



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 24 February 2015

Session 4

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JUSTICE COMMITTEE

6th Meeting 2015, 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)

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (Ind)

Alison McInnes (North East Scotland) (LD)

*Margaret Mitchell (Central Scotland) (Con)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Detective Chief Superintendent Robbie Allan (Police Scotland)

Sarah Crombie (Victim Support Scotland)

Catriona Dalrymple (Crown Office and Procurator Fiscal Service)

Teresa Dougall (Scottish Land & Estates)

Yvonne Gailey (Risk Management Authority)

Lisa Mackenzie (Howard League Scotland)

Martin Malone (NFU Mutual)

Craig McGuffie (Scottish Government)

Sean McKendrick (Social Work Scotland)

Professor Fergus McNeill (University of Glasgow)

Eric Murch (Scottish Prison Service)

Neil Robertson (Scottish Government)

Douglas Scott (Scottish Borders Council)

Jamie Smart (NFU Scotland)

Dr Robert Smith (University of the West of Scotland)

Professor Cyrus Tata (University of Strathclyde)

Neil Watt (Scottish Government)

Paul Wheelhouse (Minister for Community Safety and Legal Affairs)

Pete White (Positive Prison? Positive Futures)

CLERK TO THE COMMITTEE

Joanne Clinton

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Committee

Tuesday 24 February 2015

[The Convener opened the meeting at 09:46]

Subordinate Legislation

European Protection Order (Scotland) Regulations 2015 [Draft]

The Convener (Christine Grahame): Good morning and welcome to the Justice Committee's sixth meeting of 2015. I ask everyone to switch off mobile phones and other electronic devices, because they interfere with broadcasting even when they are switched to silent.

Alison McInnes has submitted her apologies.

Agenda item 1 is consideration of an instrument that is subject to affirmative procedure: the draft European Protection Order (Scotland) Regulations 2015. I welcome to the meeting Paul Wheelhouse, who is the Minister for Community Safety and Legal Affairs; and from the Scottish Government I welcome Neil Watt, who is the head of the European Union implementation team; Neil Robertson, who is EU policy manager; and Craig McGuffie, who is from the directorate of legal services.

The minister will give evidence in advance of the debate on the instrument. I invite him to make brief opening statement.

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): Thank you, convener, for allowing me to appear before you today. I know that you are very busy, so it is much appreciated.

The Convener: You are currying favour. I love it. Keep it going.

Paul Wheelhouse: The regulations will, in part, transpose into domestic law the terms of directive 2011/99/EU, which is part of a suite of measures that are designed to protect and support victims across the EU. As outlined in the policy note,

"The general objective of the Directive is to provide mutual recognition across the EU of criminal protection orders",

for example, non-harassment orders. Practically, that means that protection measures that are issued in one EU country will have to be recognised across the entire EU. In that way, the protection will travel with the individual.

We have liaised closely with the United Kingdom Government throughout the development

of our legislation in order to ensure a consistent approach, where possible. For example, in relation to incoming European protection orders—EPOs—Scottish courts will have the power to impose non-harassment orders and English courts will have the power to impose restraining orders, which are broadly equivalent.

Although the regulations will transpose most of the directive, there is also a requirement for court rules. We have therefore liaised closely with the Lord President's office to discuss the likely requirements, and the Criminal Courts Rules Council is also considering the matter. Areas to be covered by court rules will include practical and administrative arrangements around the application process for an EPO, notifications and modifications of EPOs, and translation of forms. We expect an act of adjournment to be laid in Parliament shortly.

The regulations were laid initially in December 2014, when the question was asked whether the regulations as laid made adequate provision for the definition of "protective measure". Obviously, that question could not be allowed to remain, so the regulations were withdrawn so that the matter could be resolved.

During reconsideration of the regulations a question arose as to the criminal penalty that could be applied using section 2(2) of the European Communities Act 1972. After due consideration, the regulations were, to ensure that they were within vires, amended to provide for a maximum penalty of two years' imprisonment. The administrative and procedural aspects of the new EPO regime will fall, for the most part, to the Scottish Court Service, with which we therefore have worked closely to ensure that the relevant arrangements are in place prior to the new regime's coming into force.

As the committee will appreciate, it is difficult to ascertain the likely volumes of incoming and outgoing EPOs, given that we are establishing a completely new process. However, we anticipate that the numbers will be low, and we do not foresee any significant financial implications of the regulations.

We will, however, continue to liaise closely with the Scottish Court Service and other key stakeholders to monitor the operation of EPOs once they are introduced, and to monitor any practical or financial impacts.

We have also written to victim support organisations, not only to advise them of the new regime, but to indicate that, as always, we will be open to comments about how the new system is working in practice in due course.

It goes without saying that the Scottish Government is fully committed to strengthening

the rights and protections of victims. We believe that the regulations, along with the associated court rules, will enhance those rights and protections. Thank you.

John Finnie (Highlands and Islands) (Ind): Good morning, minister. I think that you covered my question with a comment that you just made. The section on consultation in the policy note that we have refers to the liaison on the technical side of things—on the court side. The equality impact assessment section says that

“the main impact ... is expected to be around domestic abuse.”

When you talk about victims’ groups, can you explicitly include Scottish Women’s Aid? The policy note says that there will continue to be consultation on how the system of EPOs operates in practice, but SWA is not specifically mentioned, and the organisations that are mentioned are all in-house groups. Can you confirm that SWA will be included in consultations?

Paul Wheelhouse: I undertake that we will consult Scottish Women’s Aid to see whether it has any concerns about the system, and that we will keep it informed of the work as it unfolds. We will also make sure that, in gathering evaluation evidence, we consult Scottish Women’s Aid. I agree with Mr Finnie that it is a very important group that protects the interests of victims of domestic abuse.

The Convener: I believe that there is also a civil order that parallels this one—not that there would not be criminal proceedings following domestic abuse. Is it on the same time frame?

Paul Wheelhouse: I will double-check with colleagues, but I believe that it is.

Elaine Murray (Dumfriesshire) (Lab): The civil order is already in force, is it not? It came into force on 9 January, I think.

I am also interested in the equality impact assessment, because many crimes to which the EPO would apply would be crimes of domestic abuse. Anything that prevents perpetrators from being able to get away with their crimes by moving elsewhere is to be desired.

You think that there will be no “significant financial implications” for the Scottish Court Service. If it proves to be the case that there are, and given that we have heard already about financial pressures on the Scottish Court Service, will measures be put in place to compensate the court service?

Paul Wheelhouse: That is something that we are aware of. As I said in my opening statement, it is difficult to predict exact volumes of EPOs. Perhaps I should ask Neil Robertson to come in to

talk about European supervision orders, because we think that the volumes for EPOs will be similar to the volumes for those. We can come back to the committee with further detail to justify that position. The numbers for European supervision orders are very low; therefore, we do not anticipate a huge number of cases involving EPOs that would impact on the Scottish courts. We will keep the issue under review. If it turns out that the volume is higher than anticipated, we will speak to the Scottish Court Service. If there are specific resource issues, we can take them into account.

I invite Neil Robertson to discuss the European supervision order position.

Neil Robertson (Scottish Government): The committee will recall that we spoke to it last year about the European supervision order. At the time, we anticipated that the number of those orders would be about seven to 10 a year. We think that there will be similar numbers of the European protection order, but that is very hard to predict at the outset, as with any new European measure. We gave an undertaking to monitor for any adverse financial impact of the ESO: we will do the same with the European protection order.

Margaret Mitchell (Central Scotland) (Con): You referred to the delay due to drafting and clarifying the criminal penalty. Have there been, or are there likely to be, consequences of the measure’s being introduced and implemented only now?

Paul Wheelhouse: We are conscious of the delay and the transposition deadline issue. We have not to date had any applications that have affected us, so we are hopeful that—given the timing of today’s committee meeting, and if Parliament agrees with the measure—we can get it implemented quickly. We do not have any immediate difficulties.

I understand that we could, in the meantime, take out a civil interdict, if something did emerge immediately and it was necessary to take steps. We can discuss that if required. However, we are confident that we can get the measure up and running quickly, if the committee agrees to the order.

The Convener: If someone from another European country were to breach a protection order here, who would enforce the penalties, what would the penalties be and in which country would they be enforced?

Paul Wheelhouse: If someone from another EU member state is in Scotland and breaches—

The Convener: Yes, or vice versa. I presume that there would be criminal penalties following a protection order breach. Under which legislative

procedure would that fall? Let us say that someone from Scotland breaches an order by following someone to Germany. Would Scottish law prevail there, because they had breached an order that had been issued in Scotland? I want to know how the process would work.

Paul Wheelhouse: The key is that it is about us respecting an order that has been issued in another country. If someone who was in Spain, for example, had breached an order that had been set in Scotland, they would in effect be committing an offence in Spain; the fact that an order had been issued would be recognised.

I want to double check: Craig McGuffie will clarify the legal position.

Craig McGuffie (Scottish Government): If a European protection order that is made in Spain is passed to authorities in Scotland, they would impose a non-harassment order. A breach of that order in Scotland would be a crime in Scotland and would be punishable under the—

The Convener: I understand that. I simply want to know where the jurisdiction would fall if there was a breach.

Craig McGuffie: The position would be the same vice versa. If someone in Scotland has an EPO, that would transfer to Spain. It would be enforced in Spain through a Spanish restraining order and—

The Convener: A breach in Spain would fall under Spanish law.

Craig McGuffie: The Spanish court would have—

The Convener: That is fine; that is clear. Thank you very much.

As no other members have any questions, we will move on to item 2, which is the formal debate on the motion to approve the instrument. I invite the minister to move the motion.

Motion moved,

That the Justice Committee recommends that the European Protection Order (Scotland) Regulations 2015 [draft] be approved.—[Paul Wheelhouse.]

Motion agreed to.

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

Members indicated agreement.

The Convener: I thank the minister and his officials.

09:57

Meeting suspended.

10:00

On resuming—

Agricultural Crime

The Convener: The next item of business is a one-off round-table evidence session on agricultural crime. I welcome the witnesses. Each of you should have a copy of the table plan. I will go round the table anticlockwise and invite each member or participant to introduce themselves.

I will start by introducing myself, but before I do so I will outline the format of the session for the benefit of witnesses who have not participated in a round-table discussion before. There will be more interaction between witnesses, with the occasional permissible intervention by committee members. If you indicate to me that you want to speak, I will call you and the light on your mike will come on automatically. I will list the order in which I will call people. The round-table format is supposed to be an easier way to gain evidence in a short period.

I am Christine Grahame, the convener of the Justice Committee and the MSP for Midlothian South, Tweeddale and Lauderdale, which is in the main a rural community.

Catriona Dalrymple (Crown Office and Procurator Fiscal Service): I am the head of policy from the Crown Office and Procurator Fiscal Service. I am afraid that I am a last-minute stand in, because Mr Dysart, who was due to be here, is unfortunately not well today.

The Convener: I am sorry, as I am going round clockwise instead of anticlockwise—it has been that kind of day for me and I am sure that it will disintegrate further.

Jayne Baxter (Mid Scotland and Fife) (Lab): I am an MSP for Mid Scotland and Fife.

Jamie Smart (NFU Scotland): I have just taken over the legal and technical chair at NFU Scotland and I farm in West Lothian.

John Finnie: Madainn mhath. Good morning. I am an MSP for the Highlands and Islands.

Martin Malone (NFU Mutual): I am the regional manager for Scotland and Ireland for NFU Mutual insurance.

Christian Allard (North East Scotland) (SNP): I am an MSP for North East Scotland.

Detective Chief Superintendent Robbie Allan (Police Scotland): I have responsibility within Police Scotland for local crime.

Gil Paterson (Clydebank and Milngavie) (SNP): Is it me next?

The Convener: It is, Gil—I am looking at you.

Gil Paterson: I do not want to get into trouble. I am the MSP for Clydebank and Milngavie.

Dr Robert Smith (University of the West of Scotland): I am a professor of enterprise and innovation at the University of the West of Scotland. I am an academic and a former policeman with an interest in agricultural crime.

Roderick Campbell (North East Fife) (SNP): I am the MSP for the significantly rural constituency of North East Fife.

Douglas Scott (Scottish Borders Council): I am senior policy adviser with Scottish Borders Council. I administer the Scottish Borders police, fire and rescue and safer communities board and I work closely with the integrated safer communities service in Scottish Borders Council.

Margaret Mitchell: I am an MSP for Central Scotland.

Teresa Dougall (Scottish Land & Estates): I am regional manager with Scottish Land & Estates.

Elaine Murray: I am the MSP for Dumfriesshire and the deputy convener of the committee. I am interested to hear what people will say, because I heard on the radio this morning about £20,000 of forestry equipment being stolen yesterday from the Barony campus of Scotland's Rural College in my constituency.

The Convener: All of us who sit round the table represent rural communities or substantially rural communities, which belies the central belt stigma that is attached to Parliament—the belief that somehow it is urban. Many of us represent rural communities, which is why we thought it very important—on the suggestion of Margaret Mitchell—to have a round-table meeting on the subject. I hope that we will be able to pursue the issue further, subject to what comes out of the discussion.

I will ask the opening question. What is agricultural crime or rural crime? I do not want an academic treatise on the subject, but perhaps Dr Smith can give us an idea of the topics that we might be looking at.

Dr Smith: Agricultural crime, or farm crime, is a category of crime that mainly involves theft of various types. Agricultural crime is part of rural crime and it could be subsumed into other things such as green crime, wildlife crime and waste crime.

Agricultural crime is very location based—it is specific to particular areas. What constitutes agricultural crime in the United Kingdom is different from what constitutes agricultural crime in other countries. That is quite a short definition.

The Convener: We will not focus much on the environmental aspect of the issue; our focus will be on the theft of things such as artefacts, equipment and cattle.

Would someone like to pitch in? I am sure that Mr Smart must have something to say, as he is a working farmer.

Jamie Smart: The term “agricultural crime” takes in everything from the disappearance of the wee bits of scrap that we all have lying around our yards right through to the theft of machinery worth £0.5 million. It also includes irresponsible access taking and sheep worrying. It covers everything from very low level crime right up to the theft of virtually millions of pounds-worth of equipment.

The Convener: Can you pluck out some examples of your members’ experience?

Jamie Smart: Just last week, it was reported in the press that a member of ours had 70 sheep killed by dogs. The story was in the press because the case went to court and the owner of the dogs received a £400 fine. Our member has incurred £20,000-worth of damage and costs, which he has not even been able to make an insurance claim for, because a criminal case has been going on. That is one example of how a member in West Lothian has been affected.

Teresa Dougall: I had a meeting yesterday with one of our members, who is in the Borders, just over the hill from South Lanarkshire. He said that farmers in the area are being hit hard by theft of livestock. I have a list of five farms in the area. The farmers say that, in a typical year, each of their farms is losing upwards of 30 ewes. They say that for each ewe that they lose the cost is equivalent to the cost of a new quad bike, because it is not just the ewe that is lost, but the lamb and subsequent lambs.

Douglas Scott: We know from the research that we have done on rural crime that the issue is mainly theft, but there is also vandalism, loss of livestock and livestock injury—we have had incidents involving horses et cetera. That is the range of things that we are looking at, but theft is the main crime.

The Convener: Theft of what?

Douglas Scott: Theft of equipment—it could be generators, power tools or quad bikes, for example.

Martin Malone: NFU Mutual is the largest rural insurer across the UK. We insure roughly 65 per cent of farming in Scotland. The top three items that are stolen are quad bikes, tools and fuel. Cattle rustling is also a major issue. In 2013, we had 26 incidents, which cost £127,800. Last year, we had 25 incidents, which cost £82,000. There is a significant cost implication.

There is another side involving the stealing of larger items of equipment such as high-value tractors and harvesters. Such crime is not likely to be opportunistic; it is more likely to involve organised crime. We have recovered stolen items from as far away as Poland. The cost of that kind of crime is very significant—the total cost last year was about £2 million.

The Convener: How did you track those items?

Martin Malone: That is up to the police service.

The Convener: You had better not tell me. I am sorry I asked—it is a secret.

Detective Chief Superintendent Allan: We do not have a specific category of rural or farm crime. When Police Scotland started looking at rural or farm crime, we focused on acquisitive crime according to location. The crimes that we recorded very much related to theft of equipment, vehicles and livestock. A small number of vandalism and fire raising crimes also came under that category. The livestock thefts were mainly of sheep and cattle; a small proportion were of chickens.

The Convener: It is interesting that you mentioned fire raising because a fire at Borthwick farm in my constituency has just been reported. It surprises me. Why would someone do fire raising on a farm? It is vandalism of some kind, presumably.

Detective Chief Superintendent Allan: Yes.

Margaret Mitchell: You have mentioned what I would describe as local policing. How do you address the more organised side of crime?

Detective Chief Superintendent Allan: With any type of criminality, the evidence that we get, the people we arrest and the intelligence that we obtain help us to paint a picture of whether there is an organised crime group that we can target. There is little doubt that, for individuals to steal high-value equipment and get it as far as Poland, a significant amount of organisation is involved. However, in order for us to target the group involved in that, we first need to identify the group, how it operates and what enablers are in place to allow it to undertake that criminality. That is very much intelligence driven. The links to the local community and the different ways in which we gather intelligence are important to us in trying to build that picture.

We then utilise the same tactics that we would use against any other organised crime, such as money laundering or drugs. It does not matter—if a group is organised and is undertaking criminal activities, there are certain tactics that we can deploy to dismantle it and to stop it doing what it is doing. Although I am talking about high-value crime, that is not to say that there is not some organisation involved in lower-level crime.

Organised crime groups are involved in significant criminality across our communities. Those groups do not restrict themselves just to rural crime—they will take opportunities to make money wherever they present themselves. If they see an opportunity in a rural environment, they will take it. It might be that the group's day-to-day business is something else but it will branch out as and when it sees an opportunity.

Margaret Mitchell: You talked about knowing who the perpetrators are. The NFUS document, which came in quite late to the committee, said that there was some frustration that, although the perpetrators were known, the police did not have the resources to pursue the matter. Will you comment on that, while we are discussing the police and resourcing?

Detective Chief Superintendent Allan: There can be a sense of frustration for us as well. We may know or have an idea who is involved in criminality, but proving it is a completely different problem for us. [*Interruption.*] Sorry, that is my phone; I am on call for Police Scotland today.

The Convener: Not on my committee.

Detective Chief Superintendent Allan: I know that. Absolutely.

The Convener: I will not tell you what dire fate awaits you if your electronics go off. Everybody else had better check. Only pacemakers are allowed to stay on.

Detective Chief Superintendent Allan: Okay.

If the inquiry is local, it will remain within the division to undertake it. If we establish links to a more organised level of crime, the division will get support from more central resources within specialist crime division.

I spoke earlier about the tactics that we would use to tackle an organised crime group. If there are specific instances of the police not having responded in the manner that we would want, I would like to know about it, because I have responsibility for local crime and I would like to think that there is an appropriate response to every crime, and a robust and thorough investigation. We have a process in place whereby once a crime has been established and reported to us, it is recorded and then monitored through the lifetime of the inquiry. There needs to be an audit trail of any inquiry that has been undertaken in relation to that crime.

Martin Malone: We have a recovery unit and we work closely with the police across the whole of the UK. We have a dedicated unit that deals with the recovery of stolen vehicles and other items. We will not complete, finish or finalise our inquiry until everything that should have been exploited has been exploited—whether it is

closed-circuit television evidence, door-to-door inquiries or forensic evidence, everything needs to be considered. I would be disappointed if members were saying that the response to what is serious crime had been insufficient.

10:15

The Convener: I just hope that that phone call was not a report about agricultural crime. If so, the headline will be that I stopped Detective Chief Superintendent Allan in his tracks. [*Laughter.*]

Dr Smith: One of the problems is intelligence gathering. My research on the theft of tractors in the UK suggests that organised crime groups are centred on various urban areas. Carlisle was identified, and there is also North Yorkshire, Lincolnshire, Manchester and Coventry. Many of the organised crime groups will travel once they have targeted an area, and there may be an element of cross-border activity. Police Scotland might not have the intelligence on that because, until we know that people are travelling to a particular area, it is hard to keep track of groups that move around the country.

Detective Chief Superintendent Allan: Having Police Scotland has afforded us a much better opportunity to establish the existence of those cross-border links. In the past, we had eight different forces trying to tie all of that up. It is much easier now that we have one force.

We already have good links into both the north-east and the north-west of England, so we do have that cross-border coverage. There is no doubt that criminals, whatever they are involved in, are travelling up and down between Scotland and England, so we need to be aware of the point that was made. We are improving greatly in this area because we now have links that help us with that.

Margaret Mitchell: The next point that NFUS Scotland makes is that the problem has been exacerbated by the centralisation of Police Scotland, often because the local knowledge is not there. It says that that leads to slow response times, which seems to be the opposite of what you are saying.

Detective Chief Superintendent Allan: Absolutely. I would refute that. Police Scotland has not taken police officers away from their local areas. They are still within the communities and the officers are still the first responders, when they were in a legacy force and now that they are in a division within Police Scotland. However, there is now much more co-ordinated central support as inquiries escalate—as criminals become more organised or the value increases and we need to put more support in.

The local response still needs to be—and will be—the most effective one, because that is where we get the initial evidence grab. That is our opportunity to get some quick evidence that takes us down the line of detection. That is still the most important part, and that work has not changed. Whether it is done by Police Scotland, Lothian and Borders, Northern or Strathclyde, the officers who do it are still within the communities.

The Convener: I am going to take witnesses' comments on these issues first. Mr Smart is next, to be followed by Mr Scott and Teresa Dougall. On my list of members, I have John Scott, Elaine Murray, Roderick Campbell and Christian Allard. If members want to come in with supplementary questions, they should let me know, but that is the system just now.

Jamie Smart: I want to respond to DCS Allan's comments. When we are trying to report crime, we find it difficult to get the call handler in the control room to understand where we are. I live in a rural area and my postcode covers an area with a radius of a mile. Even to find the farm can be difficult. I might then say, "The sheep have been stolen from the haugh", but that means nothing to the control room person, who might be in the middle of Edinburgh. That is where we feel that we have lost local contact. Once we get to the local police person, it is a lot better, but quite often the control room does not know where we are.

The Convener: That is a good point. I have had difficulty finding some farms in my lifetime. I have done three-point turns on funny wee tracks in different places—and in most unsuitable vehicles.

Douglas Scott: In the Scottish Borders, we are lucky because we have an integrated safer communities unit. The police are heavily involved in that—they lead it. They and council staff such as the antisocial behaviour team, our drugs and alcohol unit and our fire and rescue people all work together, focusing on communities.

We are in the middle of a campaign on trying to prevent crime on farms. We are sending out information packs to 1,100 farms across the Scottish Borders to give farmers advice about what they should do to protect their equipment, their outbuildings, et cetera.

We are also encouraging farmers to take part in a Scottish Borders alert scheme so we can email or phone people about crimes or anything like that happening in their area. The scheme is for the whole of the Borders and over 2,000 people have signed up to it. We feel that it is a powerful thing for the farming community. We are also splitting activity with the farm watch scheme.

Everything is about evidence, prevention and early intervention, so we feel that through our integrated unit we are taking a very preventative

approach that has police involvement at the heart of it. We feel that Scottish Borders has a lot of strength in that regard.

The Convener: Has that activity had an impact? Has it made a difference? You can have all that activity, but nothing changes.

Douglas Scott: Certainly, crimes of theft are down in 2014-15 in the Scottish Borders. However, one issue is that the costs for stolen equipment are going up, as it seems that a higher-value type of crime is taking place. However, the rate for crimes of theft is going down. So, there is some evidence, but it is early days yet.

Teresa Dougall: I concur with Jamie Smart's comments about the geographic area. Another aspect on which we have been working with members and police in several areas is trying to raise awareness of the impact of the crimes on rural business. In addition, a lot of our members are asking for greater clarity on how they report crime—that is, whether they should report it through the 101 number or the 999 number. Our members understand that there are resourcing issues for the police and that they face difficulties in allocating their resources, but our members want more guidance on the best way in which to report crimes.

A suggestion has been made and we are having a meeting on it in Stranraer next month with the local police area commander; we are looking into the possibility of providing what we are classing more or less as awareness-raising events for police officers that would involve getting them out on to farms and estates to look at the businesses, so that they gain a better understanding of what happens there. We want a joined-up approach, with communication going both ways about what the rural crimes are, what the issues are and the difficulties being faced by farmers, land managers and police. We can improve the situation only by working better together.

The Convener: Thank you very much. I am going to take questions from members now: John Finnie is first, then Elaine Murray.

John Finnie: I want to pick up on a point that Mr Smart made. I acknowledge that everyone's knowledge is time limited on this issue, but I have a question for Miss Dalrymple about compensation orders. In my time as a police officer, I recall dealing with a significant incident of sheep worrying. It did not involve a couple of sheep being chased around a field; it involved a field full of slaughtered sheep. We can only imagine the cost for the farmer.

Is it not a matter of routine in a circumstance like the one that Mr Smart outlined that a compensation order would be applied?

Catriona Dalrymple: It depends entirely on the circumstances of the offence. Obviously, the fiscal has the power to apply a compensation order for up to £5,000 without the case going to court—that is a fiscal direct measure. I cannot comment on the courts' sentencing. I am sure that the convener is very aware of all my limitations in respect of that.

The Convener: We all know that.

Catriona Dalrymple: Therefore, the court could impose compensation, but obviously it would need to have all the information on the impact of the crime. That is the one thing that I have picked up from the discussion this morning. A lot of the information that we have in our report refers to the financial impact of the crime, but what I have already taken from this evidence session is that there is a wider impact on businesses' future. That is something that we need to take back and learn from.

John Finnie: Is there a protocol whereby, if the direct measure is refused, a compensation order would still form part of the representation that the fiscal would make at any subsequent trial?

Catriona Dalrymple: We cannot ask the court to impose a compensation order. We can make information available about the financial loss and the impact, and it is then for the court to decide whether to impose a compensation order. We are not allowed to advise the court on sentencing. There are limited circumstances in which we can do that.

John Finnie: Is that something that would be related by the fiscal in, for instance, a sheep-worrying case?

Catriona Dalrymple: If we had the information from the police report, yes. That is what I am saying. To return to my original point, often we have the financial loss in a value, whereas it would probably be more useful to have the on-going impact and so on for the business. If we have that information, we can ensure that the court is aware of it.

The Convener: I have a question for the insurers. When someone is claiming for loss, they are not just claiming for the, say, 30 ewes, are they? Are they not also claiming for concomitant losses that are reasonably attached to the loss?

Martin Malone: On a basis of ewes that were in lamb, the claim would just be for the loss of the ewe.

The Convener: Right; so that would not be helpful, then.

Martin Malone: On the sheep-worrying issue, the number of incidents in the past two years has

remained the same, but the cost has almost doubled.

The Convener: I wondered whether it would have been helpful in relation to compensation orders, but obviously it would not have been.

Martin Malone: No.

John Finnie: It would be helpful if someone could pick up on that. Financial compensation will always be welcomed by victims, but compensation can also just be a recognition, sometimes. As we know, throughout the court system, people can feel that their full circumstances have not been taken cognisance of.

The Convener: Whose job is it to provide that information?

Catriona Dalrymple: We go on the information that is contained in the standard police report. However, we have liaison with the police if we require any further information, and the police are ordinarily helpful in establishing any further information that we require.

The Convener: For the purposes of compensation.

Catriona Dalrymple: Yes. If we were offering a compensation order, in terms of our fiscal direct measure powers—

The Convener: No, I am talking about the court. Whose job is it to provide that information to the court?

Catriona Dalrymple: We do that. The fiscal provides the information to the court and we rely on the police to help us to obtain that information.

Martin Malone: Just to clarify, if a ewe was in lamb, that lamb would be covered within the compensation payment but not the consequent loss in terms of production.

The Convener: Yes, it would get too remote. I appreciate that.

Elaine Murray: On the theft of livestock or specialist equipment such as the equipment that was stolen from the Barony college campus, how much evidence is there that people are stealing for a market and that a purchaser has already been identified? I imagine that livestock is not taken down to a car boot sale or whatever, and that it is being stolen for someone who already knows that something will be stolen for them to purchase. How often is the person who is in receipt of stolen goods prosecuted? Some highlighting of that might dampen people's enthusiasm for receiving such goods.

Detective Chief Superintendent Allan: We have to understand that, no matter what is stolen,

the person who is stealing it has an outlet or a market for it.

Elaine Murray: I am talking about purely opportunistic cases.

Detective Chief Superintendent Allan: In rural or agricultural crime, there will be some opportunistic crimes, in which someone will know roughly how they can get rid of something. They might not be able to steal exactly what they want, but if there is an opportunity to steal something, they will steal it. However, what you say is right. I expect that, before someone steals livestock or something similar, they know some method by which they can make money from it. That is why we need to target the people who are a little bit further upstream. The person who goes on to a farm and steals the property is one issue, but another issue is the person who is involved in facilitating the selling on of the stolen property. Those are the people who we want to get good intelligence on. If we focus on them, if and when we get the opportunity to do so, that will help further up the chain.

10:30

Dr Smith: A lot of the theft of livestock, particularly of sheep, is linked to food fraud, and there is on-going demand for sheep for the halal market, which is a well-documented phenomenon. There is an outlet for livestock theft.

There is a lot of evidence that stolen tractors and machinery turn up in Poland, Africa and Afghanistan. In one well-documented case in England, a Turkish businessman arranged a theft through a local crime group, which stole a tractor. The tractor was shipped to Southampton, then to Turkey. It was all done through semi-legal ways; even the people who transported the tractor did not know that it was stolen.

Organisations such as the Mafia are involved, but until such instances are reported it is difficult to know about them. Until there is a number of cases, it is difficult to profile and find out the connections between thefts in areas. The local police might just not know, and if people do not know they cannot marshal and direct their resources.

Different elements are involved, including opportunists and organised crime.

The Convener: Are you saying that there should be more liaison between local police who are investigating what we might call "low-level" theft—I am saying that in inverted commas, because I do not mean that it is low level; the theft of one tractor may be devastating for the farmer or landowner—and police who are investigating serious organised crime, so that we can see

whether there is a pattern involving things that are attractive to criminals? Is that not happening?

Dr Smith: Now that Police Scotland has been formed, I think that there is a greater level of intelligence sharing than there might have been before. However, in Scotland there are a number of intelligence systems and in England and Wales practically every force has a different intelligence system, so following up on every instance and ensuring that it is known about everywhere is quite labour intensive and time consuming. If a travelling crime group is coming up from Manchester or Birmingham, it may have no known connection to the area.

The Scottish councils and the Scottish police have a very good level of co-operation, probably more than is the case with some of the English and Welsh forces, but more could be done. There is a need for it.

The Convener: So more could be done.

Dr Smith: Yes.

The Convener: Such as?

Dr Smith: Lincolnshire Police and some of the other rural constabularies have rural intelligence officers and farm intelligence offices, and local special constables with links to the farming community. A number of things can be done, but there are time and cost elements. When the police are going through a period of reorganisation and have to deal with other high-level crimes, they need to put their resources where they are most effective. Farm crime is becoming more prevalent than it was before.

The Convener: I will let DCS Allan in on that.

Detective Chief Superintendent Allan: I am more comfortable with having in place the local arrangements that have been described—I think that we would get that. The real challenge for us is that the local officer who turns up and does the initial investigation of the theft of a tractor in one locality might need to understand that the car that was seen to facilitate that theft was also seen 150 miles away in the theft of a bailer.

We are much better at creating those linkages within Police Scotland as one force. It is easier for us to do. It is a challenge for us, but that is where we have the most impact on the organised aspect of it. Local cops are well placed to deal with opportunistic theft within the local area. However, when it starts to cut across borders and wider areas of Scotland, we are good at being able to make the link that a blue BMW was seen at such-and-such a farm acting suspiciously and three days later it was seen at another farm. We are getting better at that.

Elaine Murray: If people are stealing tractors to take to Poland or Turkey or wherever, they will not just take one tractor; presumably, a variety of different pieces of equipment will be taken over at the same time. Is it about trying to link up what has happened not just 150 miles away but across the UK? One tractor might have been stolen in Cornwall and another might have been stolen up in the Highlands of Scotland, and they are all being brought together. How easy is it to make those links across the UK?

Detective Chief Superintendent Allan: It is getting easier, because when people come to Scotland, they deal with one police force. We have a much more co-ordinated picture of what is happening in Scotland. Our linkage with the forces down south is not as easy, because there are a lot more of them, they are of different sizes and they have different intel systems. Getting that information can be a bit more problematic, but it is not insurmountable—we can do it. As you say, it sounds a bit simplistic but people are probably looking to get as much equipment as possible, of whatever sort, on a boat going out to a location.

I keep referring to going back up the chain a bit. It is important to get the person who is going on to the farm and stealing the equipment, but we need to target further up the chain to see who is facilitating that and who is directing those individuals to go to the farms. We absolutely need to get that investigation right at the time when the cops turn up at the location. We have to make sure that we are absolutely identifying any eye witnesses and any opportunities to use CCTV. I know that these are rural locations, but everybody has their own private space now and there is an opportunity for CCTV. We need to do the right things forensically, because people leave traces where they have been. We need to get that sort of thing right at the time and then ensure that we understand the linkages that sit above that.

Elaine Murray: So, just like with drug dealers and so on, you look further up to get the Mr Bigs?

Detective Chief Superintendent Allan: Absolutely.

Roderick Campbell: Is the technology as robust as it might be in terms of protecting high-spec farm equipment, such as tractors? I mention that because, when I talked to someone yesterday about this very issue, they suggested that if someone has the keys for one high-spec tractor, it is quite easy for them to use those keys to acquire another, because the technology is not as unique as it might be. Can you comment on that?

Martin Malone: We have been working very closely with the machinery manufacturers to encourage them to alter the fact that one key will sometimes switch on a number of different

machines. They are slowly moving on that, and work is being done on that.

From an insurance point of view, we would encourage anybody with any high-value item to have a tracker and CESAR—construction and agricultural equipment security and registration scheme—marking attached to it, so that they can track it. CESAR marking will do that. We offer fairly substantial discounts if that has been done. The industry is moving closer in that regard, because there is an encouragement from our farming community and our clients to insure the vehicle and mitigate the fact that it could be stolen and would have to be recovered. There is work going on there.

Look at the car industry. If someone buys a £100,000 vehicle, the likelihood is that it will have an immobiliser and security alarms. That has not been the case with agricultural machinery, but that trend is slowly changing. There is still work to be done on that.

Douglas Scott: I reinforce what Martin Malone said. My colleagues are advising farmers about tracking devices and data tracking chips, which are crucial. It is also crucial to keep an inventory of machinery on the farm and to keep things locked up. We are advising people on some basic things that are important to secure their farm. That is the advice that is going out from my colleagues.

Dr Smith: I am a former crime prevention officer, and there are crime prevention measures such as SmartWater, which can put a unique trace on high-value equipment.

The Convener: SmartWater?

Dr Smith: It is a chemical solution for coating things with.

The Convener: Do not smile at me, Roderick. I was just trying to find out what SmartWater is. Did you know?

Roderick Campbell: No.

The Convener: Well there you are, then.

Dr Smith: A lot of measures can be taken in areas that people suspect are being targeted.

The Convener: Why are farmers not doing that, if it is—

Martin Malone: To be fair, they are doing it—but not enough of them are. There is a greater incentive to have higher-value equipment tracked, with CESAR marking and tracking devices. There is a financial reward for doing that, in terms of the insurance policy premium.

Historically—I can compare the situation in Scotland with Ireland in particular—there has been a fairly low level of that here, although the trend

has been increasing. Do the thieves move with the crime, for want of a better way of putting it? With the same opportunity, is it easier to carry out the crime here than it is somewhere else? That might be part of it.

As farmers begin to lose equipment and the impact hits them, there is a greater trend towards other devices being used to mitigate the loss.

Teresa Dougall: I agree with what has been said. Over the past year, we have noted especially that more members have been coming to our organisation saying that they want to be involved. They realise that the problem will not go away, and they want to work together more to raise awareness of it and to consider solutions.

We are seeing more instances of local organisations such as rural watch. They tend to be groups of farmers who have come together. There is a scheme in Renfrewshire that was set up by Elderslie Estates. Members from the local area came to me and said that they were being hit hard and that they wanted to do something about it themselves—they wanted to share information and to try and prevent things from happening further down the road. If they see a vehicle that they think should not be there, they contact their neighbours. There could be a knock-on effect from that activity.

There has been a huge uptake in another area, too. We have been running a series of rural security walk-and-talk events, which are aimed at getting the farmers and land managers out on to a farm to have a walk round, look at what is being done and look at the problem areas. We have the police along to such events, and they try to point out the potential problems and to come up with potential solutions. That allows the farmers to get together, talk through what has been happening, share what they are doing and share information about security systems, cameras, what is working and what is not working. There has been a huge increase in that sort of localised activity.

Roderick Campbell: On a slightly different topic—

The Convener: We will hear from DCS Allan on the same subject first.

Detective Chief Superintendent Allan: I reinforce the message that is coming across clearly about target hardening, which is the expression that we use to describe making it more difficult for people to steal from the farm.

Inventories are very important. Investigations can be difficult when there is a considerable time lag before it is established that an item of property has gone missing. The farmer might not use it for a period of weeks or months. Having an inventory and carrying out continual checks that property is

where it should be affords us a better opportunity to recover it and to detect the crime.

Security marking with SmartWater or whatever is very important, too. It is a matter of taking basic security measures. I know that the pack that was issued in the Borders will probably be rolled out across Scotland. It is a good, clear pack explaining what farmers should be doing.

There have been a number of farm watch or rural watch schemes across Scotland, and the legacy force areas had their own schemes in place. We are in the process of working out which are the best options for us and what is the best fit for what area. An option that we are looking at strongly is a farm watch scheme in N division that has won an NFU award. All scheme members are sent a text alert straight away when any crime is committed in their area. We probably need to broaden that out a fair bit and get the engagement and awareness that we have been talking about so that everyone who is a potential victim of such crimes is made aware that there is a suspicious car or that a farm has lost equipment—

10:45

The Convener: The blue BMW has stuck in my mind. I do not have one, thankfully, so that was not me.

Detective Chief Superintendent Allan: The text alert scheme, which is running up in the Highlands division, seems to be a good one.

The Convener: Margaret Mitchell is giving me plaintive looks. I cannot help it that Roderick Campbell is still asking his questions.

Margaret Mitchell: I wanted to ask about the network coverage.

The Convener: Do not slip it in, Margaret, we will come to you.

Roderick Campbell: I will switch the topic slightly and ask why there seems to be such a substantial increase in livestock theft. Would anyone care to speculate about that? Why, compared with other criminality in society in general, is it increasing so much?

Martin Malone: This is speculation but, at the same time as we have seen red meat prices rise in the past number of years, we have seen evidence of an increase in cattle rustling. Robert Smith mentioned meat plants. There was a wee bit of circumstantial evidence that some people are going through back doors into different environments, such as restaurants, and that meat is being sold directly at markets, too, for example. Part of that might have had an influence; those might be some of the reasons.

From an insurance point of view, if something rises in value, we see a market for it develop. For example, whenever scrap metal rises in value, we have seen metal theft increase. When red meat prices increase, we see a corresponding rise in the increase in livestock rustling.

Jayne Baxter: Dr Smith mentioned food fraud. To follow on from Roderick Campbell's point, I note that the food industry is very regulated. If a lot of livestock go missing, there must be illicit means of processing it before it turns up at the restaurant. Is there any evidence of a shadow infrastructure that would support such activity? Abattoirs spring to mind.

The Convener: We should have had meat inspection representatives at the meeting.

Jamie Smart: Over the past few years, with the downturn, there has been a perception that there may be a lot of people who were working in the industry before who have a bit of spare time on their hands. When an animal disappears, they have the expertise to kill and butcher it.

The Convener: There are animal welfare issues, too.

Jamie Smart: Both animal welfare and food safety issues.

Jayne Baxter: Absolutely.

The Convener: Is that connected up in any way by the police? Do you liaise with the other agencies, including food safety agencies?

Detective Chief Superintendent Allan: Yes, we liaise with food safety and trading standards agencies, for example. I know of a couple of on-going investigations into cattle fraud. For a matter to move out of that environment and come to the police, it very much needs to be at the criminal fraud side of things. Investigating how stolen meat is getting back into the food chain would be more down to the food agencies. However, if we could establish those links to stolen livestock, we would be very much involved—

The Convener: You said "if" you could establish those links—have you not done so?

Detective Chief Superintendent Allan: I am not personally aware that we have. Everyone who has spoken on the issue so far has been speculating about that being a method for the disposal of stolen livestock.

Christian Allard: My question is on food crime. To a certain extent, organised crime has been good at getting involved in the food industry. Apart from some isolated incidents, organised crime seems to be the main reason for an increase in rural crimes. If that is the case, how can we do better in regulations? We talked about manufacturers, but maybe there is a responsibility

for the Parliament and some organisations to work differently. I remember being the victim of food crime to do with number plates. In this country, trailers do not have distinct number plates. Should we change the rules on that?

In Aberdeenshire, expensive pieces of machinery have been well protected, but organised thieves are now going after hydraulic arms. There is a big surge of thefts of parts of expensive machinery. Could we put numbers on them or otherwise ensure that they cannot be resold? I would like to hear some ideas about how we can help in relation to number plates, hydraulic arms or anything else.

Dr Smith: There is a national plant register, but I doubt that specific parts of machines are numbered separately. Any plant that is stolen in the UK should be reported to the national plant register, which tries to share—

The Convener: I have never heard of that—it is like SmartWater, which you talked about. What information is put on the national plant register? Does it happen when vehicles are new? Is it like registering ownership of a vehicle? How does it work?

Dr Smith: I think that people can register prior to that. A lot of thefts of tractors and plant are reported to PANIU—I have forgotten what it stands for. It works with the NFU and the police and it passes on intelligence. However, if somebody takes part of a machine, it will probably not be stamped with a chassis number.

The Convener: I ask DCS Allan to explain about the national plant register. Are all vehicles on it?

Detective Chief Superintendent Allan: Stolen vehicles. If we have a suspicion about a vehicle, we can quickly check whatever identifying marks are on it against the register to establish whether it has been stolen. The problem arises if a whole piece of equipment has not been stolen but the thief has taken a piece off it and none of the identifying marks are on that piece. It might be that we need to identify whether specific parts of machines are being stolen just now, in which case we will need to look at some form of covert marking on them. In that way, pieces of plant on farms would have the chassis number on them, but in addition certain parts—the more expensive ones—would have covert markings using UV, SmartWater or whatever so that people would have a chance of getting them back. A single part can be worth a lot of money, but if there are no identifying marks on it, it is difficult for us to recover it.

When farmers compile inventories of equipment, it is not enough for them just to note that they have a plough and write down its number. It is also

good if they note individual identifying marks on the plough so that—

The Convener: Dung? Grass cuttings?

Detective Chief Superintendent Allan: Not all pieces of equipment are pristine and in perfect condition. They will all have their nicks and bumps. We might recover a part of a piece of equipment with no identifying marks on it. If a farmer can say, "I noted that scratch and that bump," and we have that information as well, we will be able to marry it up with the piece of equipment that was stolen.

I have said it a couple of times, but I stress again that inventories of equipment on farms are important. However, we need them to include specific details to help with recovery further down the line.

The Convener: Mr Smart, do you want to comment?

Jamie Smart: I was just thinking that my plough might get new marks quite regularly, which could make it difficult. However, we as an industry have a lot of catching up to do in this area.

I have been looking through my papers during the discussion and I want to take it back a wee bit and let you know how serious the issue is. At the end of one of our local branch meetings in December at which the rural community officer had given a talk, a show of hands was taken that indicated that between 70 and 75 per cent of the people there had been subject to crime in the previous 12 months.

The Convener: How many were at the meeting?

Jamie Smart: I do not know, but I would say that that percentage is quite representative of how widespread the problem is. It is very difficult for us to prevent theft by marking our machinery, because it can be taken to pieces so easily.

Christian Allard: We talked earlier about the manufacturers of the machinery. Could they not mark all the expensive parts with serial numbers? That is done with cars, so I cannot see why it would not be possible to do it with farm machinery.

The Convener: We can perhaps find out about that issue by raising it with the manufacturers. *[Interruption.]* We seem to be having trouble with the microphones, so I suspend the meeting until that is sorted.

10:55

Meeting suspended.

10:57

On resuming—

The Convener: I think that we are back again.

The committee could write to the manufacturers of farm machinery and, indeed, to other agencies, such as the meat inspectors. We can discuss that at another meeting after we look back at this evidence session.

Gil Paterson: Just for the record, I come from the automotive industry and I know that almost every part of a car or a truck has a serial number. I would be surprised if the same did not apply to tractors. I imagine that they are manufactured in a similar way and that their parts would have a serial number on them, rather than a brand name, that would tell us where and when they were manufactured.

A couple of earlier comments referred to CCTV. How extensively is that used on farms? In an urban setting, if somebody had half a million quid's worth of equipment lying about outside, I am sure that they would have some kind of protection for that and that it would not be kept in the equivalent of an unlocked barn. It seems to me that CCTV could prevent equipment from being lifted from farms. Maybe Mr Malone has information on how extensively CCTV is used on farms.

Martin Malone: I do not have any specific figures on the number of farms that have CCTV in operation. Certainly, from the insurance perspective, CCTV improves the assessment of the risk that we insure. We would reflect in the underwriting premium that we charge the customer their use of CCTV cameras and any other security equipment. However, I do not have any figures for the percentage of CCTV use.

11:00

The Convener: How much of a range of discounts is there?

Martin Malone: For example, for having tracking devices and vehicles, the discount goes up to 27.5 per cent, which is quite significant.

The Convener: Do you have different rates for CCTV?

Martin Malone: There are different rates. Off the top of my head, I am not too sure what the rate is for CCTV cameras.

The Convener: This is your chance to advertise.

Martin Malone: We look at all these things slightly differently and there is a range of stuff, but we certainly reflect the use of CCTV cameras. The discount for having CCTV cameras and proper security could be as much as 20 per cent.

The Convener: Does Mr Smart want to give the farming perspective on CCTV?

Jamie Smart: CCTV can be difficult to fit in a meaningful way. People can have CCTV, but where do they put their recording equipment? I looked into it for my yard. To get a decent system in would have been a huge job, because it would be so far to take the signal back to my house. That can be difficult.

We have to look at all these things, but other, maybe simpler, ideas are out there, and the issue is all about deterrence.

The Convener: What about geese or llamas? We have read about that. Geese and llamas—not together, though.

Jamie Smart: Yes, until they are stolen. [Laughter.]

Teresa Dougall: Broadband and mobile phone coverage was mentioned. We are hearing more from members that they are looking at what I think are called second-tier security systems, which are remote systems. If someone is in a farmer's steading when they should not be, such a system sends a text message or something similar to the farmer when they are out working in the fields. However, if they do not have network coverage to start with, there is not even any point in looking at such a system.

The Convener: Does anyone else want to come in on CCTV or security? Does Margaret Mitchell want to ask a question?

Margaret Mitchell: I had a question on network coverage, which has been covered.

An article in *The Scottish Farmer* said that farmers in Lanarkshire were reaching "breaking point" because of the increased crime levels and that they felt "under siege". Is the recording of crimes an issue? The NFU paper seemed to suggest that.

Rural crime is such a big area. Should we use the term "rural crime"? All the different aspects might tick that box, so we would get the true extent. We are told that crime rates are going down, but that is certainly not what the people in South Lanarkshire were saying. A farmer in East Kilbride said that crime was at a 31-year high.

Is there an issue? Would a definition of rural crime help with recording crime, so that we could assess its true extent and deal with it?

The Convener: We are looking at you there, DCS Allan.

Detective Chief Superintendent Allan: On the recording of crime, my only concern with where we are going is that, if everything is a priority, nothing is a priority. This is acquisitive crime. Thieves are out there stealing property from industrial estates, farms and everywhere, and there is an onus on the police to investigate all those crimes.

As I said, we can easily identify what crimes take place in what locations. In the likes of Lanarkshire, between 2013-14 and 2014-15 the figure increased from 91 to 107; those are the numbers that we are talking about.

To what end would we categorise rural crimes as a separate crime entity? Would we do anything different from what we are doing now? Would Police Scotland be expected to do something because the crime had a rural badge on it? We need to give our service to everyone in the community, and we should do that whether or not something is categorised as rural.

Our current crime-recording mechanism allows us to pick out crimes that are on farms. As for the numbers, there is a Scottish crime recording standard. Every time someone reports a crime to us, it is checked against that standard, to ensure that a crime has been committed. I am in charge of that part of Police Scotland and I am comfortable that the figures that we have reflect what has been reported to us.

Christian Allard: Are we more concerned about the people who are committing organised crime than about the type of crime? Have we identified that organised criminals are targeting not only rural areas but others?

Detective Chief Superintendent Allan: Yes. That is why I spoke earlier about us taking a step up and looking across. An organised crime group will not steal just tractors; it will commit significant crime across the board. No matter what the crime is, we need to target those people, as well as doing the initial inquiries correctly.

The Convener: We have already had a session with the Scottish Environment Protection Agency about serious organised crime and environmental agencies.

Teresa Dougall: We understand that today's session is on agricultural crime, but that takes into account crimes that are committed not only on smaller farms but on larger estates. Environmental crime includes farms, but it also includes fly tipping, littering and damage to and interference with traps and snares.

The Convener: To some extent, we covered that in our session with SEPA. We are focusing on acquisitive crime in this session.

Teresa Dougall: It would be difficult to have a category of rural crime, because the scope is wide.

The Convener: Yes. Margaret Mitchell wants to come back in.

Margaret Mitchell: Is there any intimidation? We are hearing more and more from farmers that they feel intimidated if they speak out against any crime, including acquisitive crime.

Jamie Smart: I have been threatened on the farm and I am only half a mile from the town. It was a wildlife crime incident and, when I challenged the person involved, I was told in no uncertain terms that if I reported the crime to the police, I would probably have a large fire in the shed.

The situation is terrifying. We are out in the open—we have large areas of land and we cannot put a fence round the whole lot. We wonder what will happen if we report an incident to the police. In that instance, I took my mobile phone out and showed the chap that I was dialling 999. That was a big worry for the following few weeks.

The Convener: Of course—and for your family.

Detective Chief Superintendent Allan: I would always advocate reporting the crime and, if there is any intimidation on the back of that crime, it also requires to be investigated. When the situation becomes intimidating and the things that we have just heard about happen, that is much more serious. That should be reported to Police Scotland so that we can investigate it thoroughly and bring people to book for that, too.

Catriona Dalrymple: I will add to what Detective Chief Superintendent Allan said. There is no definition of agricultural crime but, when there is sufficient evidence, we can prosecute all the situations and crimes that people around the table have been talking about. However, that is under the banner of theft rather than the banner of agricultural crime.

There are things that we can do. When we have evidence of links to serious and organised crime, we can add statutory aggravations. Although we do not have clear evidence of serious and organised crime, and we do not have corroborated evidence, we can add the statutory aggravation. There are all sorts of contraventions of statutory offences across all types of legislation on food safety, livestock and so on. There is a lot of law out there and a lot of criminal offences that all such circumstances fall under, but they are not badged as agricultural or rural crime, so to speak.

Douglas Scott: Our SEPA communities unit compared the number of farm thefts that we have information on with the number of total thefts, excluding shopping thefts. Of the total, farm thefts

were 6 per cent in 2012-13, 13.1 per cent in 2013-14 and 6.9 per cent in 2014-15. That is from 1 January for each of those years.

The 6.9 per cent for 2014-15 equates to 62 farm thefts. There were 835 other thefts, excluding shopping thefts. That indicates what the proportion is. However, the value of thefts has increased, because there have been a lot of thefts of higher-value equipment. Over the three years, the overall value of thefts has increased.

Those are the proportions that we are talking about in the Scottish Borders. However, those low proportions in no way reflect the fact that, in communities, farm theft is a big thing. It affects businesses and the community around them, and people are very aware of it. That gives an idea of the situation in the Borders.

Gil Paterson: In general, is crime in the countryside sporadic or persistent? I raise that because I live in the countryside and, since I have been living there—that is coming on for 17 years—there have been incidents in which high-end cars have been targeted. That does not happen all the time; it happens about once every four years. Thieves come and target a car to steal it. I do not know of a single car that has been brought back. They might come and steal three cars. How difficult is that to detect? I have not heard of a single car being returned. I have to say that that relates to households in the countryside.

Detective Chief Superintendent Allan: Bits of that are relevant, given what we were talking about with tractors. The method by which people steal cars has completely changed, because they need the key, so they need to break into the house to get the key in order to steal the car. That is not where we are with tractors, as one key will fit multiple tractors.

As we have said, crime in general is on a downward trend. That is not to say that there will not be spikes at various times. That depends on who is out at the time, who is active, what intelligence we have and what we have and have not been able to disrupt. There will always be spikes within the overall trend. If we knew exactly where a spike was going to be, that would be brilliant and we would be in a better position than we are in.

The Convener: You talked about liaising with police south of the border. What about liaising with European police forces? Give us a little bit about that with regard to agricultural theft.

Detective Chief Superintendent Allan: We have a Police Scotland officer who is embedded in and has a link into Europol. Officers from down south are in Europol and there is a UK element to Europol, but we have decided to embed an officer there so that we have a direct link in. That means

that, when we find some of our stolen property being transported into Poland, for example, we can start to create the links that we need with the local law enforcement to do something at that end.

The Convener: Has that been successful?

Detective Chief Superintendent Allan: The processes that are in place are much better than they ever were before—they are much more streamlined—so yes, absolutely.

The Convener: On that point, I end the evidence session. I thank the witnesses very much; it was extremely interesting.

When committee members consider our work programme in a couple of weeks' time, we will decide how to take this forward. We can have correspondence and perhaps take more evidence. Today's session will be out in the *Official Report* tomorrow, 25 February, so everyone will be able to see the evidence that was given.

If there is anything that those of you who are sitting around the table wish that you had said but did not bring to our attention, feel free to write to me, and I will distribute the information to committee members. Having reviewed and looked through the evidence, you might say, "I want to add this bit now." That would be helpful.

I suspend the meeting for 10 minutes.

11:13

Meeting suspended.

11:27

On resuming—

Prisoners (Control of Release) (Scotland) Bill: Stage 1

The Convener: Item 4 is another round-table evidence session, the purpose of which is to allow participants, many of whom have given evidence to the committee, to comment on the Cabinet Secretary for Justice's recent letter, which indicates that the Scottish Government will at stage 2 lodge amendments that would potentially significantly alter the bill. Copies of the letter have been circulated with committee papers.

I welcome participants. I will waive going round the table, because we know pretty well the organisations that the participants represent, and everyone has a copy of the plan.

Who has not done a round-table session in Parliament before? I see that a few witnesses have put up their hands. This is like being at school.

The session is mainly a matter of witnesses interacting among themselves, with committee members playing a lesser role, although they will come in with questions. That can be a more efficient way of getting evidence.

If witnesses indicate to me when they want to speak, I will take names and call out the list of those who are waiting to participate.

I see that Professor Tata wants to start us off.

Professor Cyrus Tata (University of Strathclyde): I got very excited—

The Convener: That is enough; we will just stop you there. Don't spoil it. [*Laughter.*]

Professor Tata: I got very excited when you said that there was a plan in front of each of us. I thought that it would be the plan for what we were going to do. Of course, I see now that it is the seating plan. [*Laughter.*]

The proposals would see one of the most far-reaching changes for a good 20 years to the system of release. That is not to say that there should not be change, but we must think about the proposals much more carefully. There needs to be proper consultation and a proper process. It is worrying that significant changes would be introduced at stage 2. My feeling is—it may be others' feeling, too—that it would be rather late on to do that. We need proper and systematic consideration of, and proper consultation on, the proposals.

Professor Fergus McNeill (University of Glasgow): I agree. I also suggest that the timing

is important in the sense that most sentencing scholars and reintegration scholars would agree that you cannot look at release in isolation from sentencing. If we were looking at hospital management, we would have to think about discharge and admissions at the same time.

Given that it has recently been announced that the Scottish sentencing council will be established and operational this year, it seems to me to make sense at least to pause and consider the possibility of consultation of the sentencing council on the connection between what we sometimes refer to as front-door sentencing—the sending in—and back-door sentencing, which refers to release arrangements.

11:30

The Convener: I think that the committee appreciates that very strong connection.

Ms Gailey was nodding. Do not nod or I will come to you; it makes you a target.

Yvonne Gailey (Risk Management Authority): The RMA's perspective on this is from the angle of risk and public protection. Some of the changes that the cabinet secretary's letter referred to, or alluded to, appear to be relevant to that perspective.

From that perspective, I also think—going back to what Professor Tata said—that there is a need to understand the particular individuals and cases that are causing the concern that is behind the policy move. There is a need for scoping—of the numbers, the characteristics and the circumstances that lead to concerns—so that resources can be targeted at the right group.

Sean McKendrick (Social Work Scotland): I concur with both sets of comments so far, and will say something about both, because they are slightly separate.

On consultation, the committee will know that we are currently evaluating the multi-agency public protection arrangements. Although the detail of how we might manage individuals post-release is far from clear, it is reasonable to assume that managing them will require a multi-agency approach. That MAPPA evaluation is on-going. It may be wise to roll the lessons that are learned from it into practice in management of the group of offenders to which we are referring. That is important.

I also want to endorse the focus on risk and risk management, and the importance of professionals from a variety of disciplines understanding individual risk and the risk management plans that mitigate those risks.

My contribution is to confirm the two statements that have been made so far today.

The Convener: When is the MAPPA review due to conclude?

Sean McKendrick: The national report should be published around summertime of this year.

The Convener: Thank you. Professor McKendrick—I mean Professor McNeill. I am sorry.

Fergus McNeill: Because I have this tie on, I assumed that you would get the name McNeill right away, but never mind. [*Laughter.*]

The Convener: I am sorry, but what was it that you said while my back was turned? [*Laughter.*]

Fergus McNeill: It is the ancient McNeill tartan of Colonsay.

The Convener: I am so sorry that I am not au fait with the McNeill tartan. I will remedy that tonight.

Fergus McNeill: Never mind. It is a small but important point.

The Convener: Well, you have made a big issue of it. This is a bad day. [*Laughter.*]

Go ahead, Professor McNeill.

Fergus McNeill: On the question of risk, it is important to be clear that release arrangements effectively change the duration for which we choose to store the risk, to use a crude expression. However, in terms of the timing of release, the release arrangements do not in and of themselves do much to mitigate risk.

Investment in risk reduction and, thereby, in public safety is about how we configure our prison regimes, but it is also about how we configure post-release support. If we take a rough estimate of 400 additional prison places to accommodate the numbers in this instance—we think that it is a conservative estimate—that £40,000 per place per annum will cost £16 million. We have to be pretty sure that that investment is buying us improvements in public safety. I do not think that storing risk for longer buys us improvements in public safety. That is my caution.

Lisa Mackenzie (Howard League Scotland): I would echo the comments that have been made so far.

We have two concerns. One, which the Law Society of Scotland pointed out in its submission, is that no evidence-gathering exercise was carried out prior to the legislation being mooted early last year. In fact, the Law Society goes so far as to say that there is no solid empirical basis for the proposals; I think that the Howard League would echo that.

The Convener: My goodness! That is a bombshell.

Lisa Mackenzie: Well, as Professor McNeill said, if we are going ahead with this, do not we owe it to the public to be more sure of our ability to deliver on the policy objectives that were stated in the initial memorandum, given the potential increased cost to the public purse? The issue is not just an increase in the number of prison places; there could also be increased numbers of legal cases being taken on. If you have more people in prisons who cannot access rehabilitative programmes—we know that the offer in that regard is already inadequate—you might find that, as we said in our initial submission, people will make claims of arbitrary detention by saying that they want to prove that they are not a risk but cannot do so, which means that they are being detained arbitrarily.

Another concern that I have, and which I mentioned in our most recent submission, concerns the fact that we are discussing an issue that will significantly alter the bill on the basis of a two-page letter. As I went through the submissions, I was struck by the fact that all that I had were more unanswered questions. Has the judiciary been consulted, given that it is a key stakeholder? We do not know. What impact will there be on the prison population? The Scottish Prison Service says that it will need more resources. How much money has been set aside for that? Prison is expensive, so what is the likely total cost to the public purse? We do not know.

We do not know about the guaranteed period of supervision. Will it be tagged onto the end of a full custodial sentence? Will it be incorporated? There are many unanswered questions. I am concerned about the fact that the committee is moving towards its stage 1 report without having any of that detail in an updated policy memorandum.

The Convener: Do not worry about the committee—I think that some of the questions that you have raised are in our heads, too. You have added some, but I am sure that members had questions about how the policy can move forward without looking at sentencing, and whether the period of supervision will kick in during the sentence or after it has been served. I think that we are all aware of those issues.

Pete White (Positive Prison? Positive Futures): The discussion so far fits very well with our point of view. Taking time to work all this out in a coherent way rather than doing it piecemeal would be tremendously helpful. There is a huge amount that we can do to draw things together; we can look at the whole picture from the point at which someone is arrested right through to the end of the process—whether that involves their release, or diversions from prosecution, or

custody. If we tie it all together, we can come up with something that will work properly for individuals and will fit with what the SPS seeks to do.

The Convener: It will also fit with what society wants.

Pete White: Yes.

Sarah Crombie (Victim Support Scotland): I recognise and acknowledge the previous comments, but Victim Support comes at the issue from the victim's perspective and we support the ending of automatic early release, the extension of the bill to all long-term prisoners and a period of post-release supervision for prisoners.

We want greater clarity and transparency in the system, so that victims and the community are better able to understand sentencing. In our experience, a lot of victims do not currently understand the system; they do not understand what part of the sentence is custodial and what part is served in the community. We want to work towards something that provides more clarity to them.

Eric Murch (Scottish Prison Service): To some extent, we are discussing the unknown unknowns. However, there are also known knowns. Last Friday, the SPS had 7,475 people in custody. We had 318 on home detention curfew, giving a total of 7,793. We have current design capacity of about 8,000, and we have housed significantly more. Some of the current arguments are not based on the fact of the number of people that we can house.

The second issue is that the SPS is not paid on the basis of cost per prisoner place; there are additional costs that we are trying to work out. Those costs are based on a small proportion of individuals potentially being motivated to take on programmes further to moving through a parole process, rather than being liberated. It will not be a huge number, but we are still trying to work our way through what the numbers mean for the SPS.

My final point is on the impact of the policy. We have estimated from Scottish Government figures that there would be about 410 additional people in custody at the end of a 12-year process starting two years from now.

Those are some of the knowns in the system. I am happy for people to discuss the unknowns.

Fergus McNeill: On that, I would just say that it may take 12 years to get to the point of having to spend the extra £16 million, but you will then have to keep on spending because the overall increase in the prison population will work through the system and you will be left with larger capacity needs than existed before because of a legislation

change that is not based on evidence around public safety, as far as I am concerned.

On Sarah Crombie's point, I agree that there is a problem about clarity and truth in sentencing and that the current arrangements do not sufficiently explain or make clear to the public or to victims of crime, or indeed to people who are sentenced for offences, what the effect and meaning of the sentence is. When something that is currently called a custodial sentence is passed, something much more complicated happens, which is that people are required to submit to a range of different forms of penal control, some part of which is custodial and some part of which is community based. In fact, in order to meet effectively the objectives or purposes of sentencing, those elements need to be combined; it is not possible to do the rehabilitative and reintegrative part of the punishment effectively unless there is a properly designed and resourced community part.

For that reason, I agree with Sarah Crombie's point. I think that a change in the language and the way in which the arrangements are described is crucial to enhancing public understanding and public acceptance—although that is not the same thing as actually changing the arrangements.

The Convener: No.

Mr White is next.

Pete White: I support what Fergus McNeill has just said. I think that clarity in sentencing is a—

The Convener: Fergus, Pete—you are all cosy in here. I do not know.

Mr White.

Pete White: Thank you, Ms Grahame—*[Laughter.]*—convener.

Recalibration of sentencing—so that when a sentence is announced or laid down in court it relates to a real time, rather than its being something that has been chopped and changed around—would be very helpful indeed for everybody involved, from the perpetrator who has been convicted, to the victim. A huge amount of clarity is required, but we have the potential to join things together and to come up with something coherent, which we do not have at the moment.

Lisa Mackenzie: I, too, have sympathy with the view that there is a real lack of clarity and transparency in sentencing, but provision of clarity is not how the bill is being advanced; it is being advanced on the basis that it will improve public safety. It does not have as a stated policy objective that it will improve clarity in sentencing.

The Convener: No, it does not, but that is an interesting point to make while we are considering the bill.

Christian Allard: Some interesting points have been raised that were not raised previously. I have a particular question on the spirit of the bill and how it was put forward in a staged manner to try to end automatic early release for all offenders. I think that that was welcomed by Sarah Crombie, for example. However, has the view changed, such that people around this table do not now believe that a staged approach should be accepted? I do not remember hearing that when witnesses gave us their views previously. We heard a lot about how a staged approach was maybe too little or not safe enough; whereas now some maybe believe that the Government is taking too big a step. I just want your views on whether we should have a step-by-step approach or whether we should stop that approach altogether and consider everything as a whole.

Professor Tata: In an ideal world, one would look at the whole thing together. I might be wrong, but I think that Victim Support asked in its submission why we should look only at long-term prisoners. I have some sympathy with its view. If we were really looking at the issue seriously, we would look at the whole thing. Indeed, back in 2005, the Sentencing Commission for Scotland produced a report on release that also noted that there would need to be recalibration of sentencing, so it looked at the whole thing. Unfortunately, the Custodial Sentences and Weapons (Scotland) Bill as introduced made a bit of a hash of the commission's report.

However, ideally one would want to look at the whole thing systematically. The problem is, of course, that we just do not know how. We have two laudable aims, but that is all they are. The big question is this: how do we combine those two things? We are trying to square the circle in that regard. As Miss Mackenzie said, we are just left with more questions than answers.

11:45

The Convener: Does somebody else want to come in? Witnesses have to indicate to me that they want to speak.

Professor McNeill: I am open-minded on the question of reforming the arrangements for short-term prisoners. There are pragmatic reasons why it makes sense for such prisoners to be processed in a slightly more automated way, but the problem in Scotland is that those who serve sentences of less than four years are not subject to post-release support and supervision. Those people are often at the highest risk of reoffending, even if they are not likely to cause very serious public harm.

The £16 million figure that I have mentioned would roughly triple the budget of the Scottish Government's change fund, which is a recent

initiative to try to enhance support for the specific population that I have mentioned through public social partnerships. That would be a massively more effective investment in public safety than spending £16 million on 400 new prison places.

The Convener: We are aware that there is no statutory support for people who serve sentences of less than four years. We have raised the issue regularly in the Parliament.

Who would like to speak next among the witnesses before I move on to another committee member? Mr White wants in.

Christian Allard: I wanted to—

The Convener: Mr White wants to comment; then I will come to Christian.

Pete White: I will repeat something that I said to the committee on my previous appearance. The bill enables governors to release prisoners one or two days before the end of their sentence. As I have said, it is very important that, whatever happens with the rest of the bill, that opportunity is made available now.

The Convener: I think that we are all happy about that bit.

Pete White: I am delighted that you are happy—thank you.

The Convener: Perhaps I should say that we are content. The bit that you mention is not an issue for the committee; the issue is the other changes that are being made.

Christian Allard: I seek clarity. Are the witnesses against the ending of automatic early release?

Professor McNeill: I am not against changing how it is described, and I am in favour of the concept that, when a judge determines that it is essential for reasons of justice that somebody serves a custodial sentence, they should serve a custodial sentence and they should be supported and supervised on release to ensure their reintegration. That is a matter of both public safety and rights, because they should be restored to a position whereby they can contribute effectively as a citizen in the same way as we are all expected to.

In the experience of imprisonment—Pete White can speak about the issue better than I can—in many respects the release phase is the most difficult phase, and if we do not get it right and give people the support that they need to make a contribution to society, we all suffer the consequences. Combining the custodial part of a sentence with a community part, whereby guaranteed support is made available, makes very good sense to me.

It is unhelpful that historically we have described the system as automatic release; it was even more unhelpful when we called it automatic unconditional release, because it was not unconditional. That led to poor—I was going to be rude about the previous political discussions of the issue. There was poor policy making because there was a reaction to political debate about a set of arrangements that were not poorly conceived in the way that they operated but were poorly presented to the public. Those are two completely separate issues. The truth-in-sentencing issue is important for public confidence, but it has very little to do with public safety. Therefore, the way that the system is described is important. However, for public safety reasons, and for reasons to do with the right of reintegration, it is critical that the system combines custodial sentences with post-release support.

The Convener: You say that the sentence should have a custodial part and a community part, so that all that is embraced within a sentence of sorts. How would you technically put that into legislation? When the courts declare a sentence, would they have to say, “You will serve X years as custodial and X years as community”? Alternatively, would the system be more flexible than that?

Professor McNeill: Two systems immediately come to mind. In many continental jurisdictions, an initial judge or judge at first instance says, “The punishment that you deserve for this crime is 10 years,” and the case is then passed to what is called an implementation judge or—I will do my French—a *juge de l’application des peines*.

The Convener: See these McNeills? [*Laughter.*]

Professor McNeill: It is the auld alliance.

The JAP—to use the shorthand—then determines the best way to execute or implement the sentence. That judicial figure has the authority to determine the point of release and the conditions of release, so they have a function that in our system is currently fulfilled by the Parole Board. Because they are judicial authorities, they have due process protections and are compliant with the European convention on human rights. That is their mechanism for dealing with it.

In that system, you do not necessarily specify at first instance how the split in the sentence between the custodial part and the community part will work out. That allows you to incentivise the person in prison to co-operate with the regime and to participate, in the way that our parole system is intended to do, but it retains a judicial involvement in determining the meaning of a judicially imposed sentence. For that reason, that system has merit.

Parole systems function in many common-law jurisdictions, and they function relatively well to

protect public safety and help with deliberations about the correct moment of release, but they are bedevilled by the problem of being unable to express clearly and simply what the sentence means, because that changes in response to how the person reacts to it. We have to decide whether we want a system that is absolutely transparent and explicit but is blunt in how it handles individual cases or a system that is a little bit complicated and in which we have to trust discretionary decision makers to exercise professional judgment in the collective best interests of the public. That is a political choice.

The Convener: Ms Mackenzie, do you want to comment?

Lisa Mackenzie: No.

The Convener: Oh—I was told that you were next. We cannot get the staff. I call Elaine Murray.

Elaine Murray: Although, in principle, I like what is now being suggested better than the previous suggestion, I am uncomfortable with the way in which it is being done. It was originally an amendment to the Criminal Justice (Scotland) Bill at stage 2, it came back as a bill, and now the bill is going to be significantly amended at stage 2. I am uncomfortable with that process.

Professor Tata mentioned the Sentencing Commission, which reported in 2005, and there was subsequently legislation, with the Custodial Sentences and Weapons (Scotland) Act 2007. However, I understand that there were a number of issues around that, some of which were flagged up by the McLeish commission, and the act was amended by another act in 2010, which I think was the Criminal Justice and Licensing (Scotland) Act 2010. How different is what is being proposed from what was possible after that act?

Professor Tata: It is a very interesting question. I suppose the answer is that we do not know, because there are no principles in what is being proposed. There are just two bold intentions—that is all—and we end up simply speculating about what things might look like.

One option might be to use one part of the Sentencing Commission's 2005 recommendations, which was then followed up by the 2007 act, which is the combined sentence regime that Professor McNeill alluded to. I agree that that has merit, because we can say, "This is the custodial part and this is the community part," and they are part of one overall package. That is a fairly sensible thing to do.

Again, however, we are speculating, as we do not know what is intended. It is an incredibly thorny issue, so I have great sympathy with the Government and the officials who are trying to work out what to do, but that is why we need a

proper process of reflection and review to work it out.

Elaine Murray: So the recommendation would still be that the bill is withdrawn and the sentencing council considers it, rather than that we press on with a preferable amendment to the bill.

Professor Tata: I would guess so. If you can keep the bit that Mr White mentioned about the one or two days, that would be good, but with the rest of it, one is left scratching one's head about what is intended. We end up speculating, and I am not sure that that is the best way of going about it. However, I agree that the combined sentence idea has real merit.

Professor McNeill: You will have seen from the evidence submitted this time that we, as witnesses, round-table participants or whatever we are today—

The Convener: You are witnesses.

Professor McNeill: —are all in a difficult position, because we do not know what is being proposed. We have option A and option B, and we have tried to interpret the minister's intentions.

If the intention is that we have a system in which the prisoner, if they do not satisfy the Parole Board, may max out and complete their custodial sentence and then be subject to further compulsory supervision, that could not be supported and I doubt its legality. There is a fundamental problem with that, if that is the proposal.

If the proposal is that we have a period of compulsory supervision that is part of the original sentence, we will be back to a variation of what we currently have. We would just be changing the moment in the process at which we determine that we must release.

Neither of those proposals strikes me as being adequate and neither of them will address the truth-in-sentencing objective or the broader questions of retributive justice. The evidence base on which we could assess their likely effect on public safety has not been presented to us, but my general understanding of the issues, from criminological research, is that there is very little reason to believe that lengthening the time spent in custody will have a net positive effect on post-release outcomes. There is no reason to believe that that will be the case, so it is back to the drawing board, to be frank.

Professor Tata: In answer to Elaine Murray's very interesting question, I should say that the key difference in the 2007 act is that it, unlike the commission's 2005 report, failed on—or chose to ignore—front-door sentencing. That was the biggest problem of all—as well as the fact that it

tried to push things down to 14 days, which is the other key difference.

Elaine Murray: So that was not rectified by amendments introduced by the 2010 act.

Professor Tata: No. You have to look at front door and back door together, as Professor McNeill said earlier. That is crucial.

Margaret Mitchell: There is a danger that we are missing the point. As Professor McNeill said, for eight years we have been looking at automatic early release. We have a bill in front of us that is not fit for purpose and we are now looking at a stage 2 amendment that will radically improve the bill, but it will not give total transparency in sentencing. If you want that, you move to Victim Support Scotland's point of view and do away with all automatic early release.

The point that is being missed is that the bill's *raison d'être* was supposed to be public safety and, if that is the case, reoffending rates and the revolving door must be looked at. There is a very real danger that if we put this issue to the sentencing commission, we put it into the long grass. We would delay things even further and not look at what is happening now in prisons or even whether prison sentencing, including community sentencing, is the proper disposal and whether decisions on it are based on the full facts available. Are the full facts available at the point of sentencing?

At this stage, we are very much in danger of saying, "Yeah, it would be great to have consultation," and, "Yeah, it would be good to put it to a sentencing commission," but what would the remit be, how long would a commission take to report and what would happen to the rehabilitation of people—that we know is not taking place in prison now—so that they do not present a threat to the public? By just narrowly looking at what early release will mean once the automatic part is out of it and how we deal with the problem of cold release, we are missing the big picture, which is very dangerous.

The Convener: I think that you were giving evidence there. Who am I to challenge you? You frighten me sometimes—but only sometimes.

Margaret Mitchell: Well, that's an achievement. *[Laughter.]*

Professor McNeill: I agree to a certain extent. At the end of my submission with Dr Barry, there is a suggestion that if we really want to look at public safety, we have to look much more seriously at reintegration. That is clearly related to the question of release, but the technical arrangements for how you do release do not address the question of reintegration at all.

To be fair to the Prison Service, in its organisational review, the resulting reform efforts and its response to the committee's work on purposeful activities, energy and effort are going into reforming prison regimes constructively. However, that will take time and resources. If the Prison Service's resources are deflected into absorbing increases in the prison population, the service's likely capacity to do the creative and constructive rehabilitative work that we all want will be diminished. Therefore, we have to hold the prison population down in order to improve the quality of prison regimes and so that we can spend the money making the reintegration process effective. That is why we have to deal with the front-door issue at the same time, because if we are not serious about how we control and manage the prison population in the first place, we can forget rehabilitation and reintegration. That work just will not happen and we will have an overcrowded and inefficient system that warehouses people and then ejects them back into society in conditions that are dangerous for them and for others.

12:00

Pete White: The argument that it will take a long time before we can agree on a good way forward to deal with release for those on long-term sentences misses the point that long-term prisoners are less likely to reoffend than short-term prisoners. We should thank the SPS for the work that it does to support long-term prisoners, because its effectiveness is evident. We should not gloss over the fact that it is short-term prisoners who go out and come back. At the moment, there are more than 20,000 liberations from prison a year, and those are not all long-term prisoners—not by a long shot. It would be helpful to get rid of that, but to rush into—

The Convener: I am sorry Mr White, but I want us to focus on the bill. I perhaps should have said that earlier. We agree that there are all those other issues, but the bill was apparently flawed at the start and, from what you are saying now, it is still flawed.

Pete White: Yes.

The Convener: Big changes are proposed that have not been properly consulted on, and there is the impact of that and we have the sentencing council. I want us to focus on that, because we have to write our stage 1 report for the Government about the issues. Obviously, you know about that from listening to the discussions.

Pete White: My apologies for straying.

The Convener: It is not your fault. I let the discussion run a bit, but we need to be focused. I think that we can accept the provision on releasing

people on different days of the week. That is not an issue. However, there is an issue about whether the other measure in the bill is curable or whether we just say that it cannot be amended.

As we know from the Criminal Justice (Scotland) Bill, stage 2 can be set forth and then a long time can be given to take evidence. We need to consider whether the bill can be amended in the way that the Government is suggesting or whether it is so big an issue that we have to start again, notwithstanding the important point that Margaret Mitchell raises that we have been a long time getting here. I seem to be hearing from you that we need to start again, but it would be helpful to the committee to make that clear.

Pete White: I think that we should start again.

Professor McNeill: I agree.

Lisa Mackenzie: I agree.

Roderick Campbell: The Government makes it clear in the policy memorandum that there has been no formal public consultation, as the measures are a manifesto commitment. Where does a manifesto commitment come in?

Professor Tata: I think that a manifesto—sorry, convener.

The Convener: That is fine. Just interact.

Professor Tata: If I am not mistaken, it was a manifesto commitment in the 2007 election, although I know that there was a minority Government after that. I think that most of the parties had that as a kind of slogan.

The Convener: It was not a slogan.

Professor Tata: As a headline point, then.

The Convener: As a principle.

Professor Tata: Indeed—as a principle.

The Convener: Thank you. That is what we are talking about.

John Finnie: Forgive me, Professor McNeill, because I do not have your original written evidence, but you have alluded to the point that I wanted to raise. It is about the circumstances in which we as parliamentarians find ourselves discussing things and the extent to which public opinion, whatever it may be, shapes that. Earlier, you talked about the background that has given rise to those manifesto commitments. We might say that it is positive that we have a cabinet secretary who in a short period has listened. Will you comment on the circumstances in which law has been made and whether this is the best way to do it?

The Convener: I do not want to open up a big discussion on that.

John Finnie: It relates very much to the circumstances, which have changed in a short period.

The Convener: This is a stage 1 inquiry, so I want to focus on the specifics of the bill. We would perhaps accept that there are good intentions but, because the Government has, as a result of evidence that we took previously, proposed changes, we want to see where we are going with the bill so that we do justice to the issue.

You seem to agree that you want to end automatic early release—I did not hear dissent from Christian Allard's point—but are you saying that this is not the best way to do it?

Fergus McNeill: This is maybe too philosophical, but you can have populist democracy or deliberative democracy.

The Convener: Or both, combined.

Fergus McNeill: My point is that in an area of policy making as complicated as this, in which it is important to get it right, you need a deliberative process that involves public consultation, debate and dialogue about the issues, which is not reactive to the misrepresentation of the existing system in the media and public discourse. That is what happened in 2006-07. When the Custodial Sentences and Weapons (Scotland) Act 2007 was passed, when I was advising the then Justice 2 Committee, the deliberative process in the committee was excellent, but there was an election looming and stage 3 went a different way from where I thought the evidence had been leading the committee. I understand the realities of that; I am not naive about it. However, it is critical for there to be cross-party political leadership in a deliberative democratic process about how to get this right. It is too important to mess with in the populist way.

The Convener: I do not think that we dispute that.

Roderick Campbell: I wanted to ask Mr Murch for further evidence beyond what we heard from Mr McConnell about the workings of rehabilitation programmes—for want of a better term—in the Prison Service for reducing reoffending. How much of a delay is there in getting on these programmes?

Eric Murch: Last year we delivered around 1,400 programmes of approved activities to prisoners around the estate. There is a waiting list. We base that on critical dates, but it is more complex than that. Some prisoners will deny that they have a problem until very close to their critical date and then they will try to move up the list. Some people are recalled into custody. We currently have about 675 recalls in the system who we have to mobilise quickly, which means that it is

not reasonable to expect that we can always catch everybody who scores with a lower need.

On the Supreme Court, the point was made about potential legal challenge. There is no jurisprudence that would suggest that there was a risk with determinate sentence prisoners. We would have to say that at this juncture. The organisation review has been mentioned. The Scottish Prison Service is looking to turn around a number of its processes, including conducting a full psychology programme review to ensure that we see the gaps and are able to mobilise better. We are changing the way our staff operate to ensure that they can do brief interventions and different types of intervention activity, not big programmes.

This is not just about programme delivery. Prisoners change and are rehabilitated in work that builds their social capital. There are linkages back into society as well; they learn skills and think in different ways about how they do things. As for the past year, the Prison Service for the next five years will be concentrating on changing how it does its business and the role of prison officers. That is quite a big ask. It is a big training task for the organisation. It is about changing how we do business.

We have also committed to having 42 throughcare support officers. The reason for that is that the Prison Service recognises the importance of throughcare and the fact that real rehabilitation happens in the community and people need support in order to reintegrate back into the community. In other words, it is about waking up to the fact that it does not stop at the prison gate.

The Convener: The committee is well informed on that.

Sarah Crombie: I reiterate that we support the ending of automatic early release. To us, it takes away from the complexity for victims in understanding when the offender is going to be released. We often get phone calls from people saying that they did not understand the sentencing at the front end and now they have received a letter to say that the offender is up for release into the community.

We absolutely recognise the importance and relevance of supervision and reintegration into the community. It is a matter of ensuring that the victim has their choice, and that they are aware of it. They should have a choice when it comes to any perceived risk to their personal safety. If they do not wish to bump into the offender in an area where they know they may be, it is their choice to avoid that area or to move their kids from school if they so wish. It is important to the victim to have that awareness and understanding.

The Convener: Would your organisation have concerns if the ending of automatic early release—whatever we call it—was deferred for a considerable period?

Sarah Crombie: I believe that we would, yes.

The Convener: That is where we need your assistance with regard to the letter from the cabinet secretary and how it would be possible to move the bill forward rather than kicking the matter into the long grass for a long time, as Margaret Mitchell was saying.

Professor Tata: I can see that. The problem is that the letter from the cabinet secretary is trying to combine two things, but how you do that is a big question. Both things are virtuous, and we would probably agree with both of them. To that extent, it is a good thing, but the big question is how to do it. There is a whole range of questions of principle, practice and logistics. The basic principles need to be thought about first.

There is a worry about rushing it. As Margaret Mitchell said, we have had eight years, perhaps for understandable reasons, but it now feels as if there is suddenly a desire and an urgency to do things straight away.

The Convener: Even if it is possible for a committee to ask to defer a stage 2—or for the Government to do so—or for the committee to take further evidence on specific amendments, how would one manage that? Would it be manageable to do that, rather than deferring the matter for years and years again? At least if we have something in front of us, we have to do something—we cannot just extend the process.

Professor Tata: The work of the committee is absolutely to be welcomed, but I guess that the committee has then to respond to the Government amendments. The question is how the Government will come up with such amendments if it does not consult and have time to think them through.

The Convener: That is what I am saying. It is not necessary to keep to a short timetable at stage 2. The committee can ask for time to take evidence on amendments, almost like another stage 1.

Professor Tata: True, but that is necessarily to react to amendments lodged by the Government, and my concern is how well thought through those amendments will be and how imaginative the committee can be in that situation.

Professor McNeill: To pick up on a point that Sarah Crombie made, if the Government and the committee choose to persevere with the bill and choose option B—not involving additional supervision but working within the framework of the existing sentence—to meet Victim Support

Scotland's legitimate demand for clarity, the bill would have to include provisions to change the way in which sentencing is described, explained and made clear in the first instance. That is not currently a purpose or stated intention of the bill. There is a problem there. That might be remediable through parliamentary procedure, although I am not an expert on that.

The Convener: Eyebrows are up—that is not within the purposes of this bill.

Professor McNeill: A second point is that, if we go down that route and consider option B, which is a period of compulsory supervision within the existing sentence, the key question is what evidence base you would review at stage 2 in order to arrive at a determination about the timing issues. You have already identified that in your questions to us in advance of this evidence session. We have not been very able to answer them clearly, because we do not know the clear intentions of the bill. Monica Barry and I have given you our best guess about how we would frame it if that was the intent.

To me, the fundamental problem is that we are muddying the waters by talking simultaneously about clarity in sentencing and public safety. Those two issues are related and they are both important, but we cannot tackle one by doing something that claims to be about the other. Victim Support Scotland's position is completely understandable from the perspective of victims' legitimate interests in having clarity and understanding the situation that they are in, but I find it hard to see how the bill, which is crafted around public safety, can address their legitimate interests.

12:15

The Convener: Before I bring in Ms Mackenzie, I have just been checking and I have been advised that it might be possible to get that clarity about sentencing and so on in the Criminal Justice (Scotland) Bill, which has a much wider remit. I might be clutching at straws, but that might be a possibility.

Lisa Mackenzie: Some of the points that I wanted to make have been covered by Professor Tata and Professor McNeill, but I return to the point that an assumption is woven into the bill that keeping people in jail for longer is what will improve public safety. A lot of us are asking where the evidence base is for that.

As I said at our previous meeting, if you advance a bill on the platform of improving public safety and you trumpet the measures that you are taking, saying that they are wonderful and they are going to improve things, but then something happens, you run the risk of increasing public

levels of cynicism about the criminal justice system, which as we know—and as Victim Support Scotland has said—are already quite high. People do not understand a lot of sentencing policy. If you advance something on a platform, you must deliver on it. Otherwise, you could increase cynicism about the criminal justice system, which is not what any of us wants.

The Convener: I do not think that we are content about cold release. I think we have taken that point.

Gil Paterson: A point was made about the committee reacting to the Government and the letter. Of course we need to do that, but we also need to react to what we hear in evidence from the panels that come before us, and my recollection is that we have concentrated pretty well on cold release. It seems to me that the Government's letter proposes that cold release does not happen. I would like to hear some comments on that. Have I got it wrong? Is that not what we have been told by the cabinet secretary?

Professor McNeill: That is what the letter says, but it does not tell us how. That leaves us in a conundrum about option A or option B. As I said, option A is not workable, from my understanding of the law and the evidence. Option B is workable, but it does not address Victim Support Scotland's concern, because in effect it creates a new system of automatic early release but calls it something else and changes the dates. That is the net effect of option B. Unless the bill can be amended or some other legislative device can be found so that something is done about clarity in sentencing in the first instance, we cannot address Victim Support Scotland's concerns appropriately or deliver what it is requesting.

Elaine Murray: I invite the witnesses to comment on an alternative. We know that the 2007 act and the amendments in the 2010 act were passed but not implemented. Would another possibility be to pass the bill but not implement it until some of the front-end issues have been addressed?

Professor McNeill: We have been there. The 2007 act is still sitting on the statute book unimplemented. That is part of the political pressure that led to the current effort. I do not think that it makes sense to pass legislation that you know you are not intending to implement.

Elaine Murray: It would not be implemented until certain other things have taken place. That is what was supposed to happen.

Professor McNeill: You are right about that, but we are still a long way off the 5,000 figure, which the McLeish commission recommended as the point at which the 2007 act might be implemented.

Professor Tata: I agree. I am not sure that Elaine Murray was suggesting this, but I am slightly uneasy about passing legislation that we think is probably not very good, in the hope that the Government of the day will sort things out. We might trust the current Government, but it worries me that another Government might be far less responsible.

The Convener: I think that Elaine Murray meant to explain that the legislation would be deferred while other mechanisms were put in place.

Elaine Murray: Yes, such as the sentencing council.

Professor Tata: In the meantime, we must ensure that any legislation that is passed is the very best that it can be. It will be the most radical change for 20 years.

The Convener: That is certainly the committee's view, as well. Please understand that.

Professor Tata: I know.

Roderick Campbell: I want to pick up on Lisa Mackenzie's point on empirical evidence. What are you suggesting that empirical evidence elsewhere would show, in relation to public safety? Is there empirical evidence out there?

Lisa Mackenzie: I am probably not the best person to answer that, because I am not an academic. However, I am not sure whether evidence suggests that holding people for longer, rather than releasing them and supervising them for the remainder of their sentence, is likely to lead to fewer incidents of reoffending and thereby to increase public safety. Other people around the table might want to say something—Fergus McNeill has his hand up.

Professor McNeill: Recently, the National Academy of Sciences published a report by a very high-powered commission led by the world's leading criminologists under the leadership of Professor Jeremy Travis of John Jay College of Criminal Justice in New York. The report is on the consequences of the rise in imprisonment in the United States; it considers its effect on crime rates and reaches a conclusion that criminologists have reached before, which is that even massive increases in incarceration rates produce only marginal effects on crime rates. That is a different question from the more specific question that the bill seeks to address in relation to public safety. Obviously not all crime raises major issues of public safety, although all crime is of legitimate public concern.

I am not aware of any credible evidence that lengthening sentences in and of itself guarantees the more effective risk management that the bill seems to be trying to bring about. I am not able to put it more forcefully than that, because for

obvious reasons of justice it is very difficult to do the kind of research that would experimentally test different release arrangements. We do not really get to do that kind of experiment in criminology, for very good reasons.

I can say that evidence on desistance from crime, which is more my specialised subject, suggests that it is not the timing of release, but the experience of imprisonment, access to the services that are needed, the manner of release, the support that follows release and wider issues about public acceptance and reintegration in the community that matter in the medium and long terms, in relation to someone's potential risk or otherwise to public safety.

The Convener: I have to laugh because while you were saying that Professor Tata indicated that he wanted to come in, then that he was out, then he was in, then he was out. [*Laughter.*] You have obviously covered everything. Believe you me, that is a fact.

Margaret Mitchell: There is a false argument that keeping people in prison longer improves public safety. It will improve public safety only if on release they are a threat to the public. Surely a custodial sentence should be based first on foremost on whether the individual presents a threat to public safety. If they do and there is no other way to eliminate that, there should be a custodial sentence. There should be more clarity and transparency in custodial sentencing, so I agree with Victim Support Scotland that we should abolish all automatic early release.

The key question is this: what do we do with the individual while they are in prison? We are not focusing on that. We have heard very good things from Eric Murch, but the point is that the resources are not there. Christian Allard is quite right that people on short-term sentences are reoffending more, and the way that that is escalating presents a threat to the public. I met Circle yesterday to talk about an individual who was on a short-term sentence, and for whom there was no support; none of the throughcare that is supposed to be there was there. The individual was saying that he was excited about getting out, but he wondered whether he was better off in prison. He knew that he had no housing to go and that there would be temptations when he got out. Until we address that fundamental point, neither the bill nor where are going with this discussion are fit for purpose.

The Convener: You have got that off your chest and we would probably agree with a lot of it. My point is that we should get back to the bill that we are dealing with. I was quite attracted to suggestion about custodial and community parts, but that will have to be dealt with by the sentencing council and it would have to be clear

for Victim Support Scotland. It may not fit into this bill.

I am sure that the cabinet secretary is listening to this. Do parliamentary procedures give us the opportunity either to cease at stage 1 and have a really thorough pause at stage 2 while there is some consultation, or for the committee to move to stage 2 and get time from the Parliamentary Bureau to take evidence and take longer over amendments, rather than park the bill?

If we did that, it would also park the issues that Pete White raised regarding release at different times of the day. I do not think that we could just go ahead with that, to be frank. The question is how we manage this so that we keep the foot on the accelerator. That would not just be for the sake of doing so; it would be in order to deliver good legislation and to get on with it, rather than going on for years again. That is what I am looking for when it comes to the witnesses' evidence. We accept many of the issues that you have raised; I suppose that I must go round you and ask for your views.

Sarah Crombie: Victim Support Scotland supports the ending of automatic early release. However, we acknowledge that further evidence may be required.

The Convener: You would continue the bill process in some manner.

Sarah Crombie: Absolutely.

Professor Tata: Automatic early release could be ended, but to ensure—as per the aim in the cabinet secretary's letter—that everyone gets a mandatory period of conditional supervision, as I assume they would, it would have to be reinvented, perhaps using another name. There are ways of doing that.

You are asking about the process, convener: I am not sure that I am the best person to answer the question.

The Convener: I am not asking you about process. There are ways of resolving the matter. We accept the issues that you have raised, and we note the points about complexity and interaction with the sentencing council and other things, but how should we as a committee deal with the matter? Should we just throw the bill out and start again? Should we seek to amend the bill to make it fit the principles that the Government has come forward with? It can be done, but I do not know whether that is what you want to do, or whether you think that it is worthwhile.

Professor Tata: At the moment, all that we have from the Government is a letter with two intentions.

The Convener: Correct.

Professor Tata: If the bill is not withdrawn, the question is then what will the bill look like. We are necessarily responding to that. My concern is not so much with the committee, which is clearly trying to do what it can. How will the Government bring forward its proposals, and on what basis? How will it consult? Will it consult? One can try to react imaginatively, but one is reacting to what the Government puts forward.

The Convener: We could have the cabinet secretary in front of us and we could raise those issues. No doubt the Government is listening to this evidence. We could set out the issues that have been raised before the committee and ask whether it has solutions.

Professor Tata: My concern is that this is—as everyone around the table knows—a technical and incredibly complex area of law. However, as you know, the matter is also politically charged: there are two elections coming up, which makes the option of giving the matter to an impartial body to consider a little bit more attractive.

The Convener: I do not know what impartial body you are talking about.

Professor Tata: I mean the Scottish sentencing council, for instance.

Professor McNeill: I do not know parliamentary procedure, so I do not know exactly what your latitude is in persevering. If you were to persevere, minimally extending the period of deliberation so that it can involve dialogue with the sentencing council and others about their plans and views on the relationship between first-instance sentencing and release decision making would necessarily be a part of that extended stage 2 process.

My fundamental problem is this, however. When the then First Minister Jack McConnell announced in Parliament that automatic early release would end, he did it under pressure, on a truth-in-sentencing point, which I think came from the Opposition in 2006-07. When all the parties on the committee at the time except the Scottish Socialist Party voted to let CSAW—the Custodial Sentences and Weapons (Scotland) Bill—go forward to stage 2, they agreed that the principles were good, but that there were flaws in the detail. They did that under pressure of an imminent election, and they were responding to popular opinion about the fact that automatic early release did not seem to be delivering justice as people understood it.

12:30

We are now in a similar situation again, where, for political reasons, a new minister—I maybe should not go this far, but I will—wants to grasp the nettle and address the issue. That means

saying that justice policy in Scotland is going to be smart and progressive, and that it will take social justice seriously but it will not be soft and cuddly. Grasping the nettle makes a degree of political sense. However, muddying that up with an extended discussion about risk and public safety causes a fundamental problem with what is before us.

To return to a point that I made earlier, a lot depends on whether the committee and the Government want clarity, which is Victim Support's core point, or whether they want to pursue public safety or, which would be better, balance those two important objectives. It is feasible to pursue option B, with an extended stage 2 deliberation involving dialogue with the sentencing council and others. If I had my way, I would tear up the bill and start again and do the thing properly and comprehensively. If it is important to persevere for other reasons, however, there would have to be an extended stage 2 process.

The Convener: That is fair enough. That is a fine, extensive explanation of your position, which is what we want.

Sean McKendrick: My comments are less about ethics and more around how we manage the process for public protection. For me, there is an outstanding question; I refer to my earlier comments about how effective our current arrangements are and the review of MAPPA. Wherever the detail is, it will require a multi-agency response. That is important for us, and the question is around the effectiveness of our current arrangements.

Secondly, we are in straitened financial times, so the resource for managing the increased number of individuals and the greater intensity of service provision that they will require needs further examination.

We are in a process of significant public change in health and social care and we are moving from community justice structures to community planning. How effective is that, and what analysis is being done of those changing arrangements? How will integration of health and social care and the associated policy commitments impact on the set of arrangements in the bill? Such operationally focused matters require greater deliberation. If those can only complement the more procedural aspects, or the more ethical aspects around the complications of how you make law and how you address facets of law, that leads me to suggest that a further period of reflection, consultation and analysis is required.

The Convener: The point that you make is very important. There is no point in making law that cannot for practical reasons be implemented.

Sean McKendrick: I add that it is also a matter of understanding the impact of the law.

The Convener: The financial impact—absolutely.

Eric Murch: I am not sure that it is for the SPS to comment, except to say that we will contribute and, if and when the bill is enacted, we will be ready for it.

The Convener: Thank you.

Yvonne Gailey: I wish to follow up on Mr McKendrick's points. If the concern is about public protection and the management of the risk that is posed by those who present the greatest risk of serious harm, we want to get to a point where release is carefully considered: its timing, the support that is provided, and its planning and management. Given the resources that would be involved in that for the Parole Board for Scotland and community services, we need further scoping and understanding of the number, characteristics and circumstances of the cases that give particular concern at the moment. In taking the matter forward, it would be valuable to get more evidence about that.

Pete White: I find myself in a tricky position here. Ideally, I would tear up the bill and start again. However, given the evidence from Victim Support Scotland and from the academics, I recognise that it is important to be positive and to move forward. If I can be assured—as I feel I can be—that the stage 2 process can embrace the concerns that are being expressed around the table, I will go with it.

Lisa Mackenzie: I agree with Professor McNeill. My ideal would be to start again and present the empirical base for the bill to proceed. The stage 2 extension is less than ideal, but pragmatically that might be all that the committee is able to do.

I return to the point about the release period, as stated in the two-page letter. I cannot see that option A—tagging compulsory supervision on to the end of the sentence—is workable.

The Convener: We are all shaking our heads.

Lisa Mackenzie: However, option B is automatic early release by another name. That is what I mean about public cynicism—I was not talking about cold release. I completely agree with the need for clarity on sentencing, but people would say that option B is just automatic early release called something different. In which case, why should we do it?

The Convener: Whether the cabinet secretary and the Government thank you for your evidence is another matter, but I thank you very much for your evidence.

We have time to call the cabinet secretary to answer the questions that have been raised; I think that we wish to proceed in that way. I am looking round for nods from my committee—I see that Margaret Mitchell has already got her pencil sharpened.

The committee will report to the Parliament on the general principles of the bill in mid-March. Our next meeting will be on 3 March—[*Interruption.*] Some of us do not know when we are meeting because members are talking. We are still in session. Our next meeting will take place on 3 March, when we will begin taking evidence at stage 1 of the Human Trafficking and Exploitation (Scotland) Bill. I hope that before we do that we each get the chance to report on our recent visits to various organisations. We will factor that in.

That ends the meeting. You may now communicate with each other in an informal fashion.

Meeting closed at 12:37.

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