



The Scottish Parliament  
Pàrlamaid na h-Alba

## JUSTICE COMMITTEE

### AGENDA

3rd Meeting, 2013 (Session 4)

Tuesday 29 January 2013

The Committee will meet at 10.00 am in Committee Room 1.

1. **Decisions on taking business in private:** The Committee will decide whether to take items 6 and 7 in private.
2. **Subordinate legislation:** The Committee will take evidence on the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 [draft] from—

Kenny MacAskill, Cabinet Secretary for Justice;

Nigel Graham, Policy Adviser, Criminal Law and Licensing Division, and  
Craig McGuffie, Principal Legal Officer, Solicitors Criminal Justice, Police  
and Fire Division, Scottish Government.

3. **Subordinate legislation:** Kenny MacAskill (Cabinet Secretary for Justice) to move—

S4M-05457—That the Justice Committee recommends that the  
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)  
(Scotland) Order 2013 [draft] be approved.

4. **Prison visits:** Committee members will report back from their recent prison visits.
5. **Inquiry into purposeful activity in prison:** The Committee will take evidence from—

Colin McConnell, Chief Executive, Scottish Prison Service.

6. **European Commission Work Programme:** The Committee will consider its approach to scrutiny of the European Commission's Work Programme 2013.
7. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

**Agenda item 2 and 3**

Paper by the Clerk

J/S4/13/3/1

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

**Agenda item 4**

Paper by the Clerk

J/S4/13/3/2

**Agenda item 5**

Paper by the Clerk (private paper)

J/S4/13/3/3 (P)

[Inquiry into purposeful activity in prisons - written evidence](#)

**Agenda item 6**

Paper by the Clerk (private paper)

J/S4/13/3/4 (P)

[European Commission work programme 2013](#)

**Agenda item 7**

Paper by the Clerk (private paper)

J/S4/13/3/5 (P)

**Papers for information**

Letter from the Cabinet Secretary for Justice on Making Justice Work

J/S4/13/3/6

**Justice Committee****3<sup>rd</sup> Meeting, 2013 (Session 4), Tuesday, 29 January 2013****SSI cover note**

**SSI title and number:** Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 [draft]

**Type of instrument:** Affirmative

**Justice Committee deadline to report on the SSI** 4 March 2013

**SSI drawn to Parliament's attention by Subordinate Legislation Committee:** No

**Purpose of instrument:**

1. The purpose of the instrument is to consolidate the current Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, as amended. More details on the purpose of the instrument can be found in the policy note (see annexe).

This draft Order replaces the one laid on 11 December 2012 that was subsequently withdrawn on 10 January 2013.

2. An electronic copy of the instrument can be found at:

<http://www.legislation.gov.uk/sdsi/2013/9780111018767/contents>

**Background to instrument**

3. This instrument relates to the Act of Sederunt (Rules of the Court of Session Amendment No 3) (Miscellaneous) 2012 (SSI 2012/189) which was laid before the Parliament in June 2012. The instrument was not subject to any parliamentary procedure and came into force in July 2012.

4. In considering the instrument, the Subordinate Legislation Committee concluded that it was of doubtful vires in that it purported to require persons applying to appear in court as lay representatives to disclose spent convictions. The Subordinate Legislation Committee considered that it was not within the powers of the Court of Session to make provision requiring the disclosure of spent convictions in such cases and that this was a matter for Ministers in terms of an order under the 1974 Act.

5. This order being considered today addresses this point. The explanatory note states that the order includes lay representatives as a means of putting beyond doubt the vires of the court to seek information on spent convictions in such circumstances.

6. The Ministers have therefore responded to the Subordinate Legislation Committee's concerns.

**Affirmative instrument – procedure**

7. The draft Order was laid on 15 January 2013 and referred to the Justice Committee. The Order is subject to affirmative procedure (Rule 10.6). It is for the Justice Committee to recommend to the Parliament whether the Order should be approved. The Cabinet Secretary for Justice has, by motion S4M- 05457 (set out in the agenda), proposed that the Committee recommends the approval of the Order. The Cabinet Secretary will attend this meeting to answer any questions on the Order and then speak to and move the motion. The subsequent debate may last for up to 90 minutes.

At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly, by 4 March 2013. Members are asked to delegate to the Convener authority to approve the report for publication.

**Annexe****Policy Note****Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland)  
Order 2013 [draft]**

1. The above instrument will be made in exercise of the powers conferred by virtue of sections 4(4), 7(4) and 10(1) of the Rehabilitation of Offenders Act 1974 (c.53). The instrument is subject to draft affirmative resolution procedure.

**Policy objectives**

2. The main purpose of this instrument is to consolidate the current Rehabilitation of Offenders Act 1974 (Exclusion and Exceptions) (Scotland) Order 2003, as amended ("the 2003 Order"). In addition, a number of minor changes to the Order are being made in relation to other recent legislative changes.

**Background**

3. Under the terms the Rehabilitation of Offenders Act 1974 ("the 1974 Act"), anyone who has been convicted of a criminal offence and sentenced to prison for less than two and a half years or received an alternative to prosecution (AtP) can be regarded as rehabilitated after a specified period provided he or she receives no further convictions. After the specified period, the original conviction or AtP is considered to be spent. The general rule is that, once a conviction or AtP is spent that individual does not have to reveal it and cannot be prejudiced by it. This means that if an ex-offender whose convictions or AtPs are all spent is asked on a job application form, or at a job interview, whether they have a criminal record, they do not have to reveal or admit its existence. Moreover, an employer cannot refuse to employ someone or dismiss someone because of a spent conviction or AtP.

4. However, there are some categories of employment and proceedings to which the 1974 Act does not apply as it is considered appropriate that access to spent conviction information continues to be available for the purposes of public protection. The 1974 Act provides an order making power to specify the types of employment and proceedings that are excluded from the Act and therefore where disclosure of spent convictions is required. The main purpose of the 2003 Order is to protect the public. The intention is not to directly debar ex-offenders from types of work set out in the Order, but instead allow a potential/actual employer to be informed about spent convictions if the work is covered by the 2003 Order. Positions involving a particular level of trust, such as work in the childcare and health professions, are excluded from the normal application of the 1974 Act to ensure there is adequate protection for children and vulnerable people in particular by allowing employers to be informed about the background of potential/actual employees.

## **Consolidation of the 2003 Order**

5. Since the 2003 Order was made, there have been a number of changes (16 in total) to the Order in a series of modifying statutory instruments. While none of these changes have significantly altered the 2003 Order, it has led to it becoming increasingly difficult to use through the need to cross reference an ever increasing number of statutory instruments when using the Order. Therefore, we think it will be beneficial to users of the Order to consolidate the 2003 Order into one new Order.

## **Independent Schools Tribunals**

6. Paragraph 7 of Schedule 1 to the Order previously referred to proceedings before an Independent Schools Tribunal in respect of matters relating to the suitability of a person to be a proprietor of an independent school under section 102 of the Education (Scotland) Act 1980. However, appeals to Independent Schools Tribunals were abolished with effect from 31 December 2005 by the School Education (Ministerial Powers and Independent Schools)(Scotland) Act 2004. As such, appeals now lie with the Sheriff Principal. We have amended paragraph 7 of Schedule 1 to reflect the fact that appeals now lie with the Sheriff Principal.

## **National Lottery Act appeals**

7. Paragraph 14 of Schedule 1 to the Order previously referred to proceedings by way of an appeal to the Secretary of State against the revocation of a licence under part 1 of the National Lottery etc. Act 1993. However, the ability to appeal to the Secretary of State against a revocation of a licence under this Act has been replaced with a right of appeal to the Court of Session by the National Lottery Act 1998. We have amended paragraph 14 of Schedule 1 to reflect this change.

## **Financial Services Authority**

8. There are a number of minor changes being made in this area. The 2003 Order currently allows the Financial Services Authority (FSA) to take spent convictions for relevant offences into account when authorising a person to carry out regulated activities under the Financial Services and Markets Act 2000 (FSMA). The “relevant offences” are defined in the existing 2003 Order. Although they cover a range of offences relevant to the FSA’s considerations, the FSA advise that there are non-relevant offences which could impact their decisions. Accordingly, in 2007, England & Wales removed the limitation to “relevant offences” within their equivalent to the 2003 order. At the request of the FSA, this Order will enable the FSA to consider all spent convictions where Scots law applies and brings the Order in line with the position in England and Wales.

9. The UK Government has implemented the Electronic Money Directive (2009/110/EC) through the Electronic Money Regulations 2011 (EMRs) with the effect that electronic money institutions have to be authorised or registered to issue e-money under the EMRs, rather than under FSMA. As such, they fall outside the scope of the 2003 Order although they are regulated by the FSA in much the same way. We are making an amendment that will extend the provisions in the Order to electronic money institutions authorised or registered under the EMRs. This is a

technical change rather than a policy change to maintain the status quo under the terms of the Order.

10. We are also extending the current exception to a new category of institution, called payment institutions, created in 2009 by the Payment Services Directive (2007/46/EC) implemented through the UK Government's Payment Services Regulations 2009. As such, a large number of firms have been brought within the scope of FSA regulation, but anomalously fall outside the scope of the 2003 Order with potentially adverse consequences. The FSA advise that there is a weakness in the registration process for such institutions that needs to be addressed. The equivalent of the 2003 Order in England & Wales has been amended to address this issue and our amendment ensures the law will operate the same in Scotland as it currently does in England and Wales.

11. There was also a problem with the format of paragraph 5 of Part 1 of Schedule 2 to the Order. Paragraph 5 referred to the second sub-paragraph of paragraphs 8, 14 and 16 in the first column of the table in Part 2 of Schedule 2 but paragraph 14 had no second sub-paragraph. We have removed the reference to paragraph 14 from paragraph 5 of Part 1 of Schedule 2 and have made some changes to paragraph 6 in order to more accurately reflect the policy intention behind paragraph 5. Paragraph 6 now enables disclosure of spent convictions in proceedings relating to a decision by the Council of Lloyd's to dismiss a person who is, or to refuse to promote or exclude a person who is trying to become, an associate of a Lloyd's underwriting agent.

## **Legal services**

12. Under the Legal Services (Scotland) Act 2010, licensed legal services providers are licensed and regulated by approved regulators. Approved regulators are required to ensure that non-solicitor investors in licensed providers are 'fit and proper' persons and can consider the suitability of those appointed to certain named positions such as heads of legal services, heads of practice and members of practice committees. Under the Legal Services (Scotland) Act 2010 an approved regulator is a professional or other body which is approved as such by the Scottish Ministers under section 7 of the Act. Currently, approved regulators are not able to take into account the spent convictions of non solicitor investors, under the 1974 Act. This is in contrast with those who can currently own law firms in Scotland (solicitors), and the equivalent of individuals in similar positions in Alternative Business Structure (ABS) entities in England and Wales.

13. The UK Government recently took steps to allow the consideration of spent convictions in relation to investors with a restricted interest in ABS entities and those acting as head of finance and administration or head of legal practice in a licensed body. This creates some inequality of treatment between solicitor and non-solicitor investors, and between those involved with ABS entities in Scotland and those in England and Wales.

14. We are using this Order to permit the approved regulators to consider spent convictions where appropriate, as part of their assessment of the fitness of investors and those in certain named positions within licensed providers. The policy aim is to ensure parity of treatment between solicitor and non-solicitor investors; increase the

robustness of the fitness for involvement test; and ensure broad equivalence with the assessment of fitness in England and Wales.

### **Lay representatives**

15. Sections 126 and 127 of the Legal Services (Scotland) Act 2010 (“the 2010 Act”) amended the Court of Session’s rule making powers so as to enable rules to be made permitting a lay representative to make oral submissions to the court on behalf of a party to the cause in any proceedings in the civil courts.

16. The Court of Session Rules Council have considered how best the role of lay representatives can be incorporated into the running of the civil courts. In particular, they have considered on what grounds the court will allow an individual to take on the role of a lay representative. The Court of Session Rules Council consider that it is important that court is entitled to refuse to allow any particular person to become a lay representative on specific grounds of character and conduct. With this in mind, the Act of Sederunt (Rules of the Court Session Amendment No. 3) (Miscellaneous) 2012 came into force on 9 July 2012 which includes a form that any person seeking to become a lay representative must complete. The form includes questions regarding any previous convictions a person has.

17. Further to a request from the Subordinate Legislation Committee during their consideration of the Act of Sederunt, the Lord President confirmed that it was intended that anyone who wished to become a lay representative – and who therefore was required to complete the form contained within the Act of Sederunt – should include details of both unspent and spent convictions under the meaning given in the 1974 Act.

18. Following discussion with the Lord President’s Office, we have included lay representatives within this Order as a means of putting beyond doubt the *vires* of the court in seeking information on the spent convictions of anyone seeking to become a lay representative. Advocates and solicitors are already covered by the 2003 Order and we consider it is appropriate and reasonable that the court should have access to information relating to the spent convictions of anyone who is seeking to become a lay representative as they make a decision as to whether to allow someone to become a lay representative.

### **Persons appointed to assist the police**

19. Section 9 of the Police (Scotland) Act 1967 (“the 1967 Act”) allowed police authorities in Scotland to employ people to assist police officers in the carrying out of their functions. This was reflected in the wording of paragraph 6 of Part 2 of Schedule 4 of the 2003 Order which had the effect of ensuring that anyone who was employed for the purposes of assisting constables in the carrying out of their functions would be required to disclose spent convictions. Section 9 of the 1967 Act will be repealed by the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) and will be re-enacted in section 26 of that Act. Although the underlying policy remains the same in the 2012 Act (i.e. persons can be appointed to assist police officers), section 26 of the 2012 Act is framed in a slightly different way from how section 9 of the 1967 Act. We have made consequential changes to paragraphs 6 and 8 of Part 2 of Schedule 4 of this Order to reflect the forthcoming repeal of



section 9 of the 1967 Act (however, these technical changes do not require the 2012 Act to come into force before they can operate as they can also operate in conjunction with the existing 1967 Act provision). Overall, the policy of these paragraphs in this Order remains the same as the equivalent paragraph in the 2003 Order i.e. the policy of requiring persons appointed to assist the police to disclose their spent convictions remains unchanged.

### **Traffic wardens**

20. Paragraph 8 of Part 2 of Schedule 4 of the 2003 Order refers to traffic wardens appointed under section 95 of Road Traffic Regulation Act 1984 (“the 1984 Act”) or section 9 of the 1967 Act. There is no need for an explicit reference to the 1967 Act (or indeed to the 2012 Act with the repeal of the relevant provision in the 1967 Act) as the reference to section 95 of the 1984 Act is sufficient to ensure traffic wardens are covered by the terms of the Order. We are therefore taking this opportunity to make a technical change to simplify the wording of the Order.

### **Signing functions**

21. The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”) made changes to the signing services of Justices of the Peace. A consequence of this change was that the number of Justices of the Peace reduced significantly and in order to ensure adequate access to signing services, section 76 of the 2007 Act provides that Councillors may also perform signing functions. We have therefore updated paragraph 3 of Schedule 4 to the Order to remove a redundant reference to ‘signing justices’ and to refer instead to justices of the peace and members of local authorities with signing functions under section 76 of the 2007 Act.

### **Definition of actuary**

22. On 1 August 2010 the Faculty of Actuaries and the Institute of Actuaries merged to become the Institute and Faculty of Actuaries. We are using this Order to alter the definition of actuary to reflect this merger.

### **Consultation**

23. The Scottish Government has discussed the details of the amendments with relevant bodies, with many of the changes being undertaken at the request of the bodies in question. We have not undertaken a full consultation due to the relatively minor and technical nature of the amendments.

### **Commencement**

24. It is intended that the Order will come into force on the day after the day on which it is made.

### **Impact assessments**

25. The consolidation of the existing 2003 Order in this Order does not raise any equality issues. The policy changes contained within this Order are relatively minor

and, following careful consideration, we do not consider there are any equality issues arising from the terms of this Order.

**Financial effects**

26. It is not envisaged that there will be any significant financial implications/costs as a result of this Order.

Scottish Government  
Criminal Law & Licensing Division  
January 2013

## Justice Committee

**3<sup>rd</sup> Meeting, 2013 (Session 4), Tuesday, 29 January 2013**

### Report back from prison visits

#### Background

1. At its meeting on 27 November 2012, members agreed that it would be useful to make a number of prison visits. The purpose of the visits was to inform members' overall knowledge and understanding of issues surrounding the criminal justice aspect of the Committee's remit.
2. At its meeting on 4 December 2012, the Committee agreed to undertake a short inquiry into purposeful activity in prisons. It was agreed to that, as part of the prison visits, members would consider the issues raised within the inquiry remit.
3. The visits were held over various dates in January 2013 to the following prison establishments—

Date	Prison	Member
Monday 14 January	HMP Inverness	John Finnie
Tuesday 15 January	HMP Edinburgh	Colin Keir and David McLetchie
	HMP YOI Polmont	Christine Grahame and Alison McInnes
Monday 21 January	HMP Low Moss	Graeme Pearson
Tuesday 22 January	HMP Barlinnie	Sandra White
	HMP Perth	Roderick Campbell

4. Members' report backs from each visit are attached to this paper.

#### Action

5. Members are invited to report back on the main issues raised by their visits.

## **Justice Committee**

### **Report back from HMP Inverness– John Finnie MSP**

#### **Key themes and issues raised**

- short sentences of 3 to 6 months which do not give prisoners opportunities to engage in purposeful activity
- availability of accommodation within the prison to provide activities
- geographical area which presents difficulties in terms of access to families and processing prisoners

#### **Visit programme**

The Member met with the Acting Governor, Gordon Morrice, and colleagues and toured the following parts of the prison—

- Laundry
- Kitchen
- Workshop where recycling and British Institute of Cleaning Science (BICS) training takes place
- Links centre where prisoners can interact with external agencies and receive health advice and treatment
- Gymnasium
- Education centre
- Women offenders' unit

#### **HMP Inverness**

The prison holds prisoners with sentences of up to 4 years. It can hold a maximum of 172 prisoners but ideally the population should be under 120 to enable access to activities. It is a mixed population with a significantly smaller female population (currently the prison has one female prisoner). The prison serves 11 courts across the Highlands and Islands, including Orkney. Geographical matters are therefore an issue, for example, there can be transport difficulties transferring prisoners from remote areas to the prison and for family visiting for prisoners.

There is generally a high proportion of remand prisoners. Currently the population is approximately 65% convicted prisoners to 35% remand prisoners but the proportion of remand prisoners is often over 40%.

#### **Purposeful activities**

Most convicted prisoners are employed in activities in the prison. The exceptions are mainly protected prisoners and the difficulties associated with providing enough security for them. In addition, engaging remand prisoners in purposeful activity can also be difficult because there is no requirement on them to do so and the incarceration period is short.

The main activities prisoners undertake are laundry, kitchen, recycling and cleaning. Prisoners take part in these activities on a rotational basis, forming part of a working party. In addition courses are provided by Carnegie College within the prison's education centre.

Prisoners earn wages through engaging in activities which pay for goods such as cigarettes and confectionery and access to television.

#### *Working parties*

Prisoners work in the laundry on a rotational basis with working parties of 6 prisoners. Each prisoner is issued with a kit of clothing on entry to the prison and they are able to keep the same kit of clothes throughout their time in the prison.

The kitchen operates on a shift system with 20 cooks operating in 3 working parties. SVQ training is offered; SVQ level 3 would be the most useful, however this takes 5-6 months which requires a prisoner to be serving a sentence of at least 2 years. It is therefore difficult to take prisoners to this level of qualification as the majority of sentences are short. However, in general, experience in the kitchen offers useful skills.

British Institute of Cleaning Science (BICS) training is provided in the workshop which provides prisoners with qualifications in cleaning skills. This is provided in-house by trained prison officers. However, the training is intensive and so provision of this service can have knock-on effect with provision of training and support in other areas of the prison.

Prisoners also undertake recycling work in the workshop area which mainly involves separating waste generated in the prison. At the time of the visit, prisoners were sorting books which had been donated for passing on to a local charity.

#### *Links centre*

Prisoners have access to over 60 agencies in the links centre, from addictions support to counselling and housing advice. The prisoners' induction process is also carried out in this area. A wide range of information is also available on a variety of matters including job centre adverts. Citizen's Advice, SACRO and Shelter have been contracted to provide housing advice support.

A research project is currently being conducted in the prison on pathways into offending, focusing on neurodevelopmental problems such as ADHD and Asperger syndrome. The project is in its early stages.

#### *Education centre*

The prison has an education centre comprising of two classrooms and courses can also be provided in the prison's chapel. Carnegie College provides literacy, numeracy and art courses in the centre. Prisoners also have access to computers on which they have access to the Encyclopaedia Britannica and use microsoft workbooks to gain IT awareness. An intranet is being developed to support the training programmes and further modules are

being developed. The prison also provides toe-by-toe mentoring which is a literacy programme provided by Shannon Trust where prisoners mentor other prisoners in literacy.

The restricted accommodation places limitations on what courses can be provided. For example, the art courses are limited to what resources are available within the prison. There are, however, benefits from the small number of prisoners which allows for lower tutor to prisoner ratio in classes.

#### *Women offenders' unit*

The prison has set aside a unit specifically for women offenders which is a self-contained block comprising a kitchen, living area, bedrooms, bathroom and shower and small gym. There is also provision for childcare if required and there is a small outdoor recreational area.

The unit gives the women the opportunity to gain a range of skills such as financial management, home management and parenting and childcare skills. It is not staffed in the evening and the women are not locked in their rooms at night and are free to move around the unit at all times.

The unit is currently unoccupied but it has been a successful initiative; of the 24 prisoners who have been through the unit, only 3 have reoffended.

### **Other issues**

#### *Health service – transfer to NHS*

Overall, with the exception of a few teething problems, the transfer of prisoner healthcare to the NHS had been a positive experience. The change has brought about greater co-ordinated health care support for prisoners with improved links to external services on release. The transfer also means that only a single health assessment is required as the assessment replicates that which would be carried out externally and so this information can be passed on to external agencies for use once the prisoner is released. The transfer has also enable provision of services to be tailored to local needs as it is not bound by a national contract.

#### *Addiction support*

Health and addiction support is provided by multi-disciplinary addictions team in the Links centre. In addition, external agencies such as Inverness Counselling and Addiction, Alcoholics Anonymous, Narcotics Anonymous, Apex and the harm reduction team provide support for prisoners. Prisoners are assessed for health and addiction problems shortly after reception. Training is also offered in first aid, for example a heart start course and Naloxone intervention training are provided.

#### *Induction process*

Induction of prisoners takes place within a day of entry to the prison. It is a comprehensive process covering a whole range of issues using the SPS's NIP12 induction system . These include familiarisation with the prison regime;

outstanding fines; mental health issues; disabilities; religion; social care; benefits; family access; childcare; and employment advice.

#### *Throughcare*

There are still a number of issues to address in terms of throughcare support. The NHS transfer had helped co-ordinate health provision but there were still a number of outstanding issues. This includes the provision of housing for prisoners on release and the variation of housing support available between local authorities and access to external services. Prisoners are particularly vulnerable immediately following release and so improved support for this process is required. It was also noted that greater contact between the prison and the community would be of benefit.

#### *General*

The large proportion of remand prisoners and the high number of short-term prisoners (fewer than 6 months) presents difficulties in ensuring access to meaningful activity. Remand prisoners are not required to participate in activities though some want to. In addition, the range of options available to short-term prisoners is limited. The relatively small number of prisoners also means that there is not always time for prisoners to engage in many activities beyond the internal housekeeping activities which have to be undertaken.

The prison would like to develop a wider range of activities for prisoners to access. This could be either as a taster or certificated vocational training in activities such as painting and decorating, call centre training, radio skills and job interview techniques. Work is going forward to develop these.

There is no direct evidence that access to purposeful activity has resulted in reduced re-offending. However, anecdotally prison staff are aware of individual cases of prisoners gaining employment following engagement in activities within the prisons and there is general evidence of the positive impact these activities have had.

## **Justice Committee**

### **Colin Keir and David McLetchie MSPs visit to HMP Edinburgh**

#### **Key themes and issues raised**

- Challenges facing prisons in organising purposeful activities, both in terms of ensuring there are spaces available for all prisoners and in encouraging some prisoners to participate.
- Short term prisoners and efforts to reduce their reoffending.
- Throughcare and the support to prisoners available on release.

#### **Visit programme**

Members met with the Governor, Teresa Medhurst, and colleagues and toured the following parts of the prison—

- Portable appliance testing (PAT) workshop – male prisoners;
- Woodcraft workshop – female prisoners;
- Education centre, run by Carnegie College;
- Residential hall;
- Induction centre;
- Family centre.

#### **HMP Edinburgh**

The prison contains a mix of different prison populations: remand (167 male; 21 female); short-term prisoners (STP) (350m; 67f); long-term prisoners (LTP) (161m; 13f); 17 prisoners who had been released but subsequently recalled to prison; life (74m; 6f); and 8 life prisoners who had been released but subsequently recalled to prison. Most prisoners are local to Edinburgh/Lothians but there are some from the wider national population, including female offenders, sex offenders and non-offence protection prisoners (usually for gang or drug debt reasons).

The different populations, and need to keep them separate, present significant logistical challenges to prison authorities.

#### **Purposeful activities**

Remand prisoners can access some activities but often have little interest and time; remand prisoners often spend first few weeks stabilising their addictions and settling into the regime.

Those imprisoned for over 40 days are allocated to a work party. The time allocated for activities is 2¼ hours in the morning and 2½ hours in the afternoon.

Taking into account settling in, a prisoner needs a minimum of 6 months to achieve something meaningful from an activity and it is difficult to structure something in a shorter period. A 2 year sentence is optimal.

The lack of routine and chaotic lifestyle of many prisoners prior to imprisonment means that some prisoners do not want to engage with the



activities provided. The poor job market is an added lack of incentive in developing their skills.

The importance of incentive to participate in activities was raised. STP have a fixed release date whereas LTP have to pass a parole board and are aware that good attendance on activities looks favourable.

There are not enough job placements for all prisoners to undertake activities (shortfall of 250 places) so the prison focuses on those who are interested and is developing ideas on how to encourage others, such as improving the timetabling, advertising on the new prison radio. Peer tutoring has worked in other prisons and there is the potential for this to be used. It is recognised that some of the prison population is not suitable for undertaking activities due to age, mental health, etc.

Members were impressed by their visit to the PAT workshop (for STP and LTP). This has been operating for two months, doing PAT tests for local charity shops. A level 1 City and Guilds qualification can be achieved in a few months and the prison is hoping to support up to level 3 in future. It is also hoped to extend the programme into electrical testing and repairs for white goods. These workshops reduce landfill, provide prisoners with new and relevant skills and provide cheaper portable appliances for re-sale through charity shops. The charities using the service have highlighted significant sales figures for the first few months and there has been an increase in charities interested in using the service.

During a tour of the Education Centre, members heard about its main aims, and the associated challenges, of engaging with prisoners and addressing their basic literacy/numeracy/digital needs. The particular challenges in engaging with STP (as outlined above) and general disinterest – stemming from disengagement with education from school age - was discussed again. There are greater attempts to make learning relevant through integration in workshop time (time spent in Education Centre as part of work party time is paid at the same rate) or other activities such as music. SQA is also starting to recognise this, eg shorter, 10 hour courses which allow quicker completion and prisoners to recognise their progress and achievements.

The issue about not being able to access the wealth of online resources because of the restrictions to viewing the internet was raised. It was felt that this is something that should be looked at because it is successfully done elsewhere in UK.

All prisoners chat with Education Centre staff on induction and complete the Key Plus survey on admission which evaluates learning needs.

Prisoners earn wages; there is a basic cell wage and wages for participating in work or education. This is set out in a national earnings policy. Wages differ between different work shops and education courses, from £4.80 for an education course to up to £12 for some work parties.

## **Other issues**

### *Addiction*

Approximately 80% prisoners enter with an alcohol or drug addiction. This was felt to be a significant factor in reoffending.

### *Short term prisoners*

Members were concerned about some prisoners being stuck in a 'revolving door' between prison and outside, with many prisoners serving a number of terms. Prison staff explained that some prisoners are released themselves expecting that they would shortly return to prison. As set out above, the challenges associated with using short term prison terms to meaningfully engage and rehabilitate prisoners was discussed. The difficulties of successfully addressing the fundamental causes – such as lack of education, poor employment prospects, addictions, chaotic lifestyles – of the sort of crimes which lead to these short term prison sentences in the time available was discussed.

Prison was seen as a way of life for some prisoners; some long serving prison officers told members that they were now seeing the third generation of some families serving sentences at HMP Edinburgh.

Members met with two prisoners serving short term prison terms. When asked about their view on short term sentences, in terms of their impact as a deterrent, punishment and in rehabilitation, their overall response was that they are "an inconvenience".

### *Peer to peer tutoring and support*

The increased use and effectiveness of prisoner support, either as part of prisoners' induction or during education/training, was highlighted.

### *Preparation for release and throughcare services*

The restart programme was discussed. This provides medical, legal and employment support in advance of release. The greatest challenge is prisoners' concerns about re-integration into society and having sufficient support/benefits/accommodation in place; high number of suicides on release.

The throughcare services and support provided to prisoners on release was discussed. It was highlighted that there is no statutory requirement on either prisoners or agencies to do anything to support a prisoner on release. It was recognised that the myriad of agencies providing similar but slightly different services, with different application processes, etc, can be very confusing. Prisoners usually leave prison with at least three contacts to follow up for addiction services/ benefits and accommodation. It was suggested that a single route/ one-stop shop, as recommended in the Commission on Women Offenders report, would be helpful.

The need for agencies to be more tolerant of, and make allowances for, ex-prisoners' more chaotic lifestyles was also discussed. Some agencies refuse to help after a couple of missed appointments, for example.

There is room for improvement in criminal justice agencies communicating better where a lot of support has been provided for a prisoner on release and they are re-arrested at the gate. Advance notice of this could avoid wasted man hours.

*Importance of maintaining family relationships whilst in prison*

Members were told that the aim is to provide a resource which is akin to a community centre but which signposts users to the support and services available in the community. All visitors must register at the centre before prison visits. The family centre provides a number of functions, providing support to families and prisoners with children to help manage the separation and ease transition on release. The importance of this function was emphasised, as it is recognised that a supportive family environment is crucial to reducing reoffending.

## **Justice Committee**

### **Report back from HMP YOI Polmont– Christine Grahame MSP and Alison McInnes MSP**

#### **Key themes and issues raised**

- While a wide range of activities are provided in Polmont YOI, there are challenges in encouraging inmates to participate<sup>1</sup>;
- Even if inmates do engage in education, programmes, or work while in custody, there is a lack of employment opportunities for inmates on release;
- A national prison has difficulties in engaging interest from local authorities in funding programmes delivered in the prison and in the provision of throughcare;
- A family centre and effective parenting interventions are needed.

#### **Visit programme**

Two members of the Justice Committee, Christine Grahame and Alison McInnes, met with the Governor, Sue Brookes, and colleagues, and were given a tour of the following areas of the prison—

- health centre;
- education centre, run by Carnegie College;
- bike repair workshop;
- Paws 4 Progress workshop;
- laundry;
- visitor centre.

#### **HM YOI Polmont**

Polmont Young Offenders' Institution (YOI) is the national establishment for male young offenders aged between 16 and 21 across all sentences and remand. The average sentence length is between two to four years.

The establishment dates back to 1911, but has largely been rebuilt over the last few years. Polmont YOI is contracted to hold 760 inmates (with maximum capacity for 830), however, on the night before the visit (14 January 2013), it held 591 inmates. The staff complement is 359, in addition to a wide range of external partners engaged in the delivery of specific services.

100 female offenders are to be moved to Polmont YOI for approximately six months to facilitate refurbishment of Cornton Vale. Current residents of Blair House (16 and 17 year olds) will be relocated to Munro Hall (level 2) to accommodate the female inmates.

#### **Purposeful activities**

##### *General*

Polmont YOI offers a wide range of activities and programmes including educational and training opportunities delivered by Carnegie College.

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<sup>1</sup> Staff told Committee Members that one third of inmates are happy to engage in activities; one third dip in and out of activity; and the final third refuse to engage at all.

However, one third of inmates refuse to engage in activity. The Governor has recently commissioned a review of access to activity, which aims to identify the barriers to participation and put in place measures to improve take-up. Issues being considered as part of the review include ways in which structured activity can be provided during evenings and weekends, scheduling and timetabling, reducing competition between activity providers, and the impact of the Scottish Prison Service wages policy.

Some inmates opt to participate in activities to improve their chances of parole, but for others there is little incentive to engage.

The Governor told Committee Members that access to purposeful activity could be further enhanced by greater access to ICT, learning materials and e-learning if more resources were made available. ICT-based learning could also reach a larger target audience; however, there are too many inhibitors in place. A balance between safety and security and the ability to develop inmates needs to be found.

The Governor's view is that there are too many inhibitors in place for inmates using ICT when it has the potential to provide learning to larger numbers.

Scheduling of activities is complicated as prisoners often get drawn into other appointments, for example, in relation to healthcare, external agency services, and court appearances.

There are no work spaces available for untried prisoners and other activities for remand prisoners are limited by the short and variable time periods in custody; the lack of willingness to engage or to be perceived to admit their offending behaviour; and the need to concentrate limited resources on a convicted population. The Governor's review will explore the potential for the remand population or targeted groups of remand prisoners to be engaged in some forms of activity.

### *Work*

All convicted prisoners are required to work. Work spaces are provided in traditional skills such as bricklaying, joinery, plumbing and hairdressing, but also in more innovative areas such as a bike workshop, which has proved particularly popular. Run by the Bike Station, this workshop lasts for 5½ hours a day over six months and provides opportunities for inmates to strip and rebuild bikes for resale. The workshop has had some positive results so far - one inmate was employed by the Bike Station on release, and another rebuilt a bike that was sold for around £300 – and is being rolled out to some adult prisons. Employment opportunities are however limited for all inmates regardless of whether or not they have undertaken work, training or education while in custody.

### *Programmes*

A large number of programmes are provided, including: Constructs, which aims to reduce reoffending by teaching participants to respond differently to problems; Controlling Anger Regulating Emotions, which trains offenders in skills to manage their anger; and a pre-release Knife Crime session, which

uses ex-prisoners and victims to demonstrate the consequences of knife crime. Inmates can self-refer onto programmes provided or be referred by staff through case management reviews and other meetings. Programmes are voluntary. Staff indicated that, for every 20 inmates who are referred to a programme, eight will refuse to attend at the outset and a further two to three will drop out during the programme.

The Dogs Trust run the Paws for Progress course in the YOI which helps inmates to train and rehabilitate rescue dogs for re-homing and to produce reports on their experiences with the dogs. Inmates' behaviour and communication skills are improved as a result, and the chances of the dogs being successfully re-homed are increased.

### *Education*

Literacy, learning and skills is one of the Governor's main priorities. On average, inmates have the literacy and numeracy skills of a first year high school student and it is these inmates that are least likely to engage in education while in custody. Lack of resources hinders the provision of one-to-one training on literacy and numeracy which is more effective than classroom learning. Scottish Government funding for literacy and numeracy programmes often goes to local authorities, who have little incentive to fund projects to be delivered in a national YOI outside their local area.

As poor social and communication skills can act as an inhibitor to engagement in activities, Polmont YOI provides speech and language therapy to support inmates to improve these skills.

Due to the logistics of moving inmates, education sessions are usually scheduled for full mornings or afternoons (3 hours). Education is often delivered in bite-sized chunks interspersed between games in attempt to keep inmates' attention.

### **Other issues**

#### *NHS transfer*

Inmates tend to receive better medical treatment within the YOI than they did in the community. Inmates often do not have a GP in their local community<sup>2</sup>. Continuity of medical treatment within and outwith the YOI can therefore be difficult. The establishment does not routinely inform local GPs of the medical needs of inmates on their release back into the community unless they require long-term essential medical treatment which needs a prescription. GPs can however access information regarding the medical conditions and treatment of inmates while in Polmont YOI through NHS Vision, a central electronic patient records system which is now being used by the Scottish Prison Service. It is not always possible for medical centre staff to prepare for the release of a prisoner especially where they are released without notice, for example, as a result of court proceedings.

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<sup>2</sup> Staff are starting to collate information on the number of inmates without a GP. Statistics are likely to be available at the end of 2013.

*Throughcare*

One of the Governor's main priorities is throughcare and transitions. As a national establishment, Polmont YOI engages with a wide range of external partners across Scotland to support voluntary throughcare and mentoring. The large volume of organisations wishing to deliver services in the establishment places pressure on space and resources. However, staff also spoke of the difficulties for a national prison to engage local authorities in the provision of throughcare to inmates on release. They noted that videoconferencing may assist in this process.

Focus is on short term offenders serving between 18 months and four years. The Governor indicated that she would wish to ensure case management and throughcare plans for all inmates (convicted and remand) if additional resource could be found.

*Families and parenting*

Another of the Governor's priorities is families/parenting and intergenerational change. Around a quarter of inmates are fathers. The YOI offers a positive parenting programme, which focuses on practical parenting skills. Three family contact officers are in place along with enhanced bonding visits and varied family events. The YOI is working with SPS headquarters and youth justice partners to scope out the requirements for enhanced parenting interventions.

Committee Members heard that families often inhibit rehabilitation. The Governor highlighted the importance of establishing a family centre, similar to that at Edinburgh Prison, to provide holistic family interventions. A business case for a family centre is to be prepared during 2013.

*Links with the community*

Staff indicated that links with the community needed to be developed further. The Governor suggested that this might be achieved if the same case manager was allocated to an inmate within and outside the prison and if prison officers were able to provide advice and assistance to that case manager after an inmate has been released.

The Governor highlighted that there are no open prisons for young offenders and suggested that the development of hostel-style accommodation for young offenders towards the end of their release, with staff present at night and mentoring support in the community, should be explored.

Supervised placements in the community for inmates may improve employment opportunities.

*Commission on Women Offenders: recommendations*

The Governor suggested that many of the Commission on Women Offenders' recommendations could also apply to young offenders, for example, it would be useful to appoint a lead member on the Scottish Prison Service Board with specific remit for young offenders. Development of an estates strategy for

young offenders is also needed to establish whether a national prison is the most effective approach.

*Capacity of Polmont YOI*

The Governor would like to see the capacity of the establishment lowered once the groups of female prisoners are transferred back to Cornton Vale rather than them being replaced with another group of prisoners. This could allow the allocation of one cell per inmate, a higher staff to inmate ratio and more opportunities for activities.

*Staffing*

The Governor indicated that she would welcome additional staff to improve care and rehabilitation of inmates, for example, parenting officers to deliver parenting intervention, prisoner care officers to develop care plans for all inmates, and youth workers located in every hall.

It would also be useful to have youth-based workers seconded into the prisons to help advise staff on working with young offenders.



## Justice Committee

### Report back from HMP Low Moss– Graeme Pearson MSP

#### Key themes and issues raised

- remand prisoner management and uptake of activities
- engagement of short term prisoners
- need for more research in order to identify what initiatives and programmes are successful

#### HMP Low Moss

The Member met with the Governor, Michael Stoney, and colleagues and toured the Links Centre and the Family Centre.

The prison opened in March 2012 and so has not completed a full year yet. It holds a range of prisoners from short term prisoners to life sentences. Its current population is around 700 of which there are 119 remand prisoners.

The prison's operating day is between 7.30 and 20.30. Prisoners generally work from 8.30 to 17.30 each day with one hour for lunchtime in order to instil routine into the day and normalise a working hours routine. Exercise takes place in the evening to avoid interrupting the working day.

#### Purposeful activities

##### *General*

The prison aims to provide 35 hours per week of purposeful activity for each convicted prisoner. In the period April to Nov 2012 the prison provided an average of 30 hours per week per convicted prisoner of purposeful activity and an average of 25 hours per week of per convicted prisoner of scheduled work activity. It should be noted that the prison population did not reach full capacity until May and the prison regime built up gradually to full activity delivery by July.

In the April to Nov period 522,222 hours of purposeful were provided which is broken down as follows—

<u>Activity</u>	<u>Hours</u>
Offending behaviour programme attendance	6,814
Links centre attendance	6,842
Scheduled activity/work attendance	436,852
Education attendance	21,402
Other activity (eg PT, sports)	51,199

The figures are lower for remand prisoners who are not required under prison rules to attend work or purposeful activity. The support offered to remand prisoners also varies from convicted prisoners as their needs are different eg balancing chaotic lifestyles, poor physical and mental health and substance

misuse. However a full range of activities is offered in which they are encouraged to participate.

#### *Positive Impact Programme*

The prison offers a Positive Impact Programme (PIP) for prisoners who have never been in custody before and includes remand and convicted prisoners. It aims to lessen the negative impact on the individuals of being imprisoned. The programme delivers a range of interventions to minimise this impact.

#### *Activities*

The prison provides a range of activities and work for the prisoners which include vocational training and qualifications. These include—

- timber machine and assembly which involves producing a range of products which meet manufacturing specifications;
- gardens/waste management which provides ground maintenance and qualifications for prisoners;
- laundry which provides launders prison and personal items. The prison intends to start delivering SVQ qualifications.
- catering which provides a real life working environment with the aim to provide qualifications to prisoners;
- industrial cleaning where prisoners can work towards gaining qualifications in British Institute of Cleaning Science (BICS) and biohazard clean-ups.

The education service in the prison provides a range of courses including literacy, life skills, vocational skills and integration skills which is tailored to address individual's needs. In future the prison will seek to maximise the number of prisoners who attend the learning centre.

A range of offending behaviour programmes are offered including substance-related offending behaviour, violence prevention, controlling anger regulating emotions and constructs.

#### *Family contact*

The prison places a high priority on maintaining family contact. It offers unlimited family visits in the evenings, subject to availability of space, and child-friendly visits are particularly encouraged. This includes time for prisoners to assist with homework and interact with their children more generally. Voluntary groups are also involved in family contact and provide support for homework as well as hosting parties and events in the visitor centre and the local Guide and Scout groups also meet there. The prison has developed strong links with the local community through organising a series of meeting with local communities groups.

Visits and other activities such as NA, AA and faith-based activities are not recorded as purposeful activity but the prison intends to record family visits in this way from next year.

*Staff development and support for activities*

The prison is keen to develop a positive staff culture and in doing so has developed the roles of the prison officers beyond their usual role. This has allowed the prison to use the existing skills and experience of prison staff to provide additional support for prisoners. For example, a prison officer now provides guitar lessons to prisoners. This policy has had a positive impact on the relation between prisoners and staff where prisoners can experience a positive authority figure role model.

*Benefits of activities*

It was accepted that it is difficult to measure the success of activities in supporting reduction in reoffending. Some research is being carried out into family contact and the positive impact programme run by the prison but further research is required more generally into the impact of purposeful activity programmes.

**General***Security*

The prison security regime does not involve lock ups which frees up officers' time. It is a very efficient and strict regime and the movement of prisoners is very tightly run. The prison operates a no metal policy and has an integrated security system with detectors in place throughout the prison. There are also 500 CCTV cameras within the prison. The prison has good police support with one full-time officer in place as well as developing a good working relationship with the local police.

*Throughcare*

Interest has been sought from prison staff to become more involved in the delivery of throughcare and engagement with external services. There was a positive response with around half of the staff volunteering to be involved in developing greater links with the community and the services available.

*Video-conferencing*

The prison would like to operate video conferencing for pleading diets which would save on resources. However, there are still a number of issues that need to be resolved externally before this can be taken forward.

*Transfer of healthcare to NHS*

The prison's experience of the transfer of prisoner health care to the NHS has been generally positive. A wider range of services is now available and it has helped improve throughcare. However, problems have been experienced with medical staff recruitment and, in particular, with prescribing medication. A new doctor is due to start shortly who will take the lead in prescribing which should address this issue.

*Future*

The prison would like to bring forward a range of initiatives in the future.

There is a plan to develop a public social partnership to address gaps in throughcare for short-term consistent offenders. It was acknowledged that this would have significant impact on the case work going through the Links Centre. This is intended to join up the delivery of services.

There are already a range of peer support programmes in place (eg toe-by-toe literacy and the Samaritans). The prison would like to develop this further to provide training for particular prisoners with significant skills to enable them to become peer tutors.

There are plans to develop a multi-media working party to produce brochures, leaflets and posters which may be developed into a business enterprise model.

A painting party/windows party will be developed to provide vocational training and which will have responsibility for the maintenance of the prison. As well as providing qualifications it encourages self-esteem in the individuals concerns.

A range of initiatives will be brought forward in gardening including mono-blocking, recycling and poly tunnels.

There has been a push to get more support from staff in supporting prisoner management delivery to include driving theory training as well as IT supported approved activities.

There are plans to further recreational activities to including more events, book clubs and a drop-in centre.

There has been a lot of interest in a modular programme which is being developed for persistent offenders whose sentence length precludes them from accessing quality offending behaviour programmes. It will focus on the specific needs of offenders. The aim is also to structure the programme so as to increase attendance and it is intended that this will be developed for accreditation.

The prison would like to develop more work for prisoners in the community eg maintaining communal gardens, clearing snow. However restrictions can be difficult to overcome as licence conditions need to be factored in. Support for community payback orders could be provided although this would have an impact on resources.

## **Justice Committee**

### **Report back from HMP Barlinnie Prison – Sandra White MSP**

#### **Key themes and issues raised**

- lack of housing and employment opportunities on release;
- lack of programmes and throughcare opportunities for short-term prisoners;
- too many agencies within the prison deliver similar programmes;
- literacy and numeracy levels are not as poor as portrayed;
- remand prisoners do not engage in activities.

#### **Visit programme**

Sandra White met with the Governor, Derek McGill, and colleagues, and were given a tour of the following areas of the prison—

- health and links centres;
- day centre, including yoga/relaxation class, a course on learning English as a second language, and a workshop recycling glasses;
- chaplaincy;
- bike repair workshed;
- a drama room where an external play<sup>3</sup> had been staged earlier that morning.

#### **HMP Barlinnie**

Barlinnie is Scotland's largest prison, with a maximum capacity of 1104 prisoners. Until Low Moss opened in March 2012, Barlinnie regularly housed around 1700 inmates resulting in high levels of overcrowding. Prisoner levels are now nearer to 1300, with 560 staff.

The prison population is composed of 67.1% convicted prisoners and 32.9% on remand. Only one-third of those who are remanded receive a custodial sentence<sup>4</sup>. Most inmates in Barlinnie serve sentences of between two and four years. A survey of inmates carried out in October 2012 showed that 90.54% prisoners had been in custody before. Prisoners of around 20 different nationalities are housed in Barlinnie.

#### **Purposeful activities**

##### *General*

Barlinnie offers a wide range of educational and vocational activities. However, it is not possible to offer all inmates work and programmes due to the high population in the prison. Prisoners serving six months and over have been identified as a priority group in relation to education provision. There is insufficient time for prisoners with shorter sentences to enrol and complete courses, which tend to be in 12-week blocks. Remand prisoners do not participate in programmes/courses. The Governor indicated that this was

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<sup>3</sup> This play is based on the diaries and letters of Etty Hillesum, a young Jewish woman living in Amsterdam at the time of Nazi occupation of Holland, who later died at Auschwitz in 1943.

<sup>4</sup> One-third are found not guilty and the other third is given other disposals (on the basis that they have already served time in prison on remand.)

often because their lawyers advise their clients not to enrol in programmes or courses as this can be seen as an admission of guilt.

### *Work*

SPS staff provide a range of vocational training programmes and work parties, such as joinery and metal work, construction and fork-lift truck programmes. Prisoners work towards SQA qualifications wherever possible and are given CV-building training and interview techniques. Remand prisoners do not have access to work parties or vocational training. The tour included a bike repair shed, where the Bike Station provides the prison with old cycles to be rebuilt and returned for resale. Inmates work towards velotech certificates, the industry standard qualifications in bike maintenance, up to gold standard. The Bike Station provides a number of opportunities for employment on release, but these are limited.

Martin Plant Hire runs a work party involving training prisoners in repairing and maintaining plant hire items and offers employment to some prisoners who have completed this training on release.

Some prisoners on life sentences are employed outside the prison, with prison officers involved in monitoring them while they are in the community.

### *Education*

Motherwell College delivers education in the prison. Classes are available in a number of areas, including basic literacy, numeracy, art, ICT, creative writing and modern studies. Some prisoners are working towards English at Higher level.

Within a week of admission, education staff visit all prisoners serving six months or more to carry out an assessment of literacy and numeracy levels with a view to identifying programmes which they may wish to enrol on. (Prisoners serving six months and over have been identified as the priority group for education provision.) The Governor and staff argued that literacy and numeracy levels are not as poor as had been portrayed in the media and this is evidenced by the completion rate of a recent prisoner survey. (70% of prisoners completed the 4-5 page survey.)

The number of courses that can be provided is limited by the size of the Education Centre, which only has three classrooms. The Governor indicated that additional classrooms would be provided temporary accommodation shortly.

## **Other issues**

### *Housing*

The Governor and staff at the prison highlighted a lack of available housing as the main difficulty faced by prisoners on release, and those prisoners we spoke to during the tour agreed. Attempts to find housing do not begin until six weeks before a prisoner is released that it is often too late to find any proper accommodation. Inmates said that prisoners are regularly housed in a hostel, which prisoners said is not an environment conducive to staying off

drugs/alcohol or offending behaviour. Prisoners are often given sleeping bags when they report to their local housing office on release. Private housing is not an option as a large deposit and background checks are often required. Prisoners highlighted the Dick Stewart Project, which provides supported accommodation, assistance for training and education and individual care plans, as the type of project that can help prevent them from reoffending.

### *Healthcare*

On admission all prisoners receive a physical, mental health, addictions and suicide risk assessment in the health centre. GP records are made available to the health centre for all prisoners serving six months or longer. Nursing cover is provided 24 hours a day. A variety of clinics, such as asthma, sexual health, chronic disease management and smoking cessation, are available. A well-person clinic, which is based on the 'Keep Well' initiative in the community, provides healthcare screening for prisoners over 35. (In the community, the Keep Well initiative screens over-55s). Dental services are provided on weekdays and an addictions service is offered.

In a test carried out during February 2011, 82.1% of prisoners on admission tested positive for illicit substances, and on liberation, 10.28% of prisoners tested positive. The Governor and staff suggested that alcohol is more of a problem and is involved in around 80% of crimes. The prison operates an alcohol anklet trial project aimed at helping ex-prisoners to stay off alcohol on release.

Within the health centre, a day care unit is provided for prisoners with mental health issues. This aims to help prisoners with mental health issues to develop their self-confidence and motivation to participate in further activities and mix with other prisoners. The unit includes computer and activities rooms, therapy rooms and a clinic. Activities include yoga/relaxation, drama, head massage and computer work. The tour also included a class in English as a second language and a project involving assessing and noting the prescriptions of recycled glasses for transfer to projects in India.

### *Links with the community*

A wide range of agencies operate within the prison, including Routes Out of Prison, Cornerstone, Hope, Faith and Throughcare, and Phoenix. Staff suggested that many of these agencies are providing similar programmes and that this duplication should be minimised. The Governor argued that prison staff are well-placed to provide structured support to ex-prisoners in the community.

## Justice Committee

### Report back from HMP Perth Prison – Roderick Campbell MSP

#### Key Themes and Issues Raised

- Purposeful activities (work parties, education, physical training, programmes and the LINKS Centre)
- Throughcare

#### HMP Perth

Primarily a community prison with both remand and sentenced prisoners (mostly short-term), but also providing high supervision accommodation for prisoners serving up to life.

Service agreement to provide 633 prisoner places but, if necessary, can accommodate around 700. Average population during 2011-12 was 689 (including 132 untried prisoners).

Most prisoners have been in custody before and have had chaotic lifestyles.

Transfers in and out of HMP Perth may occur for a variety of reasons including disciplinary and family issues.

#### Visit Programme

Met with the Mike Inglis (Governor), Jacqui Clinton (Deputy Governor) and other colleagues – including Calum Kincaid and Lorraine Roughan, who also led tour of the following parts of the prison:

- Work Parties – providing training (some with potential qualifications) as well as services for the prison and/or material which the prison can sell. Currently able to provide approximately 370 work spaces (around two-thirds of the convicted prisoner population). Visited:
  - kitchen (capacity 18) – training and service for the prison; higher than normal staff to prisoner ratio due to nature of the work; some of the highest prisoner wages<sup>5</sup>
  - textiles (capacity 24) – training and contract work; only workshop that can take ‘protection prisoners’ (ie those who need to be protected from other prisoners due to the nature of the offence or other factors such as crime related debts)<sup>6</sup>
  - laundry (capacity 24) – training and service for the prison
  - hairdressing (capacity 6) – training (basic course ten weeks) and providing barber service for all prisoners
  - bike station (capacity 10) – recently started partnership with the Bike Station (with funding from the Robertson Trust) providing training as bike mechanics

<sup>5</sup> Advised by SPS that prisoners are allowed to spend up to £20 per week within prison. Whether or not wage rates are likely to motivate prisoners to seek particular areas of work may depend upon whether or not they receive any financial support from family, etc outwith the prison.

<sup>6</sup> Protection prisoners may also carry out pass work within the accommodation blocks. As at 10 January 2013, HMP Perth held 46 protection prisoners.



- grounds and waste management (capacity 28) – includes window cleaning and recycling services for the prison
- painting and decorating (capacity 22) – training and service for the prison.
- LINKS Centre – induction for new prisoners and service provider appointments
  - used for different types of prisoner on different days (eg first time prisoners receive induction on Wednesdays); being used by protection prisoners at time of visit
  - aim to tailor inductions to particular needs, explaining what services/support available, nature of the regime, etc, but all convicted prisoners (serving seven days or more) are taken through a core screening form
  - service provide appointments for prisoners include those relating to housing, employment and money advice
  - library – includes book-groups; run by librarian who also works in the community.
- Education Centre – partnership with [Carnegie College](#). Includes:
  - literacy sessions
  - IT suite (no internet for security reasons)
  - drama group – invitation to attend work performed by prisoners and developed from their own ideas on evening of 29 May (to be filmed plus media interest)
  - maths/numeracy sessions
  - teaching kitchen – noted that can also be a useful way of identifying/addressing literacy and numeracy needs in a less direct way
  - art.
- Health Centre – noted that too early to say whether the move to it being part of the NHS will improve throughcare, but the approach is now based more on need rather than length of sentence.
- Accommodation – B-Hall
  - all cells refurbished last year
  - mix of remand and sentenced prisoners but mostly remand (around two-thirds at present)
  - occupancy can fluctuate quite considerably (eg between 130 and 190)
  - inspected one 'safe cell' – can be used for a prisoner if judged to be a suicide risks – it provided very sparse accommodation (not currently in use and prison staff noted that it was not ideal)
  - inspected one other cell – more typical type of cell; equipped with bunk bed for two prisoners but currently being used for single prisoner (limited space for two prisoners).

### **Purposeful Activities**

- Available resources mean that not able to provide work spaces for all prisoners. SPS stated that:<sup>7</sup>

“The majority of work in HMP Perth is allocated to convicted prisoners with 16% of the population being untried and not required to work.

HMP Perth is continually striving to increase the numbers of prisoners who are out of their cell. However, even with the recent and planned increases, there will not be sufficient work spaces for all convicted prisoners. The main focus at the moment is to ensure that our existing capacity is well utilised.

The staffing complement within regimes has been maximised and there is currently only limited cover available for annual leave within the laundry, waste management and the bike station. Staff will soon be competent to cover the hairdressers. However, when some staff are on leave, their workshop will either be unoccupied or working at reduced prisoner numbers.”

- Need to provide a range of tasks – from very simple to more complex – to meet the needs of different prisoners (eg many prisoner on methadone). Goals can include skills and qualifications which may help job prospects; but also improving life skills, supporting self-esteem and helping to provide a decent regime for prisoners
- Generally harder to motivate prisoners serving short sentences to take up opportunities within prison
- Remand prisoners – cannot compel them to work and in practice very low uptake of any opportunities.

### **Other Issues**

#### *Throughcare*

- housing – local authority housing staff provide support if prisoners are local to the area but reliant on support from Shelter if from further afield – seeking to develop improved services in this area
- money advice – some concerns about level of advice available from CAB staff
- recognition that need to do a lot more for short term prisoners; attempts to do so include a Dundee Short Term Prisoner pilot in relation to which the SPS stated:<sup>8</sup>

“This year-long trial involves short term prisoners with a Dundee City Centre postcode who receive a sentence at Dundee Sheriff Court. This trial is funded by Scottish Government and involves inter agency working between a number of prisons and Criminal Justice Social Work Services. The aim is to reduce re-offending by this group of prisoners by providing an approach that involves partner agencies working together and utilises an Integrated Case Management similar to how long term prisoners are managed.

<sup>7</sup> Written material provided during visit.

<sup>8</sup> Written material provided during visit.

- Data is being collected across all participating sites and will form the basis of a report into the management of short term prisoners.”
- concern about ‘cluttered landscape’ of bodies and targets
- availability of services can be a ‘post code lottery’ – need more guaranteed services across Scotland

*Criminal Justice Authorities (CJAs) and other links with Criminal Justice Partners*

- SPS role in challenging/questioning approach of other organisations if SPS staff can see different approaches (with different outcomes) in different localities
- Governor noted that quality of working relationships can vary from one place to another
- Budgets – despite existence of CJAs, can be difficult to get money moved to the area where it will do most use.

*Reducing reoffending* – crucial elements are family, housing and work.

## **Justice Committee**

### **3<sup>rd</sup> Meeting, 2013 (Session 4), Tuesday, 29 January 2013**

#### **Letter from the Scottish Government on the Making Justice Work programme**

Thank you for your letter of 5 December to Mr MacAskill, Cabinet Secretary for Justice regarding the Making Justice Work programme.

I am writing to give you another update on the programme, in advance of the informal briefing we are having with the committee on Tuesday 29 January. I will attend as programme lead, with programme manager Katy McNeil and Don McGillivray, Deputy Director Criminal Justice and Parole. Catherine Dyer, Crown Agent and Chief Executive of the Crown Office and Procurator Fiscal Service, will also attend to give the perspective of an MJW board member.

As you will have noted from our previous updates, the projects in the programme are at different levels of maturity, but there are already some tangible achievements to record:

- Delivery of the court door list system which in its first six week period of operation identified 300 instances of the accused potentially failing to appear which was estimated to cost the justice system £500,000
- National roll-out of the police witness scheduler. The manual system in Glasgow alone has produced significant savings. We are also seeing a 20% reduction in summary witness citations (all witnesses, not just police witnesses) between last year and this
- Completion of the first cross-justice information management strategy, setting a series of common priorities
- Completion of the design and consultation work on “shaping Scotland’s court services”
- Introduction of the Scottish Civil Justice Council and Criminal Legal Assistance Bill
- Significant legal aid savings through a series of regulatory reforms
- Creation of the Scottish Tribunals Service – a single administration for 6 Scottish tribunals – delivering efficiencies and cost savings
- Reactivation of the HMP Barlinnie to Glasgow Sheriff Court video link for full committal hearings and commencement of several small scale video-link pilots.

Many areas of Making Justice Work are now reaching the end of the design phase and will move into the delivery phase in 2013. Some of the key highlights, subject to Parliamentary procedures, are expected to be:

- Introduction and passage of the Victims and Witnesses Bill
- Establishment of the Scottish Civil Justice Council, which will reform civil procedure in the courts
- Introduction of a Bill which will reform the leadership and structure of Scotland’s tribunals

- Piloting and initial roll-out of a new summary justice system model and initiatives to improve witness attendance. These are intended to increase the rate of guilty pleas, reduce the number of citations and cut churn/repeat citations
- Follow up to the consultation on “shaping Scotland’s court services”
- Delivery of video-conferencing capability in prisons
- Consultation and then introduction of Court Reform Bill, which will radically change the structure of civil and criminal courts and appeals
- Rationalisation and better co-ordination of advice services for the public.

The delivery of the programme stretches beyond 2013 and some of the longer term highlights include:

- Removal of the requirement for corroboration (2014)
- Introduction of police bail (2014)
- Wider roll-out of use of video links for legal advice and court hearings (2014 onwards)
- Improved access to special measures for vulnerable categories of victims and witnesses (2014)
- Improved sheriff and jury procedure, producing earlier guilty pleas and fewer witness citations (2014/15)
- Develop proposals for merging the Scottish Court Service and the Scottish Tribunals Service for completion by 2015
- Restructuring of judicial offices and introduction of Sheriff Appeal Court (2015/16).

I hope that this update is helpful in preparation for your briefing on 29 January. For ease of reference I have also attached a copy of the Annex outlining Making Justice Work which was included in the August 2012 update.

Colin McKay  
Civil Law and Legal System Division  
Justice Directorate  
22 January 2013

## ANNEX

### Introductory paper on Making Justice Work Programme – context and content

1. This paper sets out the context within which the Making Justice Work Programme was set up by the Scottish Government in 2010. The programme, which is being developed and delivered in partnership across the justice system, brings together a range of reforms to the structure and processes of the courts, access to justice and tribunals and administrative justice.

2. Since 2007 the Scottish Government has been pursuing a single overarching purpose and set of outcomes in the National Performance Framework. This framework defines clearly the main outcomes that the Government wants the organisations in the public sector to achieve.

3. Analysis of the outcomes to which justice contributes led the Justice and Safer Communities Directorates to identify the need to do more work in five main areas - Police and Fire Reform, Reducing Reoffending, Making Justice Work, Reassuring the Public and Building Safer Communities. We set these up as formal programmes of work with programme and project governance because each programme brings together a number of different bodies, and requires the discipline of programme and project planning to ensure that change is co-ordinated and benefits delivered.

4. As well as the outcomes approach there were also several other important factors which drove us to design Making Justice Work. We had reports reviewing various aspects of the justice system, the most significant of these being Lord Gill's review of the civil courts, which will have an impact also on the criminal courts; Lord Carloway's report; and Sheriff Principal Bowen's review of sheriff and jury procedure. The Scottish Government has accepted these reports, which will change fundamentally how business is done in our court system.

5. Another report which has had an influence on the design of the MJW Programme has been the Audit Scotland report on the efficiency of the criminal justice system in Scotland, published in September 2011. This report identified in broad terms how much the system is costing us and what unnecessary delays in cases proceeding through the courts are costing. Some of the significant statistics demonstrating the need for greater efficiency include:

- **'Churn' in the summary justice system costing £40m a year**
- **Up to a third of civilian witnesses do not attend court**
- **90% of police in court are not called to give evidence**
- **In 6 weeks, 300 people failed to appear in court for trial because already in prison**
- **Only 10% of 66,000 summary criminal cases prepared for trial went ahead**

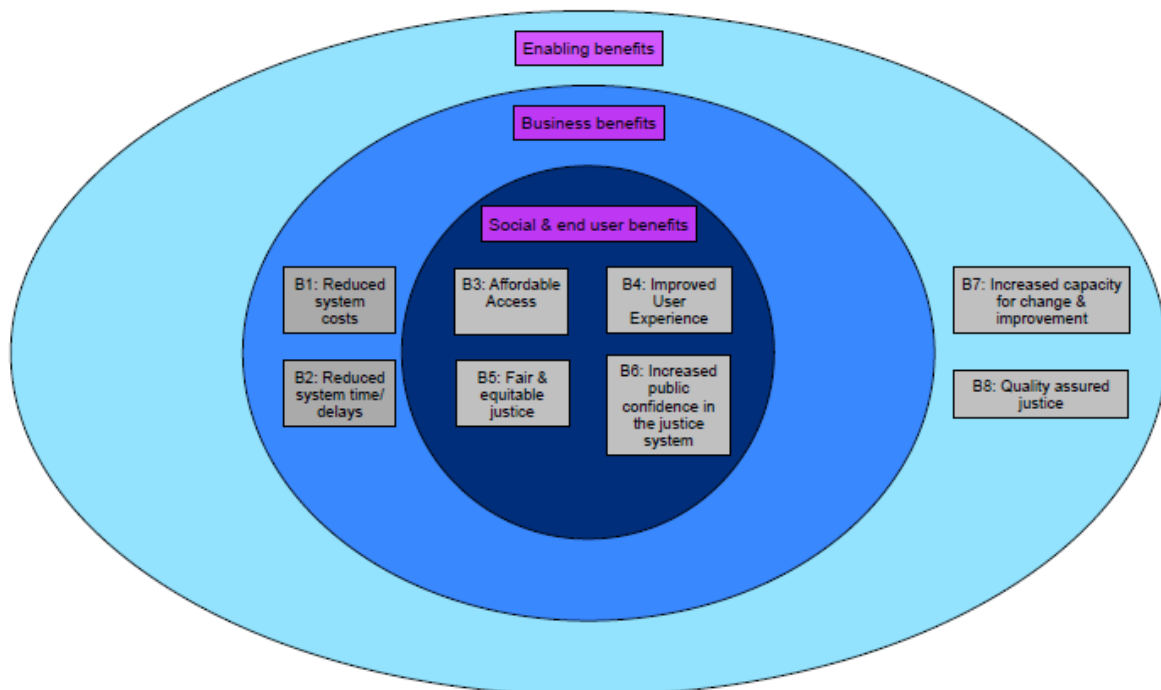
6. Another crucially important driver was the pressure to reduce public expenditure following the recession. We have fewer public resources in our sector so making sure we are using them to best effect becomes more important than ever.

7. In this context and having examined the various reports and reviews, we brought together the work that we needed to do on systems and processes and established the Programme. MJW uses formal programme and project management approaches. Bridget Campbell, Director, Justice in the Scottish Government is the senior responsible owner for the programme, which means she is answerable in the Scottish Government for bringing the work to fruition, working with partners to deliver the vision for the whole programme. The vision for the programme is:

“The Scottish justice system will be fair and accessible, cost-effective and efficient, and make proportionate use of resources. Disputes and prosecutions will be resolved quickly and secure just outcomes.”

8. A MJW Programme board oversees the work. The board consists of chief executives of justice organisations (including Scottish Court Service, Crown Office and Procurator Fiscal Service, Scottish Legal Aid Board, the Association of Chief Police Officers Scotland and the Scottish Tribunals Service) with non-executive input from Professor Richard Susskind of Gresham College and Strathclyde University and Marieke Dwarshuis, chief executive of Consumer Focus Scotland. The Board also benefits from advice from two judicial advisers, Lord Pentland, and Colin Milne, former President of the Employment Tribunal in Scotland. Five overarching projects have been set up to take forward the work beneath the programme board. Each of these also has formal governance structure and formal ways of accounting for getting the work done. Annex A gives details.

9. Alongside the work to define the projects, the MJW Programme has spent time defining a set of benefits of the programme. These are illustrated in the diagram below, showing how the benefits fit together, with improvements benefitting users of the justice system at the core.



10. Measuring the benefits is complex but we have now agreed a range of measures for each benefit – primarily aiming to use existing measures. We are also developing new measures where these are needed, such as working to develop a common set of questions for users of the system to allow us to develop a better understanding of their experiences.

11. The key sources of information are:

- The Criminal Justice Board Management Information System which gives monthly performance information on the progress of cases from the police to sentence
- Organisations' own performance measures
- Public and user surveys such as the Scottish Crime and Justice Survey and the SCS Court User survey

Scottish Government  
July 2012

## **ANNEX A: Making Justice Work – Projects**

### **Project 1 Delivering efficient and effective court structures**

**Project sponsor: Eleanor Emberson, Chief Executive, SCS**

**Aim:** To create a cost-effective, proportionate court structure in which cases and appeals are heard by the right court in both civil and criminal cases, reserving the use of the highest courts for the most serious and complex cases

#### **Sub-projects**

- **Court structures**
- **Enabling Technologies**
- **Fee Structures**
- **Judicial Structure**
- **Legislation**
- **Personal Injury Court**
- **Rules Council /Civil Justice Council**
- **Rules Rewrite**
- **Sheriff Appeal Court**

12. Project 1 is about changing the court structures. It takes forward the structural reforms accepted by the Scottish Government from the Scottish Civil Courts review, and also includes the work that SCS has been leading looking at future court structures. While this project includes the legislation required to make the changes happen, there is a clear separation of the SCS role and Scottish Government's policy responsibilities.



## **Project 2: Improving procedures and case management**

**Project sponsor: Bridget Campbell, Director, Justice, Scottish Government**

**Aim:** To improve the procedures of the justice system and to introduce active and effective management of cases, in order to minimise delays and adjournments to ensure the most cost-effective use of precious court time

### **Sub-projects**

- **Getting people to court**
- **Juror/witnesses process centralisation**
- **Summary Justice System Model**
- **Cross justice system video conferencing**
- **Review of Sheriff & Jury implementation**
- **Victims and witnesses**
- **Carloway Review implementation**
- **Long term policy development**

13. Within project 2 to date our main focus has been on some of the areas where the justice delivery bodies believe we can make gains in efficiency in the short term. Some of the projects within project 2 have already started to deliver changes and improvements to the system. For example, a range of witness attendance schemes have been piloted through the Getting People to Court project and the Summary Justice System model has set up a pilot sending text messages to remind witnesses to attend Edinburgh Sheriff Court. Consultation on implementation of a number of the medium term reforms (Carloway, Victims and Witnesses) has also now begun.

## **MJW Project 3: Enabling access to justice**

**Project sponsors: Lindsay Montgomery, Chief Executive, SLAB and Colin McKay, Deputy Director, Legal System, SG**

**Aim:** To develop a sustainable system for access to justice focused on early intervention which will support and empower people to avoid or resolve informally disputes and problems wherever possible and enable access to appropriate and proportionate assistance and to a range of methods of dispute resolution, including courts, tribunals and appropriate alternatives.

### **Sub-projects**

- **Co-ordination of publicly funded legal advice**
- **Review of costs and funding of litigation**
- **Legal capability**
- **Development of alternative dispute resolution**

14. The focus of project 3 will be on the resolution of civil justice problems, and it will also consider methods of delivery of advice such as online or telephone advice services.

#### **MJW Project 4: Co-ordinating IT and Management Information**

**Project sponsor: Don McGillivray, Deputy Director, Criminal Justice and Parole, SG**

**Aim: To provide the strategic platform for the development of IT, data management and management information to ensure all justice organisations have access to the data and information that they need, with efficient administrative processes supported by appropriate technology**

15. The aim of project 4 is to support business processes and improve access to justice by ensuring that the right people access to the right information at the right time. We have produced a strategy which has been agreed by all the main organisations which sets out a number of joint objectives for how IT can support wider improvement in the justice sector.

#### **Managing Information in Scotland's Justice System: A five-year information systems strategy for Justice**

##### **Objectives:**

- Improving the experience of justice system users
- Supporting effective case management
- Security and data integrity
- Efficiency and cost reduction
- Improving management information and performance information

#### **MJW Project 5: Establishing a Scottish Tribunals Service**

**Project sponsor: Norman Egan, Chief Executive, Scottish Tribunals Service**

**Aim: To establish an efficient and effective Scottish Tribunals Service by merging the administration of devolved tribunals and through the devolution of reserved tribunals to Scotland**

- Scottish Tribunals Service from December 2010 – first phase of devolved tribunals
- Consultation on Scottish Tribunals Bill under way - proposals for bringing together judiciary for devolved tribunals into STS
- Negotiations continuing with UK Government on reserved tribunals

16. Project 5 takes forward two distinct strands. The first is to bring together the devolved tribunals in Scotland into an integrated administration. Good progress has been made with this, with the first tribunals integrated in December 2010. The second strand is to devolve the reserved tribunals. Discussions are ongoing with the Ministry of Justice over the timing of this.

Making Justice Work Programme  
August 2012