.

I will suspend the meeting to give us five minutes to stretch our legs before we move on to the next item.

11:51

*Meeting suspended.*

11:56

*On resuming—*

## **Commission on Women Offenders**

**The Convener:** Item 3 is to hear evidence on the Cabinet Secretary for Justice's second annual report on the implementation of the recommendations of the commission on women offenders. Obviously, we will also bring budgetary issues into this discussion. I thank the cabinet secretary for staying with us and I welcome to the meeting Jane Moffat, who is the head of the rehabilitation and reintegration unit at the Scottish Government, and Colin McConnell, who is the chief executive of the Scottish Prison Service.

I seek questions from members.

**Alison McInnes:** Earlier, we touched on the capital budget implications for the SPS. I would be grateful if we could explore that a bit further and get an update on your plans for better provision for women offenders, with particular reference to what will be the new HMP Inverclyde.

**Colin McConnell (Scottish Prison Service):** I am happy to take that question. Thank you very much for the opportunity to provide the committee with fuller particulars. First, I make it clear to members that the budget is sufficient to do what we need to do, and that the commitment that I gave when I was last here discussing women in custody remains absolute. The improvements are well on track, the commitments that have been given are on their way to being delivered and, as I have said, we have sufficient resources overall to deliver against the Angiolini recommendations.

As far as HMP Inverclyde is concerned, we are in the process of designing and developing an approach to management of women in custody that will be an exemplar—certainly in the United Kingdom, if not Europe-wide. Whether we are talking about how the resource allocation is used or how we are redesigning our culture and approach, I am very satisfied that we are making good and appropriate progress and that, in due course, we will be able to evidence a fantastic outcome to the committee.

**Alison McInnes:** You said that the budget is sufficient and your improvements are well on track, but is HMP Inverclyde going to be delivered on time? When will it open?

**Colin McConnell:** It will open in 2017.

**Alison McInnes:** When in 2017 will it open? Can you give me a season?

**Colin McConnell:** I think that we are probably looking at spring to summer 2017. You will forgive

me for not being exact, but planning is not an exact science. As experience of previous builds shows, the weather and other circumstances impact on plans, but I think that in summer 2017 we will have a fantastic facility at Inverclyde.

**Alison McInnes:** So, timescales have slipped a bit. This time last year, you said that you were confident that you could commission, design and build Inverclyde by the end of 2016.

12:00

**Colin McConnell:** Instead of saying that timescales have slipped, I would say that things have been reconfigured or rescheduled. We are learning more and more along the way and, of course, financial allocations have an impact. We have to look at Inverclyde in the context of the other 14 public sector prisons that we currently run, and we want the most decent facilities that we can have throughout the estate. On balance, given everything that we are doing and everything that we operate—indeed, you have just taken evidence from our partners in the community—getting a good and properly designed facility up and running by summer 2017 is an achievable and desirable aim that we can meet.

**Alison McInnes:** I will pursue that a little bit further. I note your comment that you have “reconfigured or rescheduled” because of budgets. Has there been a budget implication from what has happened.

**Colin McConnell:** Sure.

**Alison McInnes:** Perhaps, then, the budget is not sufficient, as you have suggested it is, if you have had to push Inverclyde back.

When we first met you 18 months or so ago, among the issues that arose were the lack of prioritisation of women’s prisons and the fact that capital resources were going into the male prison estate. Have you started to take the foot off the pedal a little bit in that respect? After all, you have just said that you have other resources that you need to support. Have you started to reallocate some of your funding?

**Colin McConnell:** Absolutely. You might want to explore this with me further; we are involved in the conceptualisation, design and early planning of not just Inverclyde but a new regional facility in Edinburgh, which Dame Elish Angiolini also recommended. At the same time, there is a far-reaching development programme at HMP Cornton Vale. I am pleased to respond to the question by making it clear that there has been absolutely no easing of our pressure on the accelerator pedal. That has been possible through shrewd and good management of our resources—the implication of which is that we have been

reallocating and expropriating our resources towards women in custody.

**Margaret Mitchell:** I want to ask about the upgrading of Cornton Vale’s current facilities; the remand unit there has been a source of concern. Is it now fit for purpose?

**Colin McConnell:** Yes. Is the prison wholly fit for purpose at this stage? No—but we are getting there. That work is, of course, just part of an ongoing refurbishment programme of all the living accommodation, which has already improved the prison’s facilities, including for the first time the establishment of a family centre and help hub, which Dame Elish Angiolini opened. We are just about to launch an improvement to the entry facilities, and the establishment now has video-contact facilities.

On the previous question about whether we are taking our foot off the pedal in our commitment to women, I have to say that we are absolutely not doing that. Those who have not recently had the opportunity to visit Cornton Vale should do so, because they will see a very different facility.

**Margaret Mitchell:** I welcome the establishment of the family centre. I assume that that will mean that prisoners will now be able to spend quality time with children, given that concerns were raised in various reports about offenders’ children growing up to be offenders.

**Colin McConnell:** One of Cornton Vale’s strengths, which because of all the negatives never quite got into the public consciousness, was the view that was taken there that women in custody who have children need that contact. The prison already had a good approach to keeping children in contact with their mothers; on top of that, we have been able not only to develop the prison’s excellent facility but, through the family centre and help hub, to transform women’s capacity to remain in contact with their young children.

**Margaret Mitchell:** I think that what was at issue was the amount of quality time, but I will not dwell on that.

I want to ask specifically about remand. It has been said that if such facilities had existed in Barlinnie there would have been a rooftop protest. Has that been addressed?

**Colin McConnell:** Yes it has. Ninety-two women are currently on remand in our system. I am pleased to say that, without doubt, facilities all round have improved, although of course I would prefer that there were not 92 women on remand. When you get the chance to go back to Cornton Vale, you will see a culture change, in that the women are looked at as individuals, rather than as a homogeneous group. Their needs are

addressed in that way. Our regime is more flexible and sensitised towards meeting the needs of those of who are on remand and those who are serving sentences.

**Margaret Mitchell:** My question was specifically about the estate.

**Colin McConnell:** With all due respect, I say that I thought that I had answered it.

**Margaret Mitchell:** Women are being treated as individuals and there may be services that they can access, but the problem was a physical one—even of there being insufficient toilets. Has all that been addressed?

**Colin McConnell:** That has been addressed.

**Margaret Mitchell:** Cabinet secretary, how are mental health issues being addressed, given that mental ill health is such a huge problem among offenders in prison?

**Kenny MacAskill:** We have set up a variety of projects, through which we are examining different approaches to assisting women offenders who have mental health problems. Concept tests help us to see how specific methods can be helpful. Small-scale tests are run in criminal justice settings, which develop an evidence base about what works and how to implement change. Through those projects we are committed to sharing learning across Scotland in the arenas of criminal justice, mental health and substance abuse, which all interact.

That comes back to Colin McConnell's point about looking at and dealing with the individual, working out what their problems are and giving them support, which is what we do with partner agencies in criminal justice, social work, the national health service and third sector agencies that deal with addiction and substance abuse.

**Margaret Mitchell:** Earlier, concern was expressed about throughcare and the ability to provide a comprehensive mental health service for women who are released from prison. Will you comment on that?

**Kenny MacAskill:** We are looking to work on that. Scottish prison healthcare has transferred to the NHS, which is intended to allow us to break from what might have been a logjam of people trying to access services on leaving prison. It is work in progress that is about getting health boards to take responsibility; in the main, they are doing so. Issues are being worked through as we see the transition from the Scottish Prison Service health service to the NHS.

**Margaret Mitchell:** A very small percentage of prisoners have mental health problems that are so severe that there is a question about whether prison staff can deal adequately with them. There

is no equivalent of Carstairs for women prisoners. Has the Scottish Government looked at that?

**Kenny MacAskill:** A person who is unfit to plead would not be sent to a Scottish prison; arrangements would have to be made for them to be dealt with, in Scotland or elsewhere. People who are capable of pleading and are convicted or remanded but have additional mental health issues that are not factors in their capacity—I think that this is the point that you make—must be dealt with in prison because that is what the courts have imposed on them, usually with good reason. Staff do an outstanding job and try to work with the NHS.

That comes back to why we mainstreamed the SPS health service into the NHS, which was so that we could deal with issues for which we need the totality of the NHS. It is very difficult, because such people have challenging issues, but to prison they have been sent, so prison is required to accept them. It cannot turn them away. Prison staff and people from the NHS do what they can to work with such prisoners.

**Colin McConnell:** I will build on the cabinet secretary's answer. This is in part about how we address the cultural approach in Cornton Vale. I would like to give two examples of how we are improving the situation.

Margaret Mitchell asked about the staff approach to managing women in custody—in particular, those who present mental health difficulties. I am pleased to be able to respond that we have considered in detail the professionalisation of our staff—we will talk more about that in due course—in particular in terms of the gender-specific training that we are about to provide for our staff who work with women.

I will quote so that I do not miss any of the detail. We are improving our

“training on mental health, trauma, mentalisation and borderline personality disorders”.

That is not to turn our staff into mental health nurses. That is a level of professionalisation and qualification that we could never reach and which, of course, our NHS colleagues provide. However, we can build in a foundation of receptiveness to the condition and some of the presenting behaviours and thereby help our staff to work better with women as agents, if you like, who link to the other facilities and professionals that can be brought to bear.

In looking ahead and building on that work, we are totally revising the approach to training all our future prison officers who will work with women in custody. By the summer of 2014, a completely revised training approach will have been implemented.

A lot of work that is specifically designed to address the concerns that Margaret Mitchell raised is under way.

**Margaret Mitchell:** Let us hope that that pans out because, as we all know, mental ill health is a huge issue in prison.

**The Convener:** You probably do not have the information, cabinet secretary, but you said that if a person does not have the capacity to plead, they are sent to some other facility. How many women might that affect? Is it one or two? You might not know.

**Kenny MacAskill:** We do not have that information.

**The Convener:** It would be useful to know, when there is not an appropriate facility in Scotland, where women are sent and cared for.

**Kenny MacAskill:** I can think of one prisoner who has gone to Rampton secure hospital. There are arrangements with other jurisdictions.

**The Convener:** I just wanted clarification on that point.

Elaine Murray will ask a question on remand. Alison, what is your question on?

**Alison McInnes:** It is about mental health.

**The Convener:** We will take the mental health question first.

**Alison McInnes:** I have been back to Cornton Vale to see the improvements, which I acknowledge and welcome, but there is still some way to go, especially in management of mental ill health. I appreciate what Colin McConnell said. I visited the unit that replaced the back cells. I do not know what the most up-to-date euphemism for it is. Is it management suite or isolation unit?

**Colin McConnell:** It is the intensive management support suite.

**Alison McInnes:** There is still very heavy dependence on putting people into isolation for what I fear are sustained periods, which raises human rights issues. Although I recognise why a woman might be put into such isolation—because there are profound issues of self-harming, for instance—I want to know what further thinking the service is doing and what the cabinet secretary thinks about the longer-term future for managing such women.

**Colin McConnell:** I share your views entirely. I would much prefer that we did not have women in custody who display those behaviours or about whom we have such concerns, but we do. We need to protect them, protect others and try to provide for them a reasonable environment in which other interventions can take place.

I was in Cornton Vale about three weeks ago and visited the intensive management support suite. There is undoubtedly a small number of women—particularly young women—who are extraordinarily distressed. It plucks the heartstrings, as well as raising professional concerns, that women find themselves in such condition, but they do.

However, in the Scottish Prison Service, we are absolutely committed to considering women in custody—everybody who is in custody, in fact—as individuals and to working in as joined-up a way as possible with our professional colleagues elsewhere. It is not about the Prison Service being able to do everything. We act as facilitator, gateway, conduit and advocate to ensure that everybody in our care, whether they are suffering from mental health issues or not, gets the appropriate level of care brought to them.

12:15

**Alison McInnes:** At what point does isolation compound the problem?

**Colin McConnell:** The governors, staff and I are very much aware of that issue. We take professional advice from our colleagues in the NHS who work in clinical psychology and psychiatry services, and from people in the third and not-for-profit sectors, who provide general support and counselling. A wide range of professionals and other interested parties are brought to bear in those circumstances. We try, through case management and reviews, to plot the best way forward in the circumstances for those individuals.

**Alison McInnes:** Will you give in writing to the committee the figures on the number of young women who are in isolation and how long they spend at any one time in isolation?

**Colin McConnell:** I would be very happy to do that.

**Elaine Murray:** I have a question about remand but, before I ask it, I want to mention my visit to Cornton Vale during the summer. There has been a fair amount of investment in that part of the prison estate. What is its future post 2017, when the new facilities are opened?

**Colin McConnell:** Our current position is that we will close Cornton Vale as we commission the facilities at Inverclyde and Edinburgh. However, as the saying goes, a lot of water must flow under the bridge between now and then, and we will keep that plan under review as the months and years roll by.

**Elaine Murray:** It seems a lot of money to have been invested in Cornton Vale for no other use to be found for it.

**Colin McConnell:** I take your point. We are spending a significant amount of resource in upgrading Cornton Vale but rightly so. We all accepted—no matter the means by which we got there—that it was simply not acceptable to sustain Cornton Vale in the way that it was. The new facilities will open in 2017, so it is only right that those who pass into our care have reasonable living circumstances between now and then.

**Elaine Murray:** I will come to my point about remand. Colin McConnell mentioned that 92 women are on remand, and the previous panel advised us that the average daily remand population of women is 107, most of whom are not then given a custodial sentence. Many of those women are on remand—they may be subject to bail supervision—because they have not been able to engage with whoever they must engage with as a consequence of their chaotic lifestyle.

Is there no better possible option for those women? Should they not be dealt with differently or otherwise supported so that, rather than be put into expensive prison accommodation, they are assisted in the community? Tom Halpin suggested that, for an investment of £500,000, supported accommodation could be provided that would enable those women to engage better and might prevent further offending.

**Kenny MacAskill:** Some of the planned services that have come out of the reducing reoffending change fund have specific plans to enhance provision of bail supervision—not all have such plans, but each proposal has been made by local bodies to reflect their priorities. In addition, funding is provided to local authorities via the CJA grant allocation for the provision of both bail supervision and information services, and local authorities are free to allocate that funding as they wish.

We will be looking to learn from what is working. How we do things in more rural or isolated areas must be different from city conurbations where there is a critical mass, and, to some extent, we will be looking to work out what works with each individual. That takes us back to Colin McConnell's point that, in dealing with the individual, we must look at what is driving the issues. The purpose of the community justice centres is to bring together housing, social work, mental health and addiction services, so that the treatment, support and assistance required by the individual is available. Each one will have different needs and wants.

**Elaine Murray:** Are specific initiatives aimed at reducing the numbers of women on remand—particularly those who will not serve a prison sentence anyway? Is any such action being taken?

**Kenny MacAskill:** That is part of what we are doing with the reducing reoffending change fund and, for example, through the shine mentoring project. We are conscious that an aspect of work is mentoring and peer support, which is why Tom Halpin and Sacro are working—and doing a remarkably good job—on that.

We are trying to reduce the number of remands and to stabilise people as well as trying to reduce reoffending among people coming out of the prison estate; indeed, we have already discussed a number of such issues with regard to prisons. Obviously, we would prefer it if those individuals did not go into prison in the first place—and perhaps we might be able to provide greater assurance to the judiciary that they can be dealt with in the community—but there are still cases, apocryphal or whatever, of people being remanded to the care of the Scottish Prison Service for their own safety and wellbeing.

We are looking to work with the judiciary to ensure that it realises that remanding people is not the best or kindest thing to do. I have no doubt that, in those cases, it is done out of goodness rather than out of malice, but we need to make it clear that other facilities will be available and that judges do not have to resort to remand and all the medication, addiction, housing and other issues that follow and the difficulties that the Prison Service has to cope with.

In short, we are taking a multi-agency approach, working with the judiciary and ensuring that support facilities are available in the community.

**The Convener:** How good is your communication to the judiciary about alternatives to remand or, indeed, alternatives to custody? I remember hearing at a Justice Committee meeting years ago that sheriffs might have been unaware of other alternatives that were available when they were making their decisions. How up-to-date is that communication to sheriffs, and can it be improved to ensure that there is no disconnect?

**Kenny MacAskill:** There are two points to make in response to that question. First, Sheriff Welsh and his colleagues at the Judicial Institute for Scotland are doing a remarkably good job not just in training those who are going to sit on the bench but in providing continuous professional development. Their outstanding and challenging work is helping those who might not have lawyers' experience of individual psychology to understand why people act in a certain manner and what will work with them.

Equally, a lot of these matters have to be dealt with more locally and, in that respect, we look to the engagement of CJAs and sheriffs principal. After all, the clear lesson that emerged from the McLeish and Angiolini commissions was that

things work remarkably well where there is a good relationship between the judiciary and criminal justice social work. Of course, some of that might come down to personalities, but we are trying to look at what works in certain areas and why it works.

Indeed, with regard to templates, I remember Lesley Riddoch going on about the benefits of what was happening in Falkirk. There was clearly a good relationship between Sheriff Caldwell and the criminal social work department, with one feeling that it could phone the other, ask what was available and seek support.

Of course, some of that work cannot be legislated for or directed by the Government, but we can encourage good practice, see where such co-operation exists—where, for example, one side feels that it can say to the other, “We’ve got someone and we need to do something with them. How can you help us?”—and roll that out across Scotland. However, it has to be a two-way process.

**The Convener:** What I am trying to get at is whether things are improving. After all, we have been here before. Sheriffs were sitting, not knowing what was available in practice or whether, for example, someone had a house to go to or what support was available when they got out.

**Kenny MacAskill:** That is why we have put these things in place. I have certainly heard the same anecdotal evidence of sheriffs wanting to send people to the 218 centre, and we know that that works. In fact, we have taken what has worked best in that instance, which is getting people together, and replicated it in Edinburgh, Dundee and Aberdeen as well as in Angus and Fife, where the towns are smaller and the area to be covered is wider. The issue is being dealt with in different ways, but we are trying to ensure that we provide the template that we know a lot of sheriffs want access to.

**The Convener:** Of course, the issue is not only the cost of remand but the fact that it is detrimental to the person, is counterproductive and only makes matters worse, along with all the cost implications of those effects. The committee will be looking for improvements in that respect: a reduction, if possible, in the use of remand and moves to maintain people in the community, with all the savings that that would incur and all the benefits for the person in question.

Is this just about budgets? Do local authorities simply not want to take on the cost of providing accommodation or the service, and are they leaving it to the Prison Service to carry those costs? Might silo budgets be an issue?

**Kenny MacAskill:** There will be a variety of factors. For some, it might be a lack of awareness

or understanding of what is available, and for others it might be particular access issues. As I mentioned, some sheriffs have said to me that they would have welcomed the ability to send somebody to a facility such as the 218 centre, but they did not have one in their locality. We are therefore trying to address the issue: some of it is about knowledge raising, some is about ensuring that the judiciary and social work interact, and some is about making sure that the facilities are there.

It is not always a matter of building new centres, and the other things that we are rolling out are not residential per se. Keeping somebody in their own home and providing some support for them in their community is often the right thing to do. The centres that we have rolled out in the large urban areas are predicated on that, and there are slightly different styles—if I can put it in that way—in areas that do not have the same critical mass of population.

**The Convener:** So it is not a question of local authorities protecting their budgets and saying, “We don’t want to take this, as it’s costly.” I am glad that they are not being unco-operative—let me put it like that—with the judiciary. Are you saying that there is no issue here?

**Kenny MacAskill:** There is no issue that I am aware of.

**The Convener:** The panel are all shaking their heads.

**Jane Moffat (Scottish Government):** Typically, the decision to remand someone is made by a sentencer, so there is often no conversation before the decision is made. What the cabinet secretary is saying is that, anecdotally, we know that a lot of sentencers want to have confidence that there are robust alternatives to remand, particularly—

**The Convener:** I understand that. The point that has been made is that the robust alternatives are perhaps not on offer because certain budgets are being protected, but you are saying that that is not an issue.

**Jane Moffat:** It is not. However, part of what we are trying to do through the centres and the change fund is to increase the availability and consistency of that provision.

**The Convener:** That is fine. You have settled my query about that. We will now have questions from Sandra White.

**Sandra White:** Cabinet secretary, I welcome the extra £3 million that you announced today to help women offenders in prison. I do not know whether anyone has done that yet.

You have probably already answered the question that I wanted to ask. You mentioned the creation of women's justice centres in Glasgow, Dundee, Edinburgh and Aberdeen, which was recommended by the Angiolini commission. The convener talked about remand prisoners, and you mentioned the involvement of the justice system in that. We are talking about a one-stop-shop model in those cities. Does that relate to what Ms Moffat said about sheriffs knowing that there is an alternative? What is envisaged and which agencies will be involved?

The cabinet secretary also touched on the other eight projects, which include smaller projects in Angus and so on. Will you expand on them and say what they will offer?

I add that Mr McConnell and the Scottish Prison Service are doing an excellent job. Having visited Cornton Vale and other prisons and seen the changes, I think that there is great dedication to making things much better for women in the criminal justice system. I just wanted to put that on the record.

**The Convener:** I think that you are now on the Christmas card list.

**Sandra White:** I will admit that I am very impressed by the work that is going on.

**The Convener:** You are now obliged to send a Christmas card, Mr McConnell—I hope you understand that. We will give you the address later.

**Colin McConnell:** It is being written as we speak.

**Jane Moffat:** Dame Elish and her commission gave us a clear blueprint for how we should optimise the configuration of services in the community—namely that the women should be put at the centre and the agencies should come together, coalesce around them and provide a holistic approach. It is fair to say that we have got that work under way.

The centres that the cabinet secretary mentioned in Glasgow, Edinburgh, Dundee and Aberdeen will all have slightly different approaches in the short term, but ultimately they are all aiming to get to the same place, where we have all the multidisciplinary partners that we need in order to get the best possible outcomes for women. That will include colleagues from the Scottish Prison Service at some point, because we understand that, in order to truly crack the nut of throughcare, we need to ensure that everyone who is involved, in all parts of the system and all the way round, is involved in the throughcare.

We know that women and indeed others go round and round the system a number of times until they are ready to make the sometimes very

difficult change that will ultimately result in them reducing their reoffending and perhaps leading a life free of crime. Initially, the partners will be the traditional ones that you would envisage, such as criminal justice social workers, third sector partners, health workers and addiction workers, but ultimately we aim to involve procurators fiscal, police colleagues, Prison Service colleagues, housing colleagues and anyone else who has an interest in ensuring that we can help women to turn their lives around.

**The Convener:** Right. That issue seems to be dealt with.

12:30

**John Finnie:** I have a question for Mr McConnell and a couple for the cabinet secretary.

Mr McConnell, can you give us an update on the issue of developing induction packages for staff who deal with women offenders? I am particularly interested in the phrase in the paper that I have here: it is anticipated

“that training will also be extended to existing staff.”

Is there a shortfall in the training that existing staff have?

**Colin McConnell:** We recognise that our population is diverse and not a homogeneous group. As we learn more about how to work individually with women who pass into care, we are understanding that our staff need to be trained and developed in a number of approaches and techniques aimed at particular groups and populations—a similar project is under way with the young men at Polmont. The approach in future will be what other industries perhaps have, which is to have general training that is developed as staff move around and work with different populations.

That work is under way. Its leading edge is with the women at Cornton Vale and the thinking that is coming out of the Inverclyde and Edinburgh projects. It is also being informed by great work that is coming up on the rails: Education Scotland and the Prison Service's developments for a secure college at Polmont. All that will inform richness in the development and training of prison staff.

**John Finnie:** Thank you.

Cabinet secretary, I welcome your report and the additional money, as my colleague Sandra White did. In the section of the report on examining universal public service involvement in offender reintegration, you state that you have started a ministerial group. Is that a time-limited group?

**Kenny MacAskill:** The group is about convening all my colleagues who share the issues under my auspices to drive things forward. We have been bringing together not just ministers who have portfolio responsibilities on housing, employment, health and local government, but other people. We have heard from those who are at the coalface, so to speak—in prison.

We are co-operating and have had our first meeting. The remaining meetings will be themed around matters that we think will provide the necessary direction. That is where we are at. I cannot give you the precise date on which we will conclude, but the group is meant to be a short way to look at and address the issue.

**John Finnie:** To what end?

**Kenny MacAskill:** The end is to make sure that we do at governmental level what we seek to do at coalface level. Those of us who have a ministerial responsibility have an obligation to ensure that when health is speaking to local government, the Prison Service or other agencies, we do that at ministerial level, too, so that things do not fall between two stools. Local government and health should be joined up with justice.

It is also a matter of driving home the message that the solution to many of the problems that we face cannot be dealt with solely by law enforcement. Some people are career criminals and, when they commit an offence, the only solution is for the police, prosecutors, courts and the Prison Service to deal with it. As you will know, Mr Finnie, from your life and work experience, there are others for whom invariably the solution lies not with the default option of the police or ultimately the Prison Service, but actually in education, health and housing. We are trying to get a governmental joined-up position so that we can parse the problem and drill down to get a solution at the coalface.

**John Finnie:** In relation to your announcement and the welcome additional money, you referred to four city centres and seven other areas. I will be parochial for a minute. I represent Highlands and Islands, which is a very large geographic area. You used the term “critical mass” earlier. Highlands and Islands is a geographic critical mass and sadly we have women offenders there. Outreach services—in Angus, for instance—have been mentioned. What assurance can you give that the Highlands and Islands and other areas will not miss out on the additional benefits that will accrue elsewhere?

**Jane Moffat:** We are working with colleagues in the Highland area. They were not ready to submit their bid under the timetable for the first tranche of money, but we expect a bid from them in

December, which will be aimed at augmenting services for women in that area.

**John Finnie:** That is reassuring.

**Roderick Campbell:** I would like a bit more information about the pilots of problem-solving courts, which are proposed to get under way in December. What matters will go before those courts? How will the courts work in practice?

**Kenny MacAskill:** We will trial the approach in sheriff summary courts, which will limit the offences that might be dealt with, as they will not deal with solemn matters. We cannot predict what offences will be dealt with until the proposals have been submitted.

CJAs have been invited to submit proposals on the basis of their in-depth knowledge of local issues and discussions with local judiciary. We will simply set targets and criteria to ensure that the right category of offender is involved, in areas where there are gaps in service provision and in courts that have the capacity and motivation to adopt the problem-solving approach.

We hope to press on as soon as possible, but we seek to get partners round the table, to ensure that the right members of the judiciary are presiding and that appropriate matters go before them—that requires the police and the prosecution to be tied in. We should have the appropriate systems in court when a sentencer deals with a case, so that things are dealt with quickly and—in the main—go back to the same sentencer. As Ms Moffat and others have said, that sentencer may have access to and knowledge of what is available to solve the problem.

**Roderick Campbell:** For how long will the pilot schemes run before they are evaluated?

**Kenny MacAskill:** The evaluation will be on-going—we will suck it and see.

**The Convener:** I am not looking at anybody, because we are—apparently—at the end of the questions. I thank the cabinet secretary, Mr McConnell and Ms Moffat for their evidence.

## Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

12:37

**The Convener:** Item 4 on the agenda is consideration of many duplicate emails from people who are petitioning us, as they are entitled to, about the 2012 act. I ask members to turn to paper 3. I remind members that we previously considered the issue at our meeting on 18 June. Since then, we have received a number of identical emails about the 2012 act's operation—a copy is in the papers.

The email calls for an early review of the act. As the act stands, the Scottish Government is required—the committee successfully secured this provision—to review the operation of the offences in the act from 1 August 2012 to 1 August 2014 and to lay a report of its review before the Parliament by 1 August 2015. That covers two football seasons.

Paper 3 sets out possible options, to which members are not tied. The Minister for Community Safety and Legal Affairs has said in correspondence that her view is that the review period as set out in the act should continue to apply.

The correspondence from the Lord Advocate, the chief constable and the minister was all from May. What is members' position? What do you suggest? We could ask the minister, the chief constable and the Lord Advocate to respond to the comments, since their correspondence is six months old. We could ask the minister to set up an early review. We could wait or adopt another solution. I ask for views—one at a time, please.

**John Finnie:** There have been a lot of emails on the issue. That indicates the strength of feeling that there is around it.

I was very supportive of the legislation; I think that it was needed. People can comment on its effectiveness from different perspectives, but from one perspective it is very clear that it has had an undue bearing on a particular group of football supporters. As people know, they do not support the team that I support.

**The Convener:** I am not going to ask about that.

**John Finnie:** That is not meant to be amusing.

**The Convener:** No. It is relevant.

**John Finnie:** It is meant to indicate that there is a range of views. Our job as a committee is to

accept that there is deep feeling and deep concern about how the legislation has been applied to one group. For that reason, I am very supportive of an early review of the legislation.

I think that the University of Stirling is doing a two-year academic review, but if a young football supporter is having a camera thrust in their face while at a football game—I refer to one of the emails—they are not interested in the academic or legal aspects; they are interested in the practical aspects.

The issue seems primarily to be about what singing is and is not acceptable or is found to be offensive. One of the emails—it is not the standard one—that caught my eye when I arrived in Edinburgh in the early hours of the morning talked about terrorism and Nelson Mandela. I think that other committee members received that email. There was certainly a view at one time, in Mrs Thatcher's day, that Nelson Mandela was a terrorist, so someone who sang songs about him would be vilified. People have different views. People have views on what is regarded as the United Kingdom of Great Britain and Northern Ireland's national anthem. I do not warm to that song at all.

When a sizeable group of people feels that a piece of legislation impacts disproportionately on it, I would like it to be subject to an early review. There is a role for the police in that review in explaining whether policing techniques are uniform. I regularly attend football matches, and my experience has not been altered in any way by the legislation. That in itself may be significant—I do not know—but I favour an early review. We must address the genuine concerns that a group is putting forward.

**The Convener:** I have just asked the clerks whether they have a note of the particular allegations in the other emails that you mentioned. They do not. If you have separate emails with specific instances, apart from the identical emails, it would be useful if you let the clerks have them so that the committee can see them.

**John Finnie:** It is right to give balance to the Gallowgate policing arrangements, which we have also discussed at length. I told people in my response that I was disappointed that people did not co-operate, as we heard in the report. That may have been overtaken by events. If we have a review, it is important that the people who have called for a review co-operate with anyone who is charged with conducting it.

**The Convener:** Specifically—

**John Finnie:** Yes, I heard you.

**The Convener:** Could you forward those particular emails so that other members can see them?

**John Finnie:** Yes, indeed.

**The Convener:** Some of us are talking in ignorance of what others have received. That is the first practical thing.

**Margaret Mitchell:** It is clear that there is a lot of concern about how the legislation is operating in practice and about the initial drafting of it. That concern comes from widespread sources, including some of the judiciary. Sheriff Davidson said that the legislation was "horribly drafted".

I am also concerned about the amount of resource that seems to be going into the matter. According to the first set of annual statistics, the conviction rate for offences under the new act is 68 per cent compared with an 85 per cent conviction rate for all crimes. There is a dedicated police unit for it.

I think that there is sufficient information and that it is early enough in the process to merit our suggesting a review. I fully take on board the problems of that. Our committee is up to our eyes in things, and it would not be feasible for us or even a sub-committee of this committee to look at the matter. However, I think that it would be feasible for an ad hoc committee to be set up in the Parliament specifically to look at the issue, take evidence and report back quite quickly. That is my suggestion.

12:45

**Sandra White:** On John Finnie's point, when the issue first came to the committee it was to do with the kettling in the Gallowgate, although it was pointed out that that was about policing and had nothing to do with the 2012 act. We received further representations on the issue in the form of round-robin emails. I have had about four or five different emails in the past day or so and have found some of the content quite horrible.

John Finnie referred to the fact that a section of the community has complained to the Justice Committee about the legislation. However, the Justice Committee lodged an amendment to the legislation, which was accepted. I therefore think that we are duty bound to follow what the amendment laid down. The act came into force in January 2012, so it is not that old. The amendment ensured that the legislation would be reviewed after two football seasons and that a report would be produced in August 2015. The review work is on-going and figures have been collated, so I do not think that it would serve any purpose whatever for us to have a separate investigation or an ad hoc committee. We should

bear in mind the fact that this committee lodged the amendment that was accepted. If John Finnie and Margaret Mitchell are saying that we should now do something else on the legislation, I do not agree with that.

**Margaret Mitchell:** But I—

**The Convener:** I will let you back in, Margaret, but I will let everybody else have their say first.

**Elaine Murray:** I am sympathetic to what John Finnie and Margaret Mitchell have said. I have not had many emails on the legislation. Even if I start to get a small number on it, I will probably not get as many from Dumfries and Galloway as other members have had from elsewhere. However, I think that there are issues about the operational implementation of the 2012 act. I know that police horses came down to protect people at the Queen of the South match, which I think was probably quite appreciated by the fans. However, we would normally not have that sort of resource for policing a match.

There is clearly an issue, because we would not get all the emails if there was not concern about the legislation. Margaret Mitchell's suggestion of having an ad hoc committee is a good one. We obviously do not have much time in our timetable to deal with the issue, given the legislation that we are considering. An ad hoc committee might therefore be the way forward. From what I have heard from other MSPs, I am sure that a number of them would probably be quite keen to serve on such an ad hoc committee. I am not sure about the process of establishing one and whether it must go through the party business managers.

**The Convener:** It would have to go through the Parliamentary Bureau.

**Alison McInnes:** I agree with what John Finnie and Margaret Mitchell have said. There is deep disquiet about the application of the 2012 act and there is a concern that it has a disproportionate impact on a particular group of people. I think that the onus is on the Parliament to revisit the legislation. Members will know that I did not support it, as I thought that it was heavy-handed and dangerous. However, it gives me no satisfaction to say that some of the concerns that I raised are coming to fruition.

We need to look again at the legislation. If the Government is not prepared to do that in the short term, then it is appropriate that the Parliament as a whole and a cross-party group of members have a look at it. I am happy to support Margaret Mitchell's suggestion of having an ad hoc committee.

**Margaret Mitchell:** I have a point of clarification on what Sandra White said about the Justice Committee's amendment. My understanding is

that it was about setting a maximum period of time by which the review should be carried out, which would not preclude our taking the kind of action that we are considering today to bring forward the review. Is that the case?

**Sandra White:** I did not read it that way.

**The Convener:** That is another point to clarify.

**John Pentland:** I was not a member of the Justice Committee when it considered the legislation, but I received a lot of emails on it and, subsequent to becoming a member of the committee, I have received many more emails on it. I tend to agree that there is so much ambiguity for the public around the 2012 act. I take on board John Finnie's point that it appears to pertain to just one football club, but that is not completely accurate and certainly does not reflect what is happening in my constituency. In general, people who go to local football games are concerned because they do not know whether they are doing something right or doing something wrong. I agree totally that we should have an early review of the legislation. I support Margaret Mitchell's suggestion of setting up an ad hoc committee.

**The Convener:** I am just checking the 2012 act, and the review period is two years, so there is no flexibility, in that we have to let two seasons run. The period ends in August 2014. That is a point of clarification.

**Sandra White:** It says in our papers:

"The timescale agreed to was to allow for sufficient time for the impact of the Act to be judged."

That was in an amendment to the bill—

**The Convener:** Yes. I just wanted to clarify what the act says, because I had forgotten. If John Pentland has finished, I will bring Roderick Campbell back in.

**Roderick Campbell:** We are in danger of rushing things. The emails are comparatively recent. There has been no comment from a member of the Scottish Government, and we have not referred the matter to the Government. At the very least, before the committee takes a view, we should invite further comment from the Government, as a first step.

We also need to bear in mind that we have had annual statistics for only one year. I do not know whether the £1.8 million figure needs further explanation. I am looking at the *Official Report* of our meeting on 18 June. In effect, we had invited people to comment on the legislation, and when they had done so we said that we would find out whether what had been said was indeed the case. Almost the final words of the convener on the matter were:

"All these things can be passed to the police for comment in the first place."—[*Official Report, Justice Committee*, 18 June 2013; c 3080.]

With hindsight, I am not sure what she meant by that, but it seems to me that there might be scope for inviting further comment from the police on the operation of the act.

We ought to have comments to hand from the police and the Government before we take a decision on having an ad hoc committee—at this stage I certainly oppose such a suggestion.

**John Finnie:** For the avoidance of doubt, let me say that I am not suggesting that we abort the ongoing academic study—quite the reverse, the study will inform us. However, we cannot just hide behind the study and say that we must await the outcome. There is a day-to-day issue. We might be talking about only one year, but that is 40 games and 40 experiences for a fan who feels that they are being put down by the act—I stress that I do not feel in any way put down by it, in my experience at various locations throughout Scotland.

Roderick Campbell is right. We should ask the Government and the police to comment. That is part of the review that I am talking about. Such responses would be instrumental in a review. What we cannot do is ignore the situation; we must act.

**Colin Keir:** I think that the committee is in danger of splitting. We did not come lightly to the decision to review after two years. We knew what the problems were and exactly what the bill was trying to do, and I think that a two-year period was regarded as a useful timescale in which to attempt to deal with what is an extremely long-standing problem in certain areas. The bill was never designed to hit one set of people or another; it is about offensive behaviour at football matches.

I am quite prepared to take the line that Sandra White and Roderick Campbell have taken. It is too soon to review and we should give the act the extra time that is required.

**The Convener:** First, we need to see the emails that contain specific allegations, such as the camera in the face and that kind of thing—

**John Finnie:** Convener, I am trying to recall; if that is not what was said—

**The Convener:** No, no—

**John Finnie:** However, there was a perception of intimidation.

**The Convener:** Yes, but we have only the round-robin email. Could you send the others to the clerks?

I suggest that all that material is put to the minister, the police and the Lord Advocate in the first instance, and that we ask them to respond. That does not close down any other course of action, but it would be appropriate, first, to say, "Okay, this is what we are being told; let's hear from you about it", and then, when we have replies, to decide whether we go for an ad hoc committee or ask for an earlier review or whatever. In the first instance, we should ask the minister, the police and the Lord Advocate to respond.

**Margaret Mitchell:** It sounds as if we would be half way towards doing the review if we did that. We know the facts just now. We know the problems. We know—

**The Convener:** We do not know. That is the problem, Margaret—

**Margaret Mitchell:** We know the facts, in that there is a perceived problem with the drafting and operation of the legislation. With respect, what you are suggesting would not move us forward. A review committee, taking such evidence and looking at it more fully, would move matters forward.

Given that our committee is already well stretched, I do not think that your approach would get us any further forward just now. I agree with John Finnie. We know that something needs to be done and, regardless of what comes back from the cabinet secretary—

**The Convener:** In fairness, I think that when anyone makes such statements, I like to get a response back so that we can say, for example, "We're not happy with this response"—

**Margaret Mitchell:** We already have a written response, convener.

**The Convener:** But it is from May. Fresh comments have been made and, as John Finnie has suggested—I am not quoting him directly—things seem to be happening out there that throw real dubiety on aspects of policing. I would like to hear from the chief constable, the minister and the Lord Advocate about that. I am not saying that that has to happen a long time from now; we could set a timescale of a couple of weeks for replies. We are not kicking this into the long grass. I simply suggest that we ask the people in question, "What do you have to say about this?", and then consider the other suggestions. I thought that that was what John Finnie wanted.

**John Finnie:** That is what I want, because I think that it will inform our decision. I am also pleased that you have set out a timeframe, as it will be important to get a quick turnaround. However, I ask that the clerks get in touch with the collective fan association or whatever the grouping is called because the representations that I have

received have come exclusively from Glasgow Celtic supporters.

**The Convener:** You have put that on the record, although I have to say that I do not know how we will manage to keep within our timeframe if we do that. To ensure that we do not waste any time, I was hoping to get something drafted today or tomorrow and emailed to members, asking whether they are content for it to be sent to all the parties that have been mentioned.

**Sandra White:** I take on board John Finnie's comments and the fact that, if we go down this road, the timescale will be important. However, I, too, have received a couple of emails and think that if we are going to ask questions we should also ask about the figures that those who have sent these emails have received through freedom of information requests and which go completely against the Government's numbers. We need to get that information.

**The Convener:** My position is simply that a statement has been made to the committee and that we should get the Lord Advocate, the minister and the police to respond to it in the first instance. If you want to examine the other stuff, we will need to go down the route of a full inquiry. I suggest that, first of all, we point out to those mentioned what has come to the committee and ask for their response. In a couple of weeks' time, we can sit down, review the position, say, "We've got these replies. Are we or are we not happy with them?", and then think about the next stage. That seems to me to be a balanced approach to the matter.

**Alison McInnes:** I am a little uncomfortable with that because what we have is correspondence from a few people who have been willing to put their heads above the parapet. Given that we do not know the scale of the problem, I would prefer to carry out a proper review that lets us draw out evidence on the matter instead of asking the minister or whoever to respond to one or two emails. They might well close it down.

**The Convener:** I am not closing anything down. I am asking for two weeks to be fair to people and to let them respond to the statements. After all, they have not said anything about them. In two weeks' time, their responses will have come back and there will be no hiding place for ministers, the police or whoever—that is, of course, if they need one. If members are not happy with those responses, we can come back to the issue. I just think that if such statements are made people should have a chance to respond to them.

**John Pentland:** I understand, convener, that you are trying to find a consensual way forward—

**The Convener:** I am.

**John Pentland:** However, I do not think that we are going to be consensual here. What we have is a recommendation that an ad hoc committee be formed because of the circumstances surrounding this whole issue—

**Sandra White:** There are two recommendations on the table.

**The Convener:** One at a time, please.

**John Pentland:** I certainly will not support any further delay. I think that, if it is going to come to a vote, we should just have that vote now and move on. John Finnie has rightly said that the police and the minister should be part of the review that we are asking for, and I see no need for any further delay in moving ahead with that recommendation.

**The Convener:** I do not really think that it is fair to say that there has been a delay; after all, this is the first time that the issue has come up. I have suggested a two-week timescale, because I think that that is as short as I can make it. A week is a bit too short to get responses from the Lord Advocate and, indeed, the chief constable, who might have to carry out an investigation before he can tell us what he feels about the situation. In fairness, I do not think that two weeks is a long time.

**John Finnie:** I am with you, convener, but to reassure John Pentland I should say that I do not want anything to be delayed unduly. I do not know the practicalities of having an ad hoc committee—whether that would be robust enough and so on—but this committee's workload is certainly very challenging. It might seem more appropriate for this committee—or, indeed, the Justice Sub-Committee on Policing—to consider the matter but that might be difficult, given the legislation that is coming our way.

**The Convener:** The Justice Sub-Committee on Policing could not do it—it would not be part of its remit.

13:00

**John Finnie:** I beg your pardon, then, convener.

Of course, the other issue is that if there is going to be an inquiry, it will need very clear terms of reference. We could sit here for the next couple of hours trying to thrash out those terms of reference—and I suggest that, given our other commitments, we do not do that—but I think that having the information from the sources that have been mentioned will inform how we move forward. I am pretty sure that the people with whom I have corresponded will want action and that, if that action requires a two-week delay to ensure that it is informed, they will be content with that.

**The Convener:** In any case, it would be quite interesting to see the replies from the Lord Advocate and the rest. Because those responses would be in the public domain, the parties complaining about the legislation would have the opportunity to read what has been said, take that on and come back. I just feel that we should be striking that kind of balance.

**Roderick Campbell:** It was only on 18 June that we said that we would pass any comments that we received on to the police for comment in the first place. To rush ahead with a decision to set up some kind of review without even asking the police simply contradicts what we said in June.

**The Convener:** I do not want us to divide over this; after all, it is a serious matter if legislation—whatever it is—is being wrongfully applied. I simply think that if an issue is raised with the committee it is only appropriate for others to have a right of reply—if I can call it that—before we do anything further. I am not closing this down by any means. Committee members will be able to see the terms of the letters that will be put out, which will refer to some of the other correspondence and allegations that have just come in and which I might not have seen. We will put those allegations and statements to the people in question and say that we require a response by a fortnight from today—whatever date that is—to allow the committee to consider and review the matter. We will also let them know that we are considering certain options—of course, that is already on the record—and that we require them to respond to inform where the committee will take the matter next. That will put everyone involved on notice.

**John Pentland:** If the person who suggested an early review is quite happy to wait for those responses, we will support that approach.

**The Convener:** I would be very grateful if you could, because I do not want us to be scrapping over the issue; I want us to do justice to it.

**Elaine Murray:** As long as we make a commitment to take a decision in two weeks' time and that if someone has not got back to us—

**The Convener:** Usually, the letters that go out are just run-of-the-mill things but because members have been gracious enough to reach a view on the matter we will put a letter round before the close of business today and ask whether they are satisfied with it. I think that the correspondence to the minister, the chief constable and the Lord Advocate will be in the same terms.

Before members go, I am afraid to say that we will have another 9.30 start at the next meeting on Tuesday 12 November, when we will consider and agree our budget report and consider stage 2 amendments on the Victims and Witnesses

(Scotland) Bill. I remind members that the deadline for stage 2 amendments for the sections of the bill that we will be considering is 12 noon this Thursday.

*Meeting closed at 13:03.*



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