



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# JUSTICE COMMITTEE

Tuesday 5 August 2014

Session 4

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**Tuesday 5 August 2014**

**CONTENTS**

	<b>Col.</b>
<b>COMMISSION ON WOMEN OFFENDERS</b> .....	4769
<b>SUBORDINATE LEGISLATION</b> .....	4794
Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 [Draft] .....	4794
Right to Information (Suspects and Accused Persons) (Scotland) Regulations 2014 (SS1 2014/159).....	4798
<b>SCOTLAND'S NATIONAL ACTION PLAN FOR HUMAN RIGHTS</b> .....	4800

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**JUSTICE COMMITTEE**  
**21<sup>st</sup> Meeting 2014, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Elaine Murray (Dumfriesshire) (Lab)

**COMMITTEE MEMBERS**

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

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Andrew Bruce (Scottish Government)  
Kenny MacAskill (Cabinet Secretary for Justice)  
Colin McConnell (Scottish Prison Service)  
Denise Swanson (Scottish Government)

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

The David Livingstone Room (CR6)



# Scottish Parliament

## Justice Committee

*Tuesday 5 August 2014*

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

### Commission on Women Offenders

**The Convener (Christine Grahame):** Welcome to the Justice Committee's 21st meeting in 2014. I ask everyone to switch off mobile phones and other electronic devices because, even if they are switched to silent, they interfere with the broadcasting equipment.

Under item 1 on the agenda, we will take evidence on progress on implementing the recommendations of the commission on women offenders. I welcome to the meeting Kenny MacAskill, the Cabinet Secretary for Justice; Colin McConnell, the chief executive of the Scottish Prison Service; and Andrew Bruce, the deputy director of the Scottish Government's community justice division. Andrew, is this your first visit to the committee?

**Andrew Bruce (Scottish Government):** It is my second.

**The Convener:** Obviously, you were very quiet last time.

**Andrew Bruce:** I think that I was.

**The Convener:** We will try to change that today.

I invite the cabinet secretary to make some opening remarks before we move to questions.

**The Cabinet Secretary for Justice (Kenny MacAskill):** I welcome the opportunity to reflect on progress that has been made since the commission on women offenders reported in 2012. We made it a manifesto commitment to implement an independent commission on how to improve outcomes for women throughout the criminal justice system, and have taken up the challenge to put the commission's aims and recommendations into practice.

One of the core issues for the commission was the condition of Cornton Vale prison. The increasing prison population had stretched the resources of the female prison estate to extremes. I called on the SPS to prepare plans in response to the commission's recommendations. The SPS conducted a public consultation to examine the appropriate options, while still being mindful of the need to deliver improvements in a timely and cost-effective way. I have accepted the plans that the SPS has prepared, as they are clearly the best

way forward for Scotland's Prison Service to respond to the commission's aims.

It is important to recognise that the commission's recommendations for the Prison Service were not just about reducing the size of the female prison population. The SPS's plans will deliver a new national facility for women prisoners, including all the positive attributes that the commission advised. It will also provide for facilities in the north, west and east of Scotland, to allow short-term and remand prisoners to be located closer to their families. In the meantime, the SPS has also made significant investment in improvements to Cornton Vale.

The current female prison population is 440, down from its highest levels in 2012. That means that the overall design capacity of 450 is justified in order not just to manage the female population in the short and medium term but to ensure that, in the future, we will place female prisoners in facilities that will be able to meet their needs and aid their rehabilitation.

However, that does not change our determination to reduce the female prison population over time. For the majority of women offenders, community sentences will provide a robust means of ensuring that they are made to pay back their community for their offending.

I agree with the commission's aim of building up community-based services that are in tune with women's needs. We have allocated £3 million over 2013 to 2015 to support the development of new and improved community justice services that reflect that. We have now given funding to 16 projects of various sizes, supporting the plans of local justice partners.

In larger cities, we have supported the development of centralised projects in the style of the commission's idea of a justice centre. In smaller towns and rural areas, we have supported other projects that reflect the commission's principles of co-ordinated, multi-agency working that is pro-active in engaging women and understands their concerns. For example, where one centre would struggle to reach all the women across a region, a number of new projects are delivering outreach services that will work from several locations and take their services and support out to women in their local communities.

In addition to projects that we have directly supported, we have been encouraging co-ordination between other local projects and services that are developing to respond to the needs of women who offend. The shine mentoring service for women offenders is now well established and is delivering practical one-to-one support for hundreds of women who are leaving prison, are on remand or are at risk of reoffending.

The £2.7 million funding for shine in the period from 2012 to 2015 has now been extended up to 2017, following the recent extension of the reducing reoffending change fund.

As I wrote in the Government's formal response to the commission, I expected that it would take "hard work and time" to effect the improvements that the commission proposed, and that is proving to be the case. I trust that the committee will recognise the substantial steps that have been taken so far to implement the commission's recommendations, but our work on the issue is far from complete and we are ready to keep working on the challenges still to come.

**The Convener:** Thank you, cabinet secretary. We move on to questions from committee members, starting with Alison McInnes.

**Alison McInnes (North East Scotland) (LD):** I thank the committee for responding to my suggestion that we take the opportunity to take stock of what is happening in the women's prison estate ahead of what will be a significant investment. I am grateful to the committee for finding time for us to do that.

The Angiolini report made two distinct recommendations. Recommendation 25 was to replace

"Cornton Vale ... with a smaller specialist prison for those women offenders serving a statutory defined long-term sentence and those who present a significant risk to the public",

and recommendation 27 was to hold

"Most women prisoners on remand or serving short-term sentences ... in local prisons to improve liaison with local communities and reintegration once their sentence is complete."

I ask the justice secretary to explain in more detail why he has departed from that suggested model.

**Kenny MacAskill:** We have not done that. We have a national centre, which will be HMP Inverclyde, and we will also have local facilities there for the women from the west of Scotland. Equally, we have ensured that there are the facilities that were referred to as "local" in Edinburgh for the east and in HMP Grampian for the north. The numbers are comparable and are the same. As I said, we have delivered the national facility that is necessary to replace Cornton Vale, but we have ensured the provision of local services for the west, east and north, which I think meets the geographical requirements in Scotland.

**Alison McInnes:** There were press reports in 2013 that the cost of the new prison would be about £60 million. What is the current estimate?

**Colin McConnell (Scottish Prison Service):** The actual projected cost for Inverclyde is £75

million. I am not aware of the £60 million figure, in the sense that for us £75 million has always been the funded envelope.

**Alison McInnes:** That is fine. I will turn to the design of the prison, but first I take a step back and ask Mr McConnell how many of the women who are currently in the women's prison estate across the whole of Scotland fall into the category of those who are serving a long-term sentence and who present a significant risk to the public.

**Colin McConnell:** I am afraid that I do not have that information at my fingertips. I checked this morning and there are 442 women in our custody. Regrettably, I did not ask how that is broken down.

**Alison McInnes:** You must have a rough idea. Perhaps you could give me the breakdown.

**Colin McConnell:** Presenting a significant risk is a very particular issue, and I would rather do some research on that.

**The Convener:** If you could write to the committee about that before our next meeting, that would be helpful.

**Colin McConnell:** I am happy to do that.

**Alison McInnes:** In the design of the prison, is the set-up such that there will be distinct, separate units? The justice secretary said that you have not departed from the recommendations and that you are going to have a local prison in Inverclyde and also the national, specialist prison. Are those completely separate units?

**Colin McConnell:** In a sense, the design of Inverclyde ensures that the arrangements and the facilities and services that we can provide, not just within the prison but from the community through inreach, are such that they can have the maximum impact on all the women.

If I may say so, in answering your question directly, there are some dangers in trying to segment women in our care in that way. The fact that certain women have committed offences that mean that we could make a judgment that they present more risk to the public than women with other sentences is not necessarily a measure of the services or the amount of support that they might require. Inverclyde is being designed to make the environment as amenable as it can possibly be to all the various demands and requirements of the whole of the population that will reside there for a period of time.

**Alison McInnes:** On whether we are building to projections, the Howard League Scotland said in its response to the committee that it is concerned that

"prison forecasts are at risk of triggering a self-fulfilling prophecy"

and that we could get locked into such a pattern of dealing with offenders. What is your response to that concern?

**Colin McConnell:** The concerns are legitimate. Whether we work in the Prison Service or out in the community, we should be concerned about having in Scotland a custodial service that is big enough and robust enough to respond to the courts' needs but not so big that it is unwieldy or unnecessarily costly.

On what we propose and therefore what we will provide, my judgment—I have been in the business for 30 years—is that the size and shape of custodial provision in Scotland are about right. Some of our stock is aged and we would like it to be replaced in an appropriate timeframe.

The question that faces us today is women's provision. We have 442 women in custody today and our proposed capacity is 450, with a contingency of 50 beyond that, but not in general operation. Given that, one might conclude that the scale of our proposal is absolutely right for what we currently manage.

It might sound odd for the Prison Service's chief executive to say this but, like many others, I would like fewer people to be in custody and more people to be in the community. We are on that journey, but we must be careful to ensure that the custodial provision is big enough and sustainable enough to service our courts and keep communities safe.

**Alison McInnes:** The interrelationship between community disposals with appropriate resources and prison is great—there are links—but the resources are not being shared out equally. We are talking about £75 million for the new prison—as the cabinet secretary knows, I am most grateful that we are building it—but we are providing only £3 million this year and in the following year to build up community disposals. Perhaps we will come to that in a moment.

I would like to finish my questions on the new prison's design. I know that the Prison Service took soundings on the design and looked at international best practice. Can you point to anything that you have brought to the design as a result of that experience?

**Colin McConnell:** As you know, we not only looked at international exemplars but entered into an extensive period of public and professional consultation. We have drawn all that together to inform the design of Inverclyde and of the regional unit at Edinburgh.

What we have recognised and therefore what the future holds for us is a need for vibrant and interactive space, for space that can be used privately when that is appropriate and for spaces

and opportunities to bring together women who have common and particular needs. We also want the space at Inverclyde and Edinburgh to be available to the community not just as a place where the community can come in but as a shared space where all service providers can come together, to ensure integrated and seamless delivery for the women, many of whom have tremendously complex and disturbed pasts. The design of Inverclyde and the regional unit will certainly provide facilities in which communities and service providers can come together.

**The Convener:** Can I stop you there, Alison? I will let you back in, but I have a big queue.

**Alison McInnes:** That is fair enough.

**Margaret Mitchell (Central Scotland) (Con):** Thank you for your opening statement, cabinet secretary. Given the high level of mental health issues among women offenders, what is the Scottish Government's current thinking on the commission's recommendation that there should be

“An urgent review of the provision and resourcing of services for women with borderline personality disorder and post-traumatic stress disorder”?

**Kenny MacAskill:** That work is on-going and we are keeping it under review. We are building on work that has been done. The issue is complex; it challenges those who work in psychiatry, never mind those who have to deal with it from a prison perspective. We are seeing where medical science is getting to and we are building on best practice.

**Andrew Bruce:** One key thing that we are doing on that is that our colleagues in the mental health division have funded NHS Lothian to do tests of the sort of treatments that are likely to be effective. I think that we are halfway through a two-year programme of research on that.

10:15

**Margaret Mitchell:** So that is very much at the research stage.

**Andrew Bruce:** There is some action research going on. I think that the tests involve practitioners as well. That is the first step in responding to the recommendation, before we consider what we might do beyond that.

**Kenny MacAskill:** I think that the chief executive wishes to add to that.

**The Convener:** He should just indicate to me. I am happy for you to chair, cabinet secretary, but I like a wee job occasionally.

**Colin McConnell:** My apologies, convener.

The member has asked a really important question that relates to service provision in the custodial aspect of criminal justice. It would be useful for the committee to know that I recently visited and spent time in the Orchard clinic, where I spoke to the staff and forensic psychiatrists about the issue that the member raises. I am pleased to report that I recently corresponded with John Crichton, who is one of the consultant forensic psychiatrists at the clinic, about how the clinic can help us not only to develop the service provision that Andy Bruce talked about but to better inform the training and development of our staff as they become more sensitised to and aware of the presenting issues. There are a number of strands, but I assure the committee that, at a practical delivery level, we are actively engaged with the forensic psychiatry community, particularly through the Orchard clinic.

**Margaret Mitchell:** That leads me on to underlying causes of mental health issues, such as addiction and sexual abuse. We are talking about the bigger picture some time in the future, but what is going on now? We have talked about the issues for decades now and had various reports all saying the same thing, which is that we want to deal with the problems. Can we have an assurance that we are working now with the prison population and making progress in that respect?

**Kenny MacAskill:** We are obviously seeking to work on that. Some of the issues that you allude to are probably beyond the skills and resources that the Scottish Prison Service normally recruits. That is partly why we have academic research and a national health service looking at that. The Prison Service comes at the issue from a particular perspective, and it must ensure that the best possible information is made available. The issue of finding a solution for people who have suffered deep trauma goes a lot wider and deeper than simply the prison population.

I do not know whether Colin McConnell or Andy Bruce want to add to that.

**Colin McConnell:** I can certainly comment. Again, I welcome the question. Particularly in relation to women who offend and end up in our care, this is one of the most difficult challenges that we face. I do not want to repeat an answer that I have already given, but we recognise that, in the space of custody, the issue is not just about what we and our staff bring; it is about working with colleagues in the justice and health systems on community social support arrangements. We need to work in a more integrated and joined-up way to ensure that there is a seamless package of service delivery to women who have clearly had very traumatic experiences.

**Margaret Mitchell:** I suppose that we are really talking about resources. Some of the issues go

beyond the core prison staff and their ability to deliver advice on sexual abuse. I know that there have been pilots in Cornton Vale on dealing with that, with some success. Is that work on-going? I would hate to think that everything is in limbo because we are focusing on some time in the future and are missing an opportunity to work with the existing female prison population.

**Colin McConnell:** Again, I give the committee an absolute assurance that we do not simply understand these issues in the ether and that we are grappling with them now. All the issues that you mention are actively being addressed through the emerging strategy for women in the Scottish Prison Service. In the months and years to come, we will increasingly see a more holistic approach to the care of women in custody.

**Margaret Mitchell:** Is that happening now?

**Colin McConnell:** Yes.

**Margaret Mitchell:** Could I ask about progress in relation to establishing a pilot for a problem-solving criminal court?

**The Convener:** Before we get to that, I have a follow-up question. The national health service has taken over healthcare delivery in the Prison Service. What impact has that had on prisoners? Have you had an audit to say whether things are much better now? When that first happened, there was a wee bit of unhappiness in the Prison Service that outsiders, as it were, were coming in. In practical terms, has the change improved prisoners' physical and mental health?

**Colin McConnell:** You are right, convener. As with any big transition, there were difficulties in the early stages. Two and a half years on, we—and, I think, our NHS colleagues—would regard the measure as a success. There is no doubt that healthcare delivery should be the responsibility of those who are trained, qualified and organised to deliver it. As chief executive of the Scottish Prison Service, I endorse the NHS's general approach to the delivery of healthcare in a custodial setting. It would be difficult to identify a single way of delivering healthcare in every prison. In some ways, though, that is an advantage, because the health boards are delivering services in a way that makes sense for each particular location. Is it better? I think that it probably is.

**The Convener:** One would have thought that the change would have assisted continuity after someone has been discharged from prison. One of the things that Alison McInnes and I heard from young offenders was that they did not have a general practitioner. They came out of prison, where there was healthcare, and just returned to situations in which their physical and mental health deteriorated. Prison walls have been said to be porous. Has the shift to the NHS helped?

**Colin McConnell:** Yes. Again, it would be wrong of me to say that it works in every single case, because it does not. However, in the vast majority of cases, the shift to the NHS has been very positive. It is an improving situation.

**The Convener:** Thank you.

**Margaret Mitchell:** On that issue, are the outcomes being measured? You sound very positive, but without any data to show that there has been improvement—even a fall in reoffending or a reduction in the criminal population—it is difficult to say whether the shift has been successful. Do you monitor the outcomes?

**Colin McConnell:** I can give you my views, as someone who runs the Prison Service. From what I see and experience on a day-to-day basis in the operation of prisons and the relationship with our key partners—the NHS being a key partner—my view is that things have improved and are continuing to improve.

In the past, we have perhaps been unable to produce evidence of that because we have been so focused on input measures and processes. Part of the journey that we are on now, not just as a service but in partnership with our delivery partners, is to recognise that we need to develop outcome measures and storytelling—effectively telling the story of life improvement.

**Margaret Mitchell:** The hope is that the establishment of a pilot for a problem-solving criminal court will help.

**Kenny MacAskill:** Yes. At the end of 2013, officials entered into discussion with sheriffs principal and criminal justice authorities. Those discussions are on-going and continue to be dealt with locally. We have drilled down into the issue and partners are required to engage. We will be able to provide greater detail at the end of the year, but we are heartened at the willingness to engage on the issue. As I say, we are leaving it to the on-going discussions at the local level.

**Margaret Mitchell:** Do you have a date by which you hope to establish the pilot?

**Andrew Bruce:** We have a front-runner and we are working to develop that proposal. It is probably not politic to say exactly where things are at now, but I expect the court to take cases early in 2015.

**Margaret Mitchell:** That is helpful. I take it that the court will look at things such as the full history of the convicted person in front of it and will be able to make the best disposal. Cabinet secretary, are you confident that if a community service disposal is given, it will be fit for purpose for female offenders? That has been a problem in the past.

**Kenny MacAskill:** There are two aspects to that. Yes, I am confident that the community payback scheme is taking on board the specific requirements of female offenders. I am sure that, in the local area, that will be factored in specifically. Some of the issues to which you referred are more for local delivery partners—the Scottish Court Service, the presiding sheriffs and the sheriffs principal—but we are engaging with them. There is a great deal of positivity and the approach is being pursued with willing volunteers rather than reluctant conscripts.

I think that the point to which you are alluding is that it is not simply about what we do as an Administration but is also about what must be dealt with locally through agencies, local government, the health service and, indeed, the Court Service. As Andy Bruce said, those discussions are continuing. They continue not only vertically but horizontally in the community and we are more than satisfied that what is necessary will be in place for those who step forward.

**Sandra White (Glasgow Kelvin) (SNP):** Good morning, everyone. Margaret Mitchell touched on some of the issues that I was going to raise, but I am interested in the work that the CJAs are doing at the moment. Colin McConnell touched on the whole-system approach, which we all believe is the best way forward.

I want to pick up on what the cabinet secretary said about mentoring services—I think that the figure mentioned was £18 million from 2012 to 2017. The commission's vision on mentoring was that volunteers would be used as well as professionals, and that there would be mentoring for women who are on bail and for women who are coming out of custody. I would like an update on mentoring. Are you implementing the commission's vision for the mentoring service?

**Andrew Bruce:** The main national mentoring programme for women is the shine programme, which is delivered by Sacro with a number of third sector partners. It is not volunteers who do the mentoring, but paid people. That is what the funding goes on.

On what we get from volunteers and the third sector, one of the key points is that they are not agents of the state, but someone other. They are unconditional pillars of support who provide support for people regardless of the ups and downs that they go through.

On the categories of women that Sandra White mentioned, the service provides support to women who are on remand and women who are on community disposals as well as women who are coming out of custody from a sentence. It does not currently provide support to women who are on bail.

**The Convener:** I want to make a little remark so that it is on the record. It has taken us an hour to get a fan for the room. I say to whomever is listening that I do not know what they were doing while we were waiting, or where they keep the fans in the building, but I am not impressed that it took an hour to deliver one fan. Their test is to make it 30 minutes next time. If they do that, they will get a round of applause.

I am sorry about that, Sandra. On you go.

**Sandra White:** That is quite all right, convener. I do not feel that warm, anyway.

When I said “volunteers”, I should have clarified that although the third sector calls those people volunteers, they are professionals in the field.

Andy Bruce mentioned that there is, at the moment, no mentoring for women who are on bail. Is that to be reconsidered in the future?

**Andrew Bruce:** I think so. As the cabinet secretary said, we have recently announced an extension for a further two years of the reducing reoffending change fund, which will allow us a chance to consider the matter a bit more closely.

On how the mentoring projects have been developed, we allowed the lead organisation—in this case, Sacro—and its partners to design the project. The bail element has not come out of that work so far. I cannot say categorically that mentoring for women on bail will be considered, but I guess that there is no reason why the project might not develop in that way.

**Roderick Campbell (North East Fife) (SNP):** I would like clarification on volunteers. The commission’s report talked about the use of volunteers

“including faith groups and/or ex-offenders”.

Are any ex-offenders involved in mentoring?

**Andrew Bruce:** Yes. There is an organisation called Positive Prisons, with which members might be familiar. It uses ex-offenders in that way and is involved with at least one of the mentoring schemes. I have also been in touch with organisations that did not receive the funding that we made available through the reducing reoffending change fund, but are interested in developing the peer mentoring that you describe. That is absolutely an element of the service.

We are clear that mentoring is really important, but I guess that we need to ensure that there is a degree of co-ordination for the mentees so that they are not flooded with lots of requests for people to come and be their mentors.

To answer your question, the vision of using people who have the same experience as the

people whom they are mentoring have had is happening.

10:30

**Elaine Murray (Dumfriesshire) (Lab):** I will return to the local prisons for remand and short-term prisoners, I note that the three centres are not local to some communities in Scotland. Some years ago HMP Dumfries had a women’s unit. However, I appreciate that it did not work because there were very few women in it and they were not able to receive proper support. As far as improving liaison with communities is concerned, have you given any thought to the women who come from communities that are not local to Greenock, Grampian or Edinburgh, and to how the same sort of service could be offered to them?

**Colin McConnell:** Undoubtedly, our challenge is to find new ways of reaching out to the multiplicity of communities. Our preferred vehicle for that will be the community planning partnerships as they emerge with their new roles and responsibilities, and our strategic direction and approach to planning very much recognises the important role that the partnerships play. That is not to say that every community has citizens in our care, but our general approach will ensure that the issues that we are aware of and with which the communities are dealing are represented in their totality and in an integrated way. That will certainly be our approach to effecting that in the future.

**Elaine Murray:** Of course, we might be talking about only one or two women in Dumfries and Galloway, but they will still need support. How, in practice, will such women have links with their local communities?

**Colin McConnell:** That is the journey that we are on. I am not able to sit here and tell you how things will work in practice for every community, but our approach is to work through community planning partnerships and to contribute to an integrated support mechanism that ensures that the women have the best possible support package on their way back to their communities, and certainly for the initial settling-in period.

**Elaine Murray:** As far as the new model for community justice centres is concerned, the idea is to have a national agency but, again, to work with local communities. Do you expect that service to be delivered in all 32 local authority areas, or will it be more concentrated in certain areas, with some people having to travel more?

**Colin McConnell:** That would be for others to comment on, but speaking from my perspective in running the Scottish Prison Service, I would certainly want to be part of a more integrated approach that is informed by evidence and which

makes best practice available and known to all the partners.

**Elaine Murray:** Does anyone else wish to comment?

**The Convener:** If people do not wish to nominate themselves, I will just leave them be.

**Elaine Murray:** Has there been any more progress on what is being developed?

**Andrew Bruce:** Do you mean with regard to the redesign of the community justice structures?

**Elaine Murray:** Yes.

**Andrew Bruce:** The commission recommended the creation of a national service, but we are not pursuing that recommendation. As the committee might be aware, we have had a number of consultations on the future of community justice in Scotland, the first of which set out the option of a national service as envisaged by the commission, as well as the introduction of a local model and the enhancement of CJAs. None of those options received universal support in the consultation, and in the model that we have gone for—and on which we have just ended consultation—CJAs will be disestablished and responsibility for community justice will go to community planning partnerships. Behind that—as the commission realised—is the need for greater focus on criminal justice social work and on enhancing the contribution of health, housing and the full range of partners involved in people's journey from crime.

We will create a new national body to oversee the extent to which that is happening. Although responsibility for reducing re-offending will lie with the 32 community planning partnerships, a national body will oversee that work, giving greater visibility and ensuring greater transparency about the extent to which those outcomes are being achieved across the full range of partners. Importantly, as far as the commission is concerned, it will also have a leadership role. After all, one of the things that the commission found to be lacking was a senior voice to speak up for community justice in the full range of things; that leadership role will reside with the national body.

**Elaine Murray:** Will it be completely down to local authorities to decide how much funding is available?

**Andrew Bruce:** Criminal justice social work is currently funded 100 per cent through the Scottish Government, but that is up for consultation just now. However, primary legislation would be required to implement the changes that would be needed, so I think that it is likely that we will retain the funding and that it will find its way down to local authorities in the way that I have described.

**The Convener:** Remoteness is obviously important for Elaine Murray's constituency and the constituencies of other members in the room. How often do you use technology? My granddaughter keeps in touch with Granny Canada on Skype; she has been doing that since she could crawl.

It is very important that people in prison feel that they are not a number but a person who is known to somebody in the area, and that they have somebody to contact. Do you use technology when families cannot make it up to visit so that prisoners can keep in touch with their children and the wider family?

**Colin McConnell:** There are two aspects to that. The first is the development of videoconferencing in the workings of the justice system, and the way in which prisons link up with courts, legal representatives and social service providers. The development of that work is in train.

**The Convener:** Is it in train for the person in prison?

**Colin McConnell:** Indeed.

**The Convener:** Do prisoners have access to those systems?

**Colin McConnell:** The second strand is personal access, which is not currently available. To be direct with the committee, it is not that we would not want personal access to be provided, but I appreciate that there are political and public sensitivities with regard to people in prison having access to Skype and other visual media.

**The Convener:** Surely, if the prisoner were supervised, it would be easy to have them talking to their children, their mother or whomever, which would keep them in touch. They cannot always have family visits—the family may be in Dumfries and would have to come up to Inverclyde.

**Colin McConnell:** Technologically, you are spot on, but we are not currently planning to provide such access, on the basis that it would have to be well consulted on in order to check out the sensitivities and risks that may be perceived.

**The Convener:** I am a wee bit surprised by that, but there we are. I understand the sensitivities, but I am surprised that it cannot just be done.

Operationally, it does not seem like a big deal. The family access that takes place now is supervised. When we went to see the young offenders at Polmont, there was a supervised visit taking place with a toddler and a girlfriend. I do not see why, if families cannot make it to the prison, they cannot just use the technology, so that prisoners at least feel that they are able to speak to their family.

There we go. Maybe you will do it. I am not involved in the issue, by the way—there is no

money in it for me. I am not promoting it for any reason.

**John Finnie (Highlands and Islands) (Ind):** I have a question for Mr McConnell on the Howard League's comments, to which my colleague Alison McInnes referred. The organisation's submission states:

"Two years on from the publication of the report of the Commission on Women Offenders, we are concerned that the balance is still significantly tilted in favour of custody rather than community-based approaches to addressing women's offending behaviour."

I appreciate that you are an enlightened individual, Mr McConnell. However, the letter that we received from Ian Davidson, your director of strategy and innovation, says:

"The normal operating capacity for Inverclyde of 300 includes 4 spaces in the mother and baby unit and 8 spaces in the community integration unit, making the prison's mainstream capacity 288 in a combination of single and twin rooms."

I would have thought that the entire population should, to some extent at least, be community integrated.

I do not wish to play with words, but that number seems to be comparable to the numbers in the unit in Inverness—going back to Elaine Murray's point—for people who are at the end of their sentence, which is proving to be very successful. I cannot recall the exact figures. The overall number was something like 23 or 24, and only two had reoffended.

Is the challenge to change the culture in the Scottish Prison Service in order that it better reflects the types of disposals and the level of community engagement that are wanted?

**Colin McConnell:** It is really helpful that you have raised that point, because it draws out the issue of the risks and limitations in trying to segment things too much. I see it as a planning approach: the numbers have to add up to a particular number.

In our care journey for people who pass into custody, which is set out clearly in our strategic review, we view every single person as being on a journey towards reintegration.

I do not want to dance on the head of a pin or play with language, but the reality is that we will, for example, have a capacity of 300 at Inverclyde, and my view is that every single one of my fellow citizens who will be residing there for a period will be on a reintegration journey. Whether we segment them by having eight in the reintegration unit or just view it as being about the 300 depends on one's view. My view is that every single person in custody is on a journey to reintegration.

**John Finnie:** That is my point. I do not doubt that that is your view, but it is important that it is your staff's view as well.

**Colin McConnell:** I am in absolutely no doubt; the vast majority of staff who work for the SPS have a very similar view. As I have said here before with regard to other issues, I would not wish to pretend that everything is as I would see it; it is not, and people will have different views, values and beliefs. However, I am convinced that the vast majority of the men and women who work for the SPS view things in that way.

**John Finnie:** I want to pick up the point that the convener made about use of technology to ensure contact with families. I think that you were wrongly pilloried before for a view that you took in relation to mobile phones, which I fully supported and which was—as I understood it—entirely about that issue. One of the frustrations that we hear about technology in prisons is about building design. Is the building—as it has been designed, to accommodate that number of people—able to move in that direction? I understand how staff intensive it would be to have 300 folk all speaking to their kids and granny once a week, never mind every day. Have the frustrations that existed with the structures in previous designs been acknowledged and have designs been adapted in any way, or is it more of the same—just new?

**Colin McConnell:** One of the fantastic opportunities that we have had—we have been supported in taking this approach—is in being able to design Inverclyde and the new unit at Edinburgh exclusively for custody and care of women. To answer your question directly, we have future proofed and anticipated developing and emerging technologies as far as possible, within reason. On communication, Inverclyde and the new Edinburgh unit are being constructed with that capacity already inherent in the design.

**John Finnie:** If there is success with the various things that the cabinet secretary and Mr Bruce have talked about—the community, rather than the custodial version—is there the wherewithal to mothball those places for women, or to utilise them for male prisoners?

**Colin McConnell:** I do not think that I have quite understood your question, Mr Finnie.

**John Finnie:** Everyone's goal is to reduce the number of people in prison—not least, the number of women in prison. Can the building, as it is designed, be used for other purposes if we reduce the number of women who are referred to you?

**Colin McConnell:** The design of Inverclyde and the Edinburgh unit is scaleable, in the sense that it is not one massive space. So, the answer is yes—to a point. However, if we get to the point at which we have an insufficient number of women in

custody to justify operation of the facility as it is currently designed, that will require the approach to be rethought. If, ultimately, we are utopianally successful and we have single figures or very small numbers of women in custody—if any—a whole new approach and a whole new paradigm will have to be developed. That, in itself, would be a fantastic challenge to take on.

**John Finnie:** Let us hope that we get there. The prison estate is being seen as a whole—it is not just about everything being right for women prisoners.

**Colin McConnell:** Although we are talking about women today, there is tremendous work going on with young people at Polmont, too. What we as an organisation are trying to do—and what we are trying to share with other justice organisations and delivery partners—is ensure that, as we learn the lessons through our study of improving services for women and young people, we translate, scale up and roll them out across the whole estate, so that all those who are in custody benefit.

**The Convener:** Does Christian Allard have a supplementary question?

**Christian Allard (North East Scotland) (SNP):** Yes. Colin McConnell has talked about Edinburgh and other facilities, but he has not talked about HMP Grampian. What difference is it making in terms of rehabilitation and reintegration of offenders? Will you also say a few words about that prison's design?

10:45

**Colin McConnell:** HMP Grampian is a unique facility, which has been described as Scotland's first community-facing prison. By design, Grampian will hold women and men, including young males. The concept is new and we are on a journey to discovering how best to make it work. I am talking about not just running the prison operationally—from the Scottish Prison Service's perspective—but running it in a joined-up way with the communities of north-east Scotland. That is not immediately apparent; we will have to work in the months and years ahead on making community integration work for those who will live for a time at HMP Grampian.

**Christian Allard:** Is it too early to get feedback?

**Colin McConnell:** In truth, it is rather early for that. We are only months after the launch. Those who run community services and we who run the custodial service must continue with our absolute commitment to exploring and working on integrating the service approach in the months and years ahead. We must not merely settle for anything that appears to work at a given time.

**Christian Allard:** I would love you to come back to the committee when you have data, to give us an update.

**The Convener:** The committee will have to decide on that.

Would it be useful for the committee to see the design of Inverclyde? Perhaps the question is for the committee. Mr McConnell keeps talking about the design, but I do not know what it looks like. Am I wrong to presume that the design is complete and that there are simply contracts to award and so on?

**Colin McConnell:** We are at the proof of design stage. We have employed value specialists, who are working with us to ensure that the design, the construction approach and the proposed materials present as a totality the best value for the investment from the public purse.

**The Convener:** We are interested in looking at the design layout, which you say will be multifunctional. It will deal with serious offenders and those who present a risk to the community, which Alison McInnes referred to, and it will use the idea of taking a lighter touch, if I may use that term. It is not meant to be frivolous; it is about improving people's situation, helping them not to reoffend and dealing with their multiple issues, which we all know about.

What does the committee think about seeing the design? Members are all looking at me as if I am on another planet. I could be. It would be useful for us to see the design and perhaps to have an informal briefing to explain how the layout will operate.

**Colin McConnell:** I am a bit nerdy about such things; I am a bit of an anorak.

**The Convener:** Nobody has refuted that. It is terrible that all the other witnesses just sat there and accepted it. Just you go ahead, Mr McConnell.

**Colin McConnell:** I am convinced, excited and proud that we in Scotland are on a journey to bringing into operation something that will be a class leader in Europe, not just from a design perspective—important though that is—but from an integrated service delivery point of view.

**The Convener:** It would be useful for us to see the design, so I will leave that in your hands. The clerks will write to you. We are interested in how the design layout will operate for women prisoners.

**Colin McConnell:** I would be happy to arrange that.

**John Pentland (Motherwell and Wishaw) (Lab):** When the Howard League Scotland asked the cabinet secretary whether the proposals for

HMP Inverclyde were in keeping with the commission's overall aspirations, he replied that decisions about the prison's size and design were operational matters for the Scottish Prison Service. Is the design of Inverclyde based on the budget? I seem to remember Mr McConnell saying that he would have no difficulty in maintaining standards and delivering improvements on a reduced budget, but the proposals look like a cost-saving measure rather than a design to meet the commission's recommendations.

Could you advise the committee how much more it would have cost if the SPS were to provide completely separate local and national facilities? Will the temptation not always remain to resort to more shared functions and increased integration when budgetary constraints add to the pressure? Is there not a danger that this will lead to the recreation of Cornton Vale at Inverclyde?

**Colin McConnell:** In my opinion, where we are at with Inverclyde and the Edinburgh unit is not just within the spirit of what Dame Elish Angiolini recommended but, in actualité, follows it to the letter, and I will explain why.

I am very aware that what Dame Elish recommended was a focus on the different stages and needs of women who pass in and out of custody. Quite rightly, Dame Elish referred to the scale of the living environment—I think that she meant its context in relation to the communities that women come from and go back to. From our experience in successfully operating custodial facilities, it is the SPS's judgment—and my judgment—that we have proposed the best solution to meeting the spirit and the letter of Dame Elish's recommendations. In particular, the design and service provision approach that we have in mind for Inverclyde absolutely will address, beyond anything that we have been able to provide, the very issues that Dame Elish has identified.

Could we have delivered more with more money? Probably. Are we cutting corners? No, we are not. Do we need more money to make the proposed Inverclyde facility more successful? Absolutely not. It is designed to meet the challenge that it will face and I am convinced that it will. You could accuse me of being overly effusive, but I have 30 years in the business and this is by far the best-constructed, best-resourced and best-informed approach to the development of a new facility that I have ever encountered, in terms of both its internal contribution and the contribution from the community and other specialists.

My response to you is that this is the best fit for the challenge that we are likely to face in the coming years.

**John Pentland:** In response to a question that Mr Finnie asked, you said that somewhere down the line you will have to scale back a bit on the facilities that you are now going to spend £75 million on. The question is this: have you got it right?

**Colin McConnell:** If I understood Mr Finnie correctly, he was saying that if in future we as a society are successful in having substantially lower crime, that will generate fewer people for custody. Of course we will then have to take a fresh approach not just at Inverclyde but nationally, across a custodial estate that will probably have more spaces in it than the number of people who are sent to us by the courts. That would be a fantastic cultural and national opportunity, and I would welcome it.

**John Pentland:** I have one further question, convener. The SPS believes that the design will help women offenders, but I am not too sure whether Mr Bruce said that other stakeholders' input would support that. Is it possible to get the written evidence on that, or do you have information that you could share with the committee?

**Andrew Bruce:** Do you mean stakeholders' input into the design of—

**John Pentland:** The design and what the SPS is proposing as the way forward for women offenders. I have a slight doubt that perhaps we are being led by the budget rather than trying to help women offenders. You said that you had further information that might back up the support for the SPS's design.

**Andrew Bruce:** I am not sure that I answered that question. I think that I was referring to the consultation on community justice redesign as a whole.

**The Convener:** All the evidence that we have taken is public and if anyone wants to challenge John Pentland's question, which Andrew Bruce has not answered, and which was about community justice, they will do it. As we know, people will email us and write to us and we welcome that. We can get comments from outside if voluntary agencies and so on think that something is amiss.

**John Pentland:** Can I ask one further question?

**The Convener:** Yes of course.

**John Pentland:** Cabinet secretary, do you believe that the SPS is impacting on the way forward to help to support women offenders.

**Kenny MacAskill:** Yes. I am delighted with the on-going work as I have always been with the efforts of the SPS. The Angiolini commission gives a direction and template to which we seek to work.

I am delighted at the SPS's past and current efforts.

**The Convener:** As John Pentland is finished, we will continue with Roderick Campbell and conclude with Alison McInnes. I should not have said "conclude" because someone else will now put their name on the list.

**Roderick Campbell:** Mr McConnell, perhaps you could give us an update on where we are with voluntary throughcare. One of the issues in paragraph 74 of the commission's report is the lack of suitable accommodation, especially for people on release from prison. If you can provide any information on that, it would be helpful.

**Colin McConnell:** In a sense, the question of the provision of services in the community is out of my bailiwick. The challenges that people who leave custody face are well understood, and Andy Bruce particularly touched on the issue of housing.

A direction we can head in with the future discussion and by improving relationships with community planning partnerships is for partner organisations to talk through how we can best respond to those challenges. Some of the weaknesses of the past have come about because silo organisations keep trying to think through their own parts. The CPP approach will allow us to solve problems in a more integrated way.

**Roderick Campbell:** Does Mr Bruce want to add to that?

**Andrew Bruce:** That is an absolute priority for us. The committee is aware that the cabinet secretary chairs a ministerial group on offender reintegration, which looks at exactly those sorts of issues. Colleagues with responsibility for housing, health and employability have looked at those issues, and housing has been the focus of one of the group's meetings.

An innovation that has come out of that group is a housing trial at HMP Perth that is trying to stop people from losing their tenancies when they come into custody so that they do not become homeless. It is also looking at bringing some housing expertise into the prison to work on behalf of the local authority for which that expert works, and for the full range of local authorities to which people leaving HMP Perth will return by making sure that there is a far more timely move into sustainable accommodation upon leaving HMP Perth.

That is using the Scottish Government's improvement approach, in which we test out small changes prior to looking at rolling out an initiative. It is also a tangible description of what we are trying to do to improve the housing pathway.

**The Convener:** I think that I am right in saying that the 218 centre has been doing that for some

time. When we visited it some time ago, we saw that the key thing was speaking to Glasgow City Council so that people did not lose their tenancies—we were shocked to find out about that compounding of their problems—and ensuring that tenancies continue so that, when they are released, people can walk back into where they were before. That might not always be the best environment, but if it is suitable for people to go back to, they should. I am pleased to hear that that is being looked at elsewhere.

**Andrew Bruce:** Of course, the other development that we are proud of is the development of women's services across Scotland. The 218 centre started that, and we have maintained its funding. On the back of the commission, there has been investment in women's services across Scotland. Some of that investment has been in the centre model, so that in urban areas there are bricks-and-mortar facilities where all the services are wrapped around the women. Equally, where that is not appropriate for women, such as in more rural areas, the same aspiration of bringing the full package together is met by having outreach services and taking them to the women rather than expecting the women to come to a single site.

**The Convener:** Thank you. I will let Alison McInnes conclude.

11:00

**Alison McInnes:** It has been an interesting session. To return to where I started, the commission's report made a number of interlocking and interdependent recommendations, and I am still concerned that we are getting out of step with things. Some things are moving forward in a good way—the redevelopment of the prison is moving forward—but as far as I can see, the community justice centres are not coming along at the same speed.

I am very concerned. The cabinet secretary has used the term "218 lite" on more than one occasion when we have discussed the matter. I know that the tomorrow's women facility has funding for only 18 months and that it does not have any residential facility. None of the proposals that are coming forward across Scotland replicates the good practice in 218. There are no residential facilities.

I ask the cabinet secretary for his commitment and leadership on the matter. Will he fight for the resources to give us the same assurance that he is not cutting corners on the justice centres that Mr McConnell has given us on prisons development?

**Kenny MacAskill:** Yes, I can give that. Budgets are tight across all walks of life—in personal life and in the private and public sectors—but we are

putting in what we can and what we think is appropriate.

On the concept of 218 lite, 218 is an outstanding project, but it was accepted and discussed with it that not every centre requires accommodation. Matters can be dealt with by individuals coming in.

We also require to take into account the nature and geography of Scotland. That is why 218 has been replicated, albeit without accommodation, in Dundee, Edinburgh and so on. We have had to deal with matters in a different way in areas with sparser populations. It is about ensuring that we get the best of 218, which is about trying to work out what the problem was or what the problems were in many instances to ensure that we provide support. We must have an analysis, and investigations have to be carried out by people with particular skills and expertise—for example, people with psychiatric qualifications. Equally, it is quite clear that a lot of the work thereafter may involve mentoring support.

We are also clear that ensuring that we bring together outside agencies will also work and make the approach maintainable and sustainable in the future. That is why we are keeping it local and building on community planning partnerships. It cannot all be done by the justice sector or law enforcement. All the other agencies—health, housing and employment agencies—must be around the table.

We are building on the outstanding work of 218 and ensuring that the facilities in Edinburgh and elsewhere deliver that approach and recognise Scotland's geography and geographical difficulties.

**The Convener:** Alison McInnes did not look very happy. She can ask two short questions; I do not want to cut her short.

**Alison McInnes:** I will leave it there, but I stress that none of the approaches replicates 218 and that it is hard to believe that Dundee and Edinburgh would not benefit from a similar service.

The hub-and-spoke development in the prisons is more worrying. I seek assurances that we will not end up with a two-tier service under which people in Inverclyde in the west have access to all the facilities but people in the north and the east can access the services only sometimes. I recently visited HMP Grampian. Although the women were happy with their new accommodation, they were concerned that they did not have access to the programmes and facilities that they had when they were in Cornton Vale and that they will have to go back to Inverclyde or Cornton Vale to access those programmes. I am a bit concerned about that and how that helps proper integration. Can Mr McConnell speak about that?

**Colin McConnell:** I am very happy to respond to that. Again, Alison McInnes is absolutely right to be concerned about that. I will answer the question in two parts.

If we can imagine the situation in which we had lots of small facilities, that would involve the geometric factoring up of the very difficulties that you are talking about. That is why I think that the solution that we have arrived at is, on a scale basis, the best solution for everyone concerned, as I said in response to Mr Pentland.

On service delivery and programmes in particular, it is really difficult to get together the number of people who have the skills, background and qualifications to deliver those programmes in the first place. We have an on-going recruitment, training and qualification programme, of course.

It is highly likely that, for the foreseeable future, Inverclyde will be the specialist centre for delivering very specialist programmes. Although I absolutely accept that, as far as closeness to their community is concerned, there is a detriment to women who might need to access such programmes, I would rather persuade them of the acceptability of that detriment as a counterbalance to the positiveness that will come from accessing a highly specialised and well-delivered programme that will meet their particular needs.

I accept that the situation is not ideal. I would prefer it if all the specialist resources were available all round the country, but that would not be practical.

**Alison McInnes:** Finally, coming back to the convener's reference to information technology, I note that the commission's report talks about fostering self-responsibility among prisoners, and I am interested in your view about the potential for modern technology to do that. We saw on our visit to Addiewell the use of self-service IT kiosks, which I know are also used at Kilmarnock, and we all remember how Brigadier Hugh Monro praised that as a way forward. Has that been taken forward in the new prison?

**Colin McConnell:** We are certainly planning to introduce self-service-type technology, but I do not think that at this stage we have absolutely settled on what that might be.

A comment that I should share with the committee and which perhaps can be discussed further in due course is that, as we know—and all the evidence, particularly in academic and experiential research, supports this view—what makes the difference to our fellow citizens who pass through custody as far as their own self-esteem and their preparedness to change are concerned is the quality of their relationship with the staff who work in the prison on their behalf. We have to be careful not to use technology as an

alternative to that. At the moment, we have an appropriately and well-resourced Scottish Prison Service. As a country, we should be proud of that, and we must ensure that, through the people who work in the service, we provide the best opportunity for those high-quality relationships to have an impact. We need to strike a balance in that approach.

**The Convener:** I think that we share that view; I do not think that Alison McInnes was suggesting for a minute that we supplant people with robots. For us, the aim is to keep personal relationships going for those from remoter areas.

I thank everyone for their evidence. I know that the cabinet secretary is staying for the next item, but I suspend for a couple of minutes to allow the other witnesses to leave.

11:07

*Meeting suspended.*

11:08

*On resuming—*

## Subordinate Legislation

### Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 [Draft]

**The Convener:** If I have members' attention, I will move on to agenda item 2, which is consideration of an affirmative instrument. The draft regulations amend and add to the duties and powers of the Scottish Legal Complaints Commission with the aim of improving the complaints process.

The cabinet secretary has, of course, stayed with us, and I welcome from the Scottish Government Denise Swanson, head of the access to justice unit, and Alastair Smith, from the legal services directorate. The cabinet secretary will give evidence in advance of the debate on the regulations. I understand that he wishes to make a brief opening statement.

**Kenny MacAskill:** Thank you, convener. I am happy to be here to assist the committee in its consideration of the draft Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014.

The Law Society of Scotland and the Scottish Legal Complaints Commission previously contacted the Minister for Community Safety and Legal Affairs and the Justice Committee to raise concerns about certain practical aspects of the Legal Profession and Legal Aid (Scotland) Act 2007. The society and the commission agreed to form a working group with other stakeholders, the aim of which was to suggest changes to the legislation to improve the complaints process, which would benefit both the public and the profession. The group consisted of the Law Society, the Scottish Legal Complaints Commission, the Faculty of Advocates, the Association of Commercial Attorneys, the Legal Defence Union, the Scottish Solicitors Discipline Tribunal, Citizens Advice Scotland, Which? and the centre for professional legal studies at the University of Strathclyde law school.

The amending regulations are a direct result of the working group's findings. They will significantly assist in making the legislation a more effective framework for dealing with legal complaints in Scotland, which is in keeping with the Scottish Government's national outcome:

"Our public services are high quality, continually improving, efficient and responsive to local people's needs."

The regulations will rearrange the order in which the SLCC considers the various aspects of a complaint, to improve efficiency and better reflect current practice. They will give the SLCC the power to discontinue and reinstate service complaints and will give legal practitioners the right to complain about the handling of a complaint by a professional body. They will also require the SLCC to set up an independent panel to advise it on consumer and equality issues.

I hope that that is useful to the committee. I am happy to take questions.

**The Convener:** It all seems like common sense to me.

**Margaret Mitchell:** I thank the cabinet secretary for that opening statement. To what extent does the Scottish Government monitor the operation of the commission?

**Denise Swanson (Scottish Government):** The SLCC lays an annual report before Parliament. It is a non-departmental public body for which my unit has sponsorship responsibility. We work closely with the SLCC, including on its consultation on budget proposals.

It is an unusual non-departmental public body in that it is funded not by the Scottish Government but by a levy on the profession. There is a certain amount of accountability to the profession regarding the way that the commission operates. We work very closely with it on improvements to and efficiency in its operations.

**Margaret Mitchell:** I am aware that ministers appoint members of the board. Given that the changes, which are all very sensible and should improve the complaints system, have come from stakeholders, and given that the commission came into being in 2008, is it not time for some post-legislative scrutiny of how the commission is operating and a more in-depth look at its performance and how it could be improved?

**Kenny MacAskill:** I am happy to consider any suggestions that Ms Mitchell or, indeed, the committee may have, but it seems that we have the appropriate balance. As Denise Swanson said, the commission is a non-departmental public body. We appoint the commission and there is a level of scrutiny there, but we have to have trust and faith in those who are appointed, and we do.

Equally, it is quite clear that the levy, which is unusual, if not necessarily unique, ensures that there is a great deal of scrutiny by bodies that represent individual members of the profession.

I am happy to take on board any suggestions, but it seems that the commission, together with those stakeholders, has been working reasonably well. It has recognised that there have been challenges and difficulties, and it has got itself

together and worked out what changes are needed. We are here as an Administration to support it, although we are open to suggestions.

**Margaret Mitchell:** I understand that the SLCC is funded by a levy on stakeholders—people who may be the subject of complaints—so I suppose that I am suggesting that we should ensure that there is more independent scrutiny.

**Kenny MacAskill:** Again, I say that I am open to suggestions about the level of scrutiny that you want. I have had no suggestion that the organisation is not working reasonably well and smoothly. Clearly, the Government has oversight and responsibility regarding the commission, as it does with any NDPB. It seems that some tweaks have been made and some challenges have been met. We are discussing and engaging with stakeholders.

My deputy and I meet the Faculty of Advocates and the Law Society regularly. Unless matters such as malfeasance were suggested, I do not see why the Government would wish to intervene in a body that appears to be liaising well and operating reasonably smoothly. However, we are always open to suggestions.

11:15

**Margaret Mitchell:** The measures in the regulations are good but, given their number, it would be good to have wider debate and parliamentary scrutiny. We in the Scottish Parliament are notoriously bad at doing post-legislative scrutiny.

**Kenny MacAskill:** That is a matter for the committee or perhaps for Opposition parties in considering Opposition days. One reason why many aspects have been referred to is that the field is complicated. I welcome the fact that the measures have been discussed and taken on board not only by those who would normally expect to be represented, such as the Law Society and the Faculty of Advocates, but by bodies that interact with the public, such as Citizens Advice Scotland and Which? The issue that you raise is for Parliament rather than the Government.

**The Convener:** I do not want to give evidence, but am I right in saying that an arm of the Law Society used to deal with complaints? That was not satisfactory. We have now moved to the Scottish Legal Complaints Commission. Does the cabinet secretary agree that the independent advisory panel will be important, as it will look at how the commission operates?

**Kenny MacAskill:** The basis for establishing the SLCC was public concern, which was transmitted across political parties, as the convener said. Such aspects could not and should

not be dealt with by professional bodies regulating themselves.

**Denise Swanson:** It might help to note that, in the past two to three years, the SLCC has reported an improvement in the efficiency of its complaints handling. There was a bit of a backlog, which has been resolved. In the budget proposals that were recently consulted on, the SLCC reduced the levy. It is reporting on improvements in processes and in the time that it takes to process complaints.

**Margaret Mitchell:** Are you confident that the enforcement of recommendations is working well?

**Denise Swanson:** Yes. The number of cases that are taken to court for enforcement is reducing.

**Roderick Campbell:** I refer to my registered interest as a member of the Faculty of Advocates.

Putting into statute the independent advisory panel is a way forward and I am pleased that it will include representatives of consumer and equalities organisations. That ought to improve substantially how the commission functions, if it takes on board the panel's comments.

**The Convener:** I welcome the flexibility that is being built in, but I am surprised that it has taken a wee while to get that. It seems like common sense to have the ability to revisit eligibility questions and rearrange the order of consideration and to have the power to discontinue and reinstate service complaints. They all seem like measures to manage cases that should have been available from the start, so I very much welcome them.

Consultation packs were sent to a range of people. Were they all happy? Were the consultees—particularly the consumer organisations Citizens Advice Scotland, Which? and the Office of Fair Trading—content with the amendments to existing practices?

**Denise Swanson:** Yes. Those organisations were part of the group that worked on the proposals. The group's remit was to agree which improvements could be delivered through practice change, which would require primary legislation and which would require subordinate legislation. The group agreed on the position.

The one outstanding issue concerns appeals going to the Court of Session. That element requires primary legislative change, so the group accepted that it must remain as it is at the moment.

**The Convener:** Do the rest of the proposed amendments have agreement across the spectrum?

**Denise Swanson:** Yes.

**The Convener:** That is fine.

Members have no more questions, so we will move on to item 3, which is the formal debate on the motion on the regulations. I invite the cabinet secretary to move motion S4M-10634.

*Motion moved,*

That the Justice Committee recommends that the Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 [draft] be approved.—[*Kenny MacAskill.*]

*Motion agreed to.*

**The Convener:** As members are aware, we are required to report on all affirmative instruments. Are members content to delegate authority to me to sign off the report?

**Members indicated agreement.**

### **Right to Information (Suspects and Accused Persons) (Scotland) Regulations 2014 (SSI 2014/159)**

**The Convener:** Item 4 is consideration of one negative instrument, which aims to satisfy the requirements of a recent European Union directive on the right to information in criminal proceedings by specifying that every suspect in police custody shall receive a letter of rights. The Delegated Powers and Law Reform Committee has drawn the Parliament's attention to the regulations because the 28-day rule has not been complied with, although it has accepted the Scottish Government's reasons for that. The committee also draws our attention to the terms of regulation 3(2) on the time limit for providing information. Are we happy to endorse that committee's conclusions? [*Interruption.*] I knew that Alison McInnes would want to speak; out of the corner of my eye, I could see her bracing herself at the starting blocks—I have got the Commonwealth games in.

**Alison McInnes:** The regulations do not refer to providing the letter of rights in an appropriate language for people. Should they refer to that?

**John Finnie:** An amendment on that could be lodged in the future.

Page 4 of paper 4 refers to consultation. My former colleagues in Police Scotland

"have indicated that they already endeavour to ensure all suspects understand their rights, and that providing"

information

"both verbally and in writing would result in disproportionate time and resource implications."

That is disappointing and represents a conflict of terms, although I am partly reassured by the statement on page 5 that further work is required.

It is terribly important for the rights to be read out because of the low levels of literacy. I hope

that Police Scotland will realise that, if it is endeavouring

“to ensure all suspects understand their rights”,

there is a burning need for suspects to be read their rights.

**The Convener:** Officials have just reminded me that the Criminal Justice (Scotland) Bill—we will come back to it, so members can lodge amendments—says at section 5(3) that

“The person must be provided as soon as reasonably practicable with such information (verbally or in writing) as is necessary to satisfy the requirements”.

My experience is that, if that was not done, the proceedings would be challenged. John Finnie will know from his experience that, if someone does not understand what is asked of them in a police station, the rest of the process can be challenged and set aside. Members are right to raise the issue, which we can deal with at stage 2.

Elaine Murray is waving her pencil, which means something. You may speak, as Alison McInnes and John Finnie are done.

**Elaine Murray:** Did we not recommend in our stage 1 report that the information should be provided verbally and in writing? We definitely should return to that.

**The Convener:** There we are. It is good to raise the point again.

Are we otherwise happy—John Finnie’s body language is telling; he hardly needs to raise his voice—to endorse the DPLR Committee’s conclusions?

**Members indicated agreement.**

**The Convener:** Apart from what we have said on the record, are we content to make no recommendation on the regulations?

**Members indicated agreement.**

## Scotland’s National Action Plan for Human Rights

11:24

**The Convener:** Our rapporteur to the Scotland’s national action plan—SNAP—process, John Finnie, recently met Professor Alan Miller, chair of the SNAP leadership panel. I ask John to report back on the issues that were raised at that meeting.

**John Finnie:** On 18 June, I met Professor Alan Miller. I am grateful to Neil Stewart, a clerk, for coming along and bringing pen and paper with him, which was helpful.

**The Convener:** Can he use pen and paper?

**John Finnie:** Yes, indeed.

**The Convener:** That is on the record now.

**John Finnie:** Professor Miller, who chairs the SNAP panel, welcomed the engagement with the committee. He was aware that I would report back this month.

The SNAP leadership panel will meet on 7 October, when it will consider a draft annual report. It was agreed that I would meet Professor Miller shortly after that. The report is likely to be published at the end of October.

Professor Miller advised that there would be a suite of activities in the lead-up to 10 December—international human rights day—including the committee’s human rights debate, which has been agreed. It was noted that, in advance of the debate, the committee might find an informal briefing from the Scottish Human Rights Commission on international treaty obligations helpful and that there might be merit in inviting the Justice Sub-Committee on Policing and other committees along to such a briefing.

Professor Miller provided an outline of the action plan. Five action groups are measuring the outcomes from public bodies and putting in plans for implementation. Good progress is being made, and there is no doubt that Scotland’s position is viewed favourably internationally and that Scotland is ahead of the pack on human rights.

We discussed existing areas of work into which the committee and the sub-committee might wish to consider incorporating human rights. Examples that were suggested included stop and search, the arming of officers and women offenders. Our work constantly relates indirectly to human rights; the first item today was about that. Other relevant areas are a possible time-bar issue in the proposed damages bill in respect of historic child abuse and consideration of the proposed

apologies (Scotland) bill, should that bill be referred to the committee.

Professor Miller noted that Police Scotland has made a high-level commitment to SNAP and is putting together a reference group on stop and search, which is positive. SNAP is involved in responding to that.

Professor Miller said that it would be helpful to receive feedback from parliamentary committees on the effectiveness of submissions on inquiries and bills.

It was agreed—this has already happened—that the clerks to the Equal Opportunities Committee would be informally advised of the SNAP process and the relevant timescales to help to inform any follow-up work on its Gypsy Traveller inquiries.

**The Convener:** Informal briefings are quite useful. Does the committee want to take up the offer of an informal briefing from Professor Miller before the debate? I have asked when the debate might happen; it might be in November, although the Parliamentary Bureau has not settled anything yet. Would members like to have an informal briefing on all the issues before our debate, which would be useful?

**Members indicated agreement.**

**The Convener:** That is it—thank you. Our next meeting will be on 12 August, when we will hold two round-table evidence sessions—the first will be on brain injury and the criminal justice system and the second will be on serious organised crime in the environmental sector.

*Meeting closed at 11:27.*



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