



JUSTICE COMMITTEE

AGENDA

17th Meeting, 2013 (Session 4)

Tuesday 28 May 2013

The Committee will meet at 9.30 am in Committee Room 1.

1. **Decisions on taking business in private:** The Committee will decide whether to take items 4, 5 and 6 in private.
2. **Transfer of prison healthcare to the NHS:** The Committee will take evidence, in a round-table format, from—

Anne Hawkins, Chair, and Jayne Miller, Manager, National Prisoner Healthcare Network;

Dr Lesley Graham, Associate Specialist in Public Health Medicine, Information Services Division, NHS Scotland;

Dr Richard Groden, Clinical Director, Glasgow Community Health Partnership;

Joe McGhee, Senior Planning Manager, NHS Forth Valley;

Mark McEwan, Service Planning Manager, NHS Grampian;

Ruth Parker, Acting Assistant Director of Health and Care, Scottish Prison Service;

Frank Gibbons, Health Centre Manager, HMP Barlinnie;

Pete White, Co-ordinator, Positive Prison ? Positive Futures.

3. **Subordinate legislation:** The Committee will consider the following negative instrument—

Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 (SSI 2013/144).

4. **Tribunals (Scotland) Bill:** The Committee will consider its approach to the scrutiny of the Bill at Stage 1.

5. **Victims and Witnesses (Scotland) Bill:** The Committee will consider a draft Stage 1 report.
6. **Inquiry into the effectiveness of the provisions in the Title Conditions (Scotland) Act 2003:** The Committee will consider a revised draft report.

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The papers for this meeting are as follows—

Agenda item 2

Paper by the clerk (private paper) J/S4/13/17/1 (P)

[Transfer of prison healthcare to the NHS: Background papers](#)

Agenda item 3

SSI cover note J/S4/13/17/2

[Children's Legal Assistance \(Fees\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(SSI 2013/144\)](#)

Agenda item 4

Paper by the clerk (private paper) J/S4/13/17/3 (P)

Agenda item 5

Draft report (private paper) J/S4/13/17/4 (P)

Agenda item 6

Draft report (private paper) J/S4/13/17/5 (P)

Papers for information

Joint response from the Scottish Government and the Scottish Prison Service to the Justice Committee's report on its inquiry into purposeful activity in prisons J/S4/13/17/6

Justice Committee

17th Meeting, 2013 (Session 4), Tuesday, 28 May 2013

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following negative instrument:

Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 (SSI 2013/144).
2. Further details of the procedure for negative instruments are set out in the Annexe attached to this paper.

Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 (SSI 2013/144)

Purpose of instrument

3. These Regulations make provision about the fees that can be charged by solicitors and counsel when providing assistance by way of representation (ABWOR) or legal aid in relation to hearings and proceedings under the Children's Hearings (Scotland) Act 2011.

4. These Regulations are required because the Children's Hearings (Scotland) Act 2011, which provides for legal aid to be available for children's hearings, comes into force on 24 June. In addition, the draft Children's Legal Assistance (Scotland) Regulations 2013, which makes children's ABWOR available in relation to various hearings and proceedings, has also recently been laid and will come before the Committee on 4 June.

5. The instrument comes into force on 24 June 2013.

6. Further details on the purpose of the instrument can be found in the policy note on page 2 of this paper. An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2013/144/contents/made>

Consultation

7. The policy note on the instrument confirms that drafts of the Regulations were shared with the Scottish Legal Aid Board, the Law Society of Scotland and the Faculty of Advocates.

Subordinate Legislation Committee consideration

8. The Subordinate Legislation Committee considered this instrument at its meeting on 21 May and agreed that there was no need to draw the Parliament's attention to the instrument on any grounds within its remit.

Justice Committee consideration

9. Members are invited to consider the instrument and make any comment or recommendation on it. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 17 June 2013.

Policy Note: Children's Legal Assistance (Fees) (Miscellaneous Amendments) (Scotland) Regulations 2013 (SSI 2013/144)

The above instrument was made in exercise of the powers conferred by section 33(2)(a) and (b) and (3) of the Legal Aid (Scotland) Act 1986 and all other powers enabling them. The instrument is subject to negative procedure.

Policy Objectives

The overall policy aim is to provide a permanent, sustainable national scheme for the provision of state-funded legal representation in children's hearings and their associated court proceedings. The Children's Legal Assistance (Fees) (Miscellaneous

Amendment) (Scotland) Regulations 2013 (“the Regulations”) form part of this aim, as they provide details of the fees allowable to solicitors for providing children’s legal aid and children’s assistance by way of representation (“ABWOR”) as described in relevant sections of the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) and the Children’s Legal Assistance (Scotland) Regulations 2013.

The need for these provisions has come about because of the coming into force of the Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) on 24 June 2013, which makes provision for legal aid to be available for children’s hearings for children and relevant persons. In addition, the Children’s Legal Assistance (Scotland) Regulations 2013 will come into force on the same day and make children’s ABWOR available in relation to various hearings and proceedings under the 2011 Act.

The aims of the Regulations are to provide that, in general:

- the fees allowable to solicitors for ABWOR and advice and assistance work in relation to children’s hearings and proceedings are the same as the fees allowable for ABWOR and advice and assistance in civil matters;
- the fees allowable to solicitors for work in relation to automatic children’s legal aid under section 28C of the 1986 Act are the same as the fees allowable for children’s ABWOR;
- other than in relation to automatic children’s legal aid, the fees allowable to solicitors for children’s legal aid work are the same as those allowable for other civil legal aid work; and
- the fees allowable to junior and senior counsel for work in relation to proceedings under the 2011 Act are, in most cases, the same as the fees currently allowable for equivalent proceedings under the Children (Scotland) Act 1995 (“the 1995 Act”).

Children’s ABWOR and advice and assistance

Regulation 2 makes amendments to Schedule 3 to the Advice and Assistance (Scotland) Regulations 1996 (“the 1996 Regulations”).

In respect of children’s ABWOR, regulation 2(2) adds a new column, which applies to children’s matters, to the table of fees in Part 1 of Schedule 3. Children matters are defined as work in connection with hearings or proceedings under the 2011 Act. At present ABWOR in relation to hearings and proceedings under the 1995 Act falls within the civil matters column in the table of fees. The hearings and proceedings under the 1995 are being replaced by those under the 2011 Act. The new children’s matters column, prescribes the fees which apply in respect of children’s matters under the 2011 Act. The fees are prescribed in the Regulations to be the same as those payable for the equivalent ABWOR work in relation to the 1995 Act.

Regulation 2(3) amends Part 2 of Schedule 3 to the 1996 Regulations. The amendment means that the table of fees set out in Part 2, which currently applies to advice and assistance (other than ABWOR) in relation to the 1995 Act, also applies to advice and assistance (other than children’s ABWOR) in relation to the 2011 Act.

Children’s legal aid – solicitors

Regulation 3 amends the Civil Legal Aid (Scotland) Regulations 1989 (“the 1989 Regulations”).

Legal aid work in relation to the 1995 Act is referred to in Schedule 7 to the 1989 Regulations. The Schedule lists the proceedings to which Schedule 5 to the 1989 Regulations applies, and Schedule 5 prescribes the fees allowable to solicitor for providing that legal aid. Regulation 3(6) of the Regulations amends Schedule 7 to insert reference to proceedings under the 2011 Act. The effect of this is that the fees allowable to solicitors for children's legal aid work in relation to the 2011 Act are those set out in Schedule 5 to the 1989 Regulations.

Regulation 3(3) is an exception to the effect of regulation 3(6). It provides that where solicitors are providing automatic children's legal aid under section 28C of the 1986 Act, the fees allowable are not those prescribed in Schedule 5 to the 1989 Regulations but instead are those prescribed in Part 1 of Schedule 3 to the 1996 Regulations – the fees allowable for children's ABWOR. This exception ensures that solicitors doing this legal aid work, which may also be provided by means of a children's ABWOR certificate, will not receive higher fees for doing the same work under a different certificate.

Children's legal aid – Counsel

Regulation 3(4) amends table of fees A in Schedule 4 to the 1989 Regulations to insert reference in the relevant provisions to proceedings under the 2011 Act in relation to the fees allowable for junior and senior counsel fees in the Court of Session. These proceedings include: appeals relating to children's hearings, relevant persons, and contact and permanence orders. The amendments to the table of fees seek to put beyond doubt that the relevant provisions of the table apply to 2011 Act proceedings.

Regulation 3(5)(a) to (d) amends table of fees B in Schedule 4 to the 1989 Regulations to provide for the fees allowable to junior counsel fees in relation to 2011 Act proceedings to be the same as those for proceedings in relation to the 1995 Act.

Regulations 3(5)(a) and (b) amends the table of fees to provide fees for various applications under the 2011 Act: these are:

- to review grounds of determination;
- to vary or terminate a child protection order;
- to extend or vary an interim compulsory supervision order;
- to further extend or vary an interim compulsory supervision order; and
- to review a decision or determination to impose a duty on a local authority.

Regulation 3(5)(c) amends the table of fees to provide fees for junior counsel for hearings or appeals to the sheriff under the 2011 Act. These are:

- hearing of an application to establish grounds;
- application for a review of the grounds for a sheriff's determination;
- appeal to the sheriff against the decision of a children's hearing;
- appeal to the sheriff against a relevant person determination;
- appeal to the sheriff against a decision affecting a contact or permanence order; and
- appeal to the sheriff against a decision to implement secure accommodation authorisation.

The fees for these hearings and appeals are the same as currently prescribed for a hearing or appeal to the sheriff in relation to proceedings under the 1995 Act.

Regulations 3(5)(d) amends the table of fees to provide fees for junior counsel fees for appeals to the Sheriff Principal in relation to proceedings under the 2011 Act. These

appeals include appeals in relation to children's hearings, relevant persons, contact and permanence orders, and the review of a requirement imposed on a local authority.

The fees for these appeals will be the same as for appeals to the Sheriff Principal in relation to proceedings under the 1995 Act.

Regulation 3(5)(e) to (g) amends table of fees B in Schedule 4 to the 1989 Regulations to provide for the fees allowable to senior counsel in relation to 2011 Act proceedings in the sheriff court to be, in most cases, the same as those allowable for 1995 Act proceedings.

Regulation 3(5)(e) amends table of fees B to provide fees for various applications under the 2011 Act. These are:

- to vary or terminate a child protection order;
- to extend or vary an interim compulsory supervision order;
- to further extend or vary an interim compulsory supervision order; and
- to review a decision or determination to impose a duty on a local authority.

The table of fees does not prescribe specific fees for senior counsel for applications to the sheriff under the 1995 Act. The fee for the new applications under the 2011 Act has, therefore, been set at 150% of the equivalent junior counsel fee at the recommendation of the Scottish Legal Aid Board.

Regulation 3(5)(f) amends table of fees B to provide for the fees allowable to senior counsel for hearings or appeals to the sheriff under the 2011 Act. These are the same as for an appeal against a decision by a children's hearing or sheriff under the 1995 Act, specifically for:

- hearing of an application to establish grounds
- application for a review of the grounds for a sheriff's determination
- appeal to the sheriff against the decision of a children's hearing
- appeal to the sheriff against a relevant person determination
- appeal to the sheriff against a decision affecting a contact or permanence order
- appeal to the sheriff against a decision to implement secure accommodation authorisation

The fees are the same as those currently prescribed for a hearing or appeal to the sheriff in relation to proceedings under the 1995 Act.

Regulations 3(5)(g) amends the table of fees B to provide for the fees allowable to senior counsel fees for appeals to the sheriff principal under the 2011 Act. These include appeals in relation to children's hearings, relevant persons, contact and permanence orders, and the review of a requirement imposed on a local authority. The fees are the same as those currently prescribed for appeal to the Sheriff Principal in relation to proceedings under the 1995 Act.

Consultation

Drafts of the Regulations were shared with the Scottish Legal Aid Board, the Law Society of Scotland and the Faculty of Advocates for comment.

The Law Society of Scotland suggested that it would be preferable for there to be a fixed fee for children's legal assistance work. There is, however, no historical data which could be used to meaningfully develop a block fee structure. This could be

considered once the system has bedded in but a minimum of 2 years of data on which to base such a structure would be required.

Impact Assessments

Equality impacts for the policy were considered as part of the equality impact assessment for the Children's Legal Assistance (Scotland) Regulations 2013, which is attached. No negative impacts were identified.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is that it provides a clear framework for agents and counsel to be remunerated for providing publicly funded legal assistance in respect of 2011 Act hearings and proceedings.

The estimated cost to the Scottish Legal Aid Fund is an additional £0.8m in 2013/14 and £3m in 2014/15. This is the same money as identified in the cost of the Children's Legal Assistance (Scotland) Regulations 2013 and has already been included in forecasts of expenditure for the Fund. There is uncertainty around the financial impact on the Fund, particularly in relation to ABWOR volumes and the level of additional demand to undertake this work. The Board will therefore continue to refine its forecast going forward.

Scottish Government
Justice Directorate
May 2013

ANNEXE**Negative instruments: procedure**

Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Subordinate Legislation Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.

If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

Each negative instrument appears on the Justice Committee’s agenda at the first opportunity after the Subordinate Legislation Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Justice Committee

17th Meeting, 2013 (Session 4), Tuesday, 28 May 2013

Inquiry into purposeful activity in prisons

Joint response from the Scottish Government and the Scottish Prison Service to the Justice Committee's report

I am grateful to the Justice Committee for its positive consideration of purposeful activity in prisons. The Committee has undertaken a thorough inquiry which has involved a range of activity including site visits to prisons, talking to the men and women on the ground, Governors and prisoners as well as obtaining a wide range of both written and oral evidence. I welcome the overall direction of the recommendations which are in harmony with both the Scottish Government's Strategy for Justice in Scotland and the direction of travel that is being pursued by the Organisational Review of the Scottish Prison Service (SPS).

The recommendations

I have discussed the recommendations in detail with Colin McConnell, Chief Executive of the SPS as the majority of the recommendations are directed to SPS for action. This letter and annexed table is our joint response to the recommendations set out in the Committee's report of 28 March.

The SPS is committed to fully contributing to reducing reoffending and agrees that purposeful activity is critical in achieving this goal. I am therefore pleased to announce that SPS have appointed a senior manager to design and take forward a new strategic policy for purposeful activity. This appointment will provide an opportunity to have a root and branch review of purposeful activity in prisons to ensure that such activity is meaningful, can be measured in a useful way and provides overall direction for prisons. The recommendations in the Committee's report and the SPS Organisational Review will form the cornerstone of this strategic work.

It would perhaps be useful if I provide some further context to our responses to the individual recommendations:

Purposeful activity and the SPS Interventions Policy

The Scottish Government and the Scottish Prison Service welcomes and shares the Committee's views that purposeful activity is crucial to the rehabilitation and the reintegration of prisoners back into society. This is reflected in the SPS's Interventions Policy that supports the management of offenders in custody. Purposeful activity is an integral part of this policy which seeks to ensure that each offender has access to a package of interventions that reflect their individual risk and needs. Clearly, appropriate and meaningful purposeful activity is essential to addressing in particular, an offender's needs in a way that can help reduce reoffending and support rehabilitation. The SPS is already reviewing the practical delivery of purposeful activity in prisons. The Committee's findings will make a

valuable contribution to that review and to the wider strategic considerations being developed as part of the end to end Organisational Review which will be published in the summer.

Transforming the Scottish Prison Service

The Organisational Review will herald a new chapter in the life of SPS; its work with offenders will be reinvigorated and further aligned with the Justice Strategy for Scotland with the needs of individual offenders at its core. Whilst the Organisational Review will not report until the summer the SPS is not standing still; work is being taken forward to build a new prison for women offenders at HMP Inverclyde and this is an exciting opportunity to transform the way in which we manage women offenders. Whilst the best of the existing interventions and collaborative initiatives currently in place for female offenders across the SPS will be further nurtured and developed, the delivery of a vibrant regime focused on reducing reoffending will be significantly enhanced by its delivery in a prison designed exclusively for women offenders.

The Purposeful Activity Strategy

The Committee has helpfully set out in its recommendations a range of issues for inclusion in a purposeful activities strategy including involvement of third sector organisations; and guidelines for Governors on engagement with those organisations as well as guidance more generally. We agree with the Committee that a strategic overview of purposeful activity is needed to provide not only a framework for consistent delivery but also one that promotes innovation and responsiveness to the needs of both the offenders and where possible, their local community. The needs of all offender groups will be considered in the review of purposeful activity including remand prisoners and short term offenders.

Short Term Offenders

The Scottish Government is determined to tackle the revolving door of short term prolific offenders. Phase 2 of the Reducing Reoffending Programme is focused on making sure people who have offended access services and make the most of opportunities so that they fulfil their responsibilities as citizens and move away from offending. A review of throughcare will focus on the needs of short term offenders.

SPS is also beginning to target short term offenders through its work at HMP Low Moss and HMP Greenock. HMP Low Moss is currently developing a regime that supports short term offenders through early identification of their basic needs. The prison has also introduced arrangements for specifically engaging with those who are sent to prison for the first time to help minimise the contagion effect which it is believed can be a factor in progression to further offending. At HMP Greenock a throughcare project is underway which is testing the potential for an expanded role for prison officers working across the community/prison/community continuum in support of existing statutory and voluntary services providers to better supporting and direct offenders in the first few weeks after their release, which is generally accepted to be a period of high risk and instability for offenders. We will evaluate this pilot initiative and will look to build on the experience gained and lessons learned to

better inform how SPS' most impactful resource, its staff, can be more fully utilised in the future in order to enhance the likelihood of reductions in the number of previous offenders reoffending..

Use of Technology

Both the Scottish Government and the SPS are keen to maximise the use of technology in both the court and prison setting. Our response to recommendation 10 highlights that prison officers do not routinely escort prisoners to court; there has been a contract in place for such escorts since 2004. The Scottish Government and the SPS fully supports the wider use of video conference technology and the use of technology more generally to deal with some routine prison activities that would then free up the very valuable prison officer resource to focus on offending behaviour work, rehabilitation and throughcare.

Prison Design

SPS plans to maximise the opportunities for meaningful work and purposeful activity in order to make a more discernible contribution to the rehabilitation of offenders. The need to better understand and exploit the potential of current and emergent technologies is recognised by SPS. A project is currently underway to identify potential technological solutions that can enable and support plans to improve services, including those linked to purposeful activities.

It is worth keeping in mind however that despite the Scottish Government's significant and on-going investment in the Service's infrastructure, there will always be particular design and construction challenges and some may prove extremely difficult if not uneconomic to overcome. However, SPS' commitment is to utilise technology to a greater degree than before so as to maximise the time available for officers to engage constructively with offenders. The Scottish Government has made significant investment in the prison estate in excess of £500m over the past 6 years and our new prisons are designed to allow a greater degree of flexibility of access to a range of work and activities.

Education and Young Offenders

A number of the recommendations focus on education and meeting the particular needs of young people in custody. Meeting the needs of this section of the prison population is a particular priority for the Scottish Government and the SPS as breaking the cycle of offending at the earliest possible opportunity has the potential to help generate and sustain a longer term reduction of the prison population as well as other desirable social and economic benefits.

The SPS is also committed to a radical change to the way that young people in custody are engaged and supported. Working collaboratively with Education Scotland, and the wider statutory and voluntary sectors progress is already being made to create a skills development and learning environment at HMYOI Polmont that will enhance the life chances of many of the young people who are sent into custody there and generate improved employability and related employment

opportunities for young people on leaving custody. An enhanced and redefined approach to purposeful activity will be a key component of the developing strategy.

I trust that the above response and attached table are helpful in setting out our detailed response. I look forward to continued engagement with the Committee on this issue. I can confirm that:

- SPS will provide the Committee with a copy of the Organisational Review when it is published in the summer; and
- The SPS will provide the Committee with feedback on the strategic review of purposeful activity when it is available.

Kenny MacAskill MSP
Cabinet Secretary for Justice
21 May 2013

SCOTTISH GOVERNMENT AND SCOTTISH PRISON SERVICE RESPONSE TO THE JUSTICE COMMITTEE'S INQUIRY INTO PURPOSEFUL ACTIVITY IN PRISONS- 28 MARCH 2013

	Committee conclusion and recommendation	Response
1.	Purposeful activities are an important way of delivering support and the Committee calls for the provision of purposeful activities to be at the centre of rehabilitation policies delivered in prisons.	<p>The Scottish Government and Scottish Prison Service welcomes and shares the Committee's views that the access and uptake of purposeful activity across the prison estate is crucial to the rehabilitation and reintegration of prisoners back into society as contributing citizens.</p> <p>As we made clear during evidence sessions purposeful activity is already seen as an integral part of the SPS's intervention policy that supports the management of offenders in custody. The core principle of the interventions policy is to be able to provide, throughout the time spent in custody, an appropriate package of interventions tailored to address individual offender's particular risk and needs. Providing meaningful and productive purposeful activity is particularly relevant in contributing to the successful rehabilitation of short term offenders whose offending is often underlined by need rather than high risk. SPS has appointed a senior manager to carry out a root and branch review of purposeful activity to ensure that such activity is meaningful, contributes to reducing reoffending and can be measured in a useful way.</p>
2.	The Committee notes the definition of purposeful activity set out in the 2011 Rules but does not think it takes account of the broad range of factors which research shows strongly contribute to offenders likelihood of reoffending such as contact with family during imprisonment. Calls on the Scottish Government to give consideration to whether the definition should be revised to take into account these activities.	<p>The SPS accepts this recommendation.</p> <p>SPS agrees that there are areas of activity which are not currently included in their measure of purposeful activity which are valuable in contributing to the well-being of the offender, aid the rehabilitative process and contribute to reducing reoffending. The Committee's Inquiry has been helpful in identifying areas which are beneficial and should be properly considered as purposeful activity. Amongst the areas that we have initially identified for inclusion in the definition of purposeful activity are: family contact including contact with children, chaplaincy and faith support and peer mentoring support. The Strategy review (see 4 below)</p>

		will consider more fully how the definition of purposeful activity should be extended and where appropriate will make recommendations for changes to the Prison Rules so that these activities are properly recognised.
3.	Welcomes the Chief Executive of the SPS's positive approach since taking up post and his intention to review the operation of the SPS within the wider context of the local community and partner organisations. Invites the Chief Executive and Cabinet Secretary to update the Committee on the operational review.	The SPS intend to publish the internal review of the organisation in the summer and will provide the committee with a copy. Thereafter the SPS would be very happy to meet with the Committee to discuss the review in person.
4. 5.	Calls for the SPS and SG to draft a purposeful activity strategy as part of the operational review and recommends that the SPS's strategy include individual prison plans setting out how each prison will deliver the aims and objectives of the strategy within each prison. The Committee agrees that any strategy for delivering purposeful activity must recognise the valuable role that a range of third sector organisations play in reducing reoffending. Such a strategy must, however, include guidelines to assist individual prisons to manage their relationships with third sector organisations to maximise the benefits of such partnership working.	The SPS accepts this recommendation. The organisational review will provide a strategic response to many of the concerns raised by the Justice Committee and will herald the beginning of a transformational change programme for the organisation. The review will include taking forward a new approach to our offender engagement, rehabilitation and reintegration practices, partnership working and Performance Improvement. As described in the response to recommendation 1 the SPS has appointed a senior manager to carry out a review of purposeful activity and a revised strategy will be drafted by early 2014. SPS recognise the valuable role that third sector organisations play in reducing reoffending. It currently has a Model Framework for working in partnership with the third sector. SPS will review this as part of its Strategy review to ensure that it remains fit for purpose and that it is in bedded in current practice across the prison estate.
6.	The Committee recommends that the strategy should be flexible to allow Governors to retain their autonomy within each establishment whilst, at the same time, providing some stability within regimes	The SPS accepts this recommendation. The strategy will set out the corporate policy and strategic direction for purposeful activity. As the Committee recognise, the purposeful activity strategy needs to set direction and at the same time provide sufficient flexibility to enable

	where there is a change of Governor.	Governors to shape purposeful activity to meet the needs of individual offenders, the local environment and make most effective use of the available community support.
7.	The Committee recognises that the design of some prison buildings creates additional challenges to the prison services in facilitating access for activities. Where this is the case, the Committee would welcome further information on how the Prison Service is developing solutions to this problem within the existing structures. The Committee also strongly recommends that the easy movement of prisoners around the establishment in a context of safety and security are key considerations in the design of new prisons or upgrade of existing prison facilities in the future.	<p>The SPS accepts this recommendation. SPS recognises that in many prisons, particularly the older prison estate the design makes access to purposeful activity more difficult. The SPS will be looking at ways to improve access and to make the most efficient use possible of the facilities available. The effective movement of prisoners around prisons is also complicated by the number of prisoner groups that a prison holds that require to be kept separate. For example sex offenders are managed separately from mainstream prisoners and would not move around the prison in the same area at the same time.</p> <p>Where SPS have been able to build a “new” prison in its entirety for example at HMP Low Moss and HMP Grampian, they have built them to a design which allows for easier movement of prisoners as they recognise the benefits this provides. Where SPS have had to build new prisons in phases, on existing sites (such as HMP Edinburgh and HMP & YOI Polmont) such efficiency of design has not always been possible. The design of HMP Inverclyde will ensure that there is easy access to activities.</p>
8.	The Committee recognises that the movement of prisoner groups between prisons and sometimes overcrowded conditions are an unfortunate feature of the prison system. The strategy, therefore, should address how it will protect the provision of purposeful activities in these circumstances.	<p>The SPS accepts this recommendation. As described in response to recommendation 7 the prison population comprises a number of prisoner groups who need to be separated for a variety of reasons. This together with the prison population being over design capacity, which has encouragingly reduced this year, leads to challenges in the provision and consistent delivery of purposeful activity across the estate.</p> <p>The review of purposeful activity will consider what can be done to mitigate any degradation in access to purposeful activity caused by necessary prisoner movements throughout the prison estate.</p>

9.	<p>The Committee recognises that it is difficult for individual prisons to provide sufficient staff resources to ensure all workshop activities can proceed despite staff changes and absences. The Committee does, however, believe that more could be done to ensure the continuity of these activities in these situations and highlights this as an issue to be included in the strategy on purposeful activity and reflected in the individual prison plans.</p>	<p>The SPS accepts this recommendation. SPS is grateful to the Committee for recognising the difficulties it faces in ensuring that all purposeful activity continues where there are staff changes and absences. The SPS seeks to minimise disruption wherever possible however where staff have specialist skills that are not readily replaced some disruption occurs. SPS accept that more could be done to ensure continuity of service provision and this will be included in the review of the purposeful activity strategy.</p>
10.	<p>The Committee is aware that the movement of prisoners between prison and courts diverts staff resources from delivering purposeful activities. The Committee believes that the wider use of video conference technology could avoid the need for some prisoners to travel to court and, thus, free up more prison officers to deliver activities. The Committee recommends, therefore, that the Scottish Government consider this issue as part of its court reforms.</p>	<p>Escort services are currently delivered by G4S so there is no impact on prison resources in relation to their movement to court, however emergency escorts e.g. to hospital require SPS staff resources that may reduce availability of purposeful activity delivery.</p> <p>SPS is part of the National Cross Justice Video Conferencing Project within the Scottish Government Making Justice work programme. The Project is a cross agency initiative which is designed to support development, testing and implementation of the application of video technology across the justice system in Scotland, building on best practice and modern technology.</p> <p>The SPS is currently working on a project establishing the capability to conduct video conferencing with the courts and for prisoner's legal agents to be able to conduct confidential consultations with their clients via video link. This involves 2 pilot projects, one in respect of video link with the High Court and the other with legal agents carrying out consultations by video link from their offices with their clients and will be incrementally rolled out across 8 prisons.</p> <p>The evaluation of the High Court project this is scheduled to be concluded by June 2013. The pilot project connecting legal agents to prisons has not yet commenced but has been provisionally scheduled to</p>

		begin during May 2013.
11.	The Committee is concerned about the inconsistencies of access to purposeful activities across the prison estate and recommends that the Scottish Government and SPS address this in the strategy for purposeful activity.	<p>The SPS accept this recommendation and that there is a need to ensure a more consistent approach to purposeful activity in all prisons where that is possible.</p> <p>There are a number of reasons why inconsistencies are evident across all prisons. As the Committee recognises in recommendation 6 above there are clear advantages to continuing to allow Governors discretion on what they provide, taking account of their particular facilities and population group. Differences arise because some activities are provided by third sector partners who may work in some prisons or for some particular prisoner group but not in/with others.</p> <p>SPS also accept that there is a need to develop partnerships across the Justice Community, as well as with other agencies and community partners to ensure that the interventions that begin within the custodial environment can continue to be effective in the wider community.</p>
12.	The Committee agrees with those stakeholders who suggest that the SPS should use timetables to schedule prisoners' participation in purposeful activities and urges the SPS to introduce them as soon as possible. Further, the Committee has concerns that, although prisoners have individual plans, their significance is not always recognised in what is provided. The Committee also agrees that using computerised prisoner management systems would benefit public sector prisons and is concerned that these have not been installed. The Committee asks the SPS what the installation of a computerised system would cost and what consideration it has given to investing in these systems across the prison estate.	<p>Timetabling</p> <p>The SPS will look at how they can optimise activity in all prisons including timetabling as part of its Strategy review. The Committee may be interested to know that as part of the project to transform the learning environment in HMP & YOI Polmont SPS is working with Education Scotland who will amongst other things provide advice on timetabling activities.</p> <p>Information Technology</p> <p>There is currently a project underway within SPS that is looking at how to enhance prisoner access to IT. The project will consider a number of IT options including:</p> <ul style="list-style-type: none"> • Self-service “kiosks” A self-service “kiosk” similar to the HMP Addiewell model which allows prisoners to view appointments, request referrals to

		<p>different services etc. Such a system then would free up staff time to focus on offending behaviour work.</p> <ul style="list-style-type: none"> • Secure Communications Secure integrated communications portals such as a prisoner's telephone service, video-conference facilities and secure messaging that would allow prisoners to communicate directly with their family and service providers. • Throughcare and Learning Secure web portal access to statutory public services for access to information on benefits, housing and healthcare etc. through an approved referral system. It could also provide secure bespoke learning environments. <p>All of the above proposals will require significant investment and it is not currently possible to quantify the costs, however to roll this out across the prison estate it is likely to be in the millions of pounds.</p>
13.	The Committee notes the concerns highlighted relating to some prisoners' lack of experience of a working routine and recognises the important role that the Prison Service should play in developing this during custody in order to rehabilitate and best prepare the prisoner for life on release. The Committee recommends that the Scottish Government and SPS address this in any strategy on purposeful activities.	SPS accept this recommendation and will include within the revised Strategy specific guidelines to ensure that all prisoners are encouraged and incentivised to engage in activities with the aim of engendering a work ethic. SPS will in particular look at best practice across the estate where for example at Low Moss officers acting as Case Managers assist prisoners to plan their day.
14.	The Committee shares the concerns of many that some prisoners have unlimited opportunity to watch television. The Committee agrees that a reasonable amount of time to watch television is fair as part of a prisoners' relaxation time. The Committee recommends, however, that guidelines regarding the appropriate amount of television	The SPS note that the Justice Committee recognise that prisoners should be allowed a reasonable time to watch television and SPS accept the wider premise that an appropriate balance needs to be struck between meaningful and purposeful activity and leisure and that both contribute to providing a structured environment to enable offenders to address their offending. SPS accepts that there needs to be a clear understanding of when it is appropriate to watch television and indeed

	viewing time be included in the strategy on purposeful activities.	<p>participate in other leisure activities. That is why when SPS designed the new HMP Low Moss systems were put in place so that a fully automated system can automatically switch off power to TVs whilst for example still retaining power for lights and this can be done for a group of cells or for individual cells. Similar technology will be available in HMP Grampian. However no other prison has this system and introducing it estate wide is likely to pose significant technical challenges and will be expensive.</p> <p>SPS therefore confirm in tandem with the Strategy review it will conduct an audit across all prisons to establish the feasibility of limiting access to technology at certain times of the day. As part of the Strategy SPS will consider guidelines for appropriate viewing time and how it can ensure that can be adopted estate wide.</p>
15.	From the evidence received, and members' observations during their prison visits, the Committee recognises the good work that prison education centres do in providing a supportive learning environment. The Committee notes the representations made to it, however, that aspects of the delivery of education services could be significantly improved and recommends the Scottish Government and SPS consider these in the strategy for purposeful activities.	<p>The SPS accepts this recommendation. The SPS makes a significant investment in the provision of education that ranges from support for basic learning to more advanced learning levels. The SPS also delivers a core assessment tool to identify particular learning and numeracy needs so that appropriate support can be given to develop these skills. Education and vocational training are key components of the package of purposeful activity delivered in prisons.</p> <p>As part of the Strategy review SPS will consult with both education providers (Motherwell College and Carnegie College) on how to maximise education opportunities.</p>
16.	In particular, the Committee believes that it would be advantageous for information about first time offenders' educational attainment, such as school reports, to be made available to the SPS upon the offenders' imprisonment. This would supplement the information about prisoners' educational qualifications and literacy and numeracy needs	The SPS agrees and, as a priority, is already exploring with Education Scotland and Skills Development Scotland how to get access to this information as soon as the offender is admitted to custody.

	that is currently gathered during the induction process.	
17.	The Committee strongly agrees that secure access to the internet is both achievable and highly desirable to provide a learning environment which is comparable to that in the community. Not only would this support staff and learners but it would also help prisoners continue their learning in the community following their release. The Committee appreciates that there are security concerns but highlights the evidence submitted to it that these can be addressed. The Committee has been informed that the SPS is currently reviewing this policy and calls on this review to be concluded as soon as possible to enable internet access to be provided to education centres across the prison estate.	The response to recommendation 12 outlines the work that SPS is currently undertaking in respect of the wider use of Information Technology including for education and learning.
18.	The Committee is also concerned that the SPS prisoner wages policy, by paying work activities a higher wage than learning activities, does not recognise the value of education. The Committee has not been given a reason why this disparity exists. The Committee agrees that this would seem to discourage participation with learning activities and urges the Scottish Government and SPS to review this policy as a matter of urgency.	<p>The SPS accepts this recommendation and will review the prisoner wage earning policy as part of the purposeful activity strategy to ensure that there is no disincentive to attending education.</p> <p>The Committee may find it helpful to have some details on the current prisoner wage earning policy:</p> <p>There is a range of prisoner wages paid ranging from £5 (unemployed) – £21(work placements in Open conditions). Education is paid within the mid-range (£11), along with accessing Vocational Training and Approved Activities.</p> <p>The policy provides that prisoners will not be disadvantaged by attending education. For example if a prisoner earns £7 per week in a work party and chose to go to part-time education he would receive the pro rata</p>

		<p>increase of the education wage of £11. Similarly if a prisoner was earning £13 in catering, and chose to go to part-time education the prisoner would retain the wage of £13.</p> <p>Certain 'skilled' jobs in prison will require a higher level of literacy and numeracy, have achieved relevant qualifications and be able to fulfil the role with little or no staff supervision, and as such are paid at a higher rate than education. Therefore prisoners may be required to attend education to evidence appropriate levels of attainment before they can apply for roles that pay at the higher rate.</p> <p>Similarly there are "essential" jobs that require significant training and certification that also may be required to work shifts, at weekends and required to be covered 365 days a year such as Catering, and are therefore also paid a higher wage.</p> <p>The SPS policy is to incentivise learning by encouraging prisoners to participate in education so that there are better employment opportunities both inside and outside prison – in prison; if a prisoner gains appropriate literacy and numeracy skills they may be able to obtain a job in the higher wage bracket –on release; if a prisoner has gained such skills his employability prospects will have improved.</p> <p>The review will consider whether this policy has unintended consequences in creating any disincentive to prisoners attending education.</p>
19.	The Committee recognises the concerns raised in a number of written submissions that prisoners' special educational needs are often not identified during the prison induction process and believes that this situation must be addressed. The Committee welcomes the Chief Executive of the	The SPS accept this recommendation and will include this in its Strategy review and will consult with the College of Occupational Therapists in this regard.

	SPS's commitment to consider this issue, and the potential role that occupational therapists might play, as part of the national guidance panel on young offenders (YOs). The Committee is of the view, however, that this is as much of an issue for the adult prison population as for YOs and recommends that this issue should be addressed within the strategy for purposeful activities.	
20.	The Committee notes the concerns raised by a number of stakeholders relating to the opportunities remand prisoners have to participate in purposeful activities. The Committee recommends that the Scottish Government and SPS give this matter focused consideration when drafting the strategy on purposeful activity.	The SPS accepts this recommendation and will include a review of the opportunities available for remand prisoners in its strategy for purposeful activity.
21.	The Committee remains very concerned about the small number of short term prisoners (those serving sentences of four years or less) who participate in purposeful activities. The Committee recognises that there are particular difficulties in engaging with this category of prisoners for a number of reasons; for example, the length of some short term sentences and the lack of incentives to participate. The Committee strongly believes, however, that, given the fact that reoffending rates are highest amongst short term prisoners, greater efforts must be made to persuade them to participate in activities which will support their rehabilitation. The Committee believes that the SPS, supported by the Scottish Government, must give further thought about how to address this as a matter of priority.	<p>The SPS accepts this recommendation. The core principle underlying the work of the organisational review is improving staff engagement and motivating short term offenders to participate in rehabilitation and reintegration activities.</p> <p>There are a number of initiatives being taken forward in SPS aimed at the short term prisoner population. For example at HMP Greenock 3 new innovations are being piloted. (1) End to end case management for short term prisoners (2) Throughcare support officers and (3) Community Integration Units for short term prisoners.</p> <ul style="list-style-type: none"> • End to end case management for short term prisoners is underway. This project was initially piloted with the women offenders held at Greenock but is now being rolled out to male offenders. Each short term prisoner gets an appointed prison officer as their case manager who in conjunction with the prisoner draws up a management plan. The plan identifies their needs and relevant interventions; builds on their personal goals and

		<p>objectives and focuses on long term re-integration. This level of throughcare is normally only available to long term prisoners.</p> <ul style="list-style-type: none"> • Throughcare support officers have been appointed to work inside and outside the prison supporting offenders in the first few weeks of their release which we know is a very vulnerable time for offenders. • Community Integration Units (CIUs) are not new to SPS and have been in operation for women offenders in HMP Aberdeen and HMP Inverness The project at HMP Greenock to build two CIUs within the grounds of the prison for men and women means that local short term prisoners will be given the opportunity to develop and enhance independent living skills, allowing them to engage with community based services, doing training in employability and education, and supporting family contact. <p>At HMP Low Moss the Positive Impact Programme has been introduced to minimise the impact of prison on first time in custody offenders by enhancing/maintaining protective factors such as family, friends, employment, and external agency support. It will provide offenders with up to 16 weeks (depending on need) of intense support to address their needs through modular interventions or approved activities. This will for example include participation in interventions to address problem solving, substance abuse, emotional management as well as participation in healthy eating/life skills classes. Offenders can also participate daily in education classes (20 attend regularly) on subjects such as IT, literacy and numeracy. This work is supported by the Family Contact Officer, Prisoner Manager Officer and 6 other trained staff delivering group work.</p> <p>The Scottish Government and SPS are also working in partnership to take forward a pilot at HMP Edinburgh, Perth, Cornton Vale and Greenock that will take forward new approaches to core screening the</p>
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		throughcare needs of short term offenders (as noted in response to recommendation 25).
22.	The Committee asks that the Scottish Government consider the proposed requirement that internal prison reports are made available to the judiciary during court proceedings when its court reform policies are finalised in the coming months.	The Scottish Government is not currently considering a specific requirement for internal prison reports to be used during court proceedings. However, through our Making Justice Work Programme we are exploring how we can make better use of criminal justice IT systems to enable the collation of relevant data from a range of valuable sources to develop an offender management plan for short term offenders post release.
23.	The Committee welcomes the SPS's intention to give a renewed policy focus to the different needs and challenges associated with YOs. The Committee agrees that it is imperative to tackle YOs' offending behaviour to ensure that their first experience of the prison system is also their last and welcomes the proposal to give HMYOI Polmont a stronger educational and vocational focus. The Committee expects updates from the national guidance panel established by the SPS to inform this proposal as this policy takes shape.	The SPS accepts this recommendation. The SPS continues to give this work priority. Along with Education Scotland, the SPS organised a partnership event on 8 May to generate commitment to creating positive opportunities for young people in custody. The outcome was a statement of intent from partners about how relevant organisations could contribute to creating a learning and developmental environment for HMP & YOI Polmont. The SPS's youth strategy group will be the governance group for this work and will provide progress reports to the Committee.
24.	The Committee welcomes the SPS's new approach to providing better support to prisoners' families and fully endorses the planned improvements of visitor facilities and, in particular, family centres across the estate. The Committee would welcome a response to the claim put forward by Families Outside.	The SPS published standards for family visits in March underscoring the importance of encouraging and maintaining positive relationships as part of the rehabilitative process. Guidance clarifying that visits including "bonding" visits should only be restricted on grounds of child protection will be issued to Governors by the end of May.
25.	The Committee would welcome an update on the timescale for the Scottish Government's review on throughcare.	The review of Throughcare for short term offenders is a key project in Phase 2 of the Reducing Reoffending Programme which will report in 2015. An international and Scottish-focused evidence review will be

		<p>published in the summer of 2013 which will inform the policy development of throughcare review including identifying what the effective elements of throughcare are. The review will take forward a comprehensive set of options aimed at improving the outcomes of short term offenders leaving prison, by designing better processes informed by feedback; better information sharing; and more strategic commissioning of services in custody and in the community. It will involve 4 main workstreams:</p> <ul style="list-style-type: none"> • Explore options for extending the scope of the national directory of interventions which has been live since April 2012. Future development of the directory will be co-ordinated with the review of community justice structures so its scope and functions are matched to the needs of the commissioning and delivery bodies. • Improving access to throughcare support in custody- this will build upon the pilots established in Phase 1 of the Reducing Reoffending Programme in HMP Perth, Cornton Vale and Greenock for testing new approaches to screening the throughcare needs of short term offenders. And by using this information, develop a meaningful community integration plan for each offender which will be followed up by a named member of the social work team on the offender's release. Phase 2 of this work will look at what works for possible roll out of this approach across the prison estate. • Improving access to support in the community- we will explore new models of throughcare support with criminal justice social work and third sector organisations to implement new approaches to support offenders as they reintegrate back into their communities. This will be informed in large part by the lessons learnt and evaluation of the Reducing Reoffending Change Fund Year 2 and 3 delivery of mentoring projects to offenders. • In tandem with the above workstreams is the need to improve short term offenders' access to universal services across the whole of the public sector. This has been recognised as a complex and therefore
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		longer term workstream which will require a range of engagement and buy-in across the public and voluntary sector. It will aim to deliver clearer protocols for offenders ability to access a range of universal services to help them turn their lives around on release from prison.
26.	The Committee welcomes the increased emphasis being given to throughcare as it is vital that an adequate support package is provided to prisoners on release which recognises the broad range of factors which may have caused their offending behaviour.	The SPS continues to promote its own initiatives (see the response to recommendation 21) and contributes to the Scottish Government's work to develop supportive throughcare for short term offenders. The SPS will also be fully involved in the mentoring Public Social Partnerships sponsored by the Reducing Reoffending Change Fund.
27.	The Committee remains of the view that statutory throughcare should be available to short term prisoners and urges the Scottish Government to consider this as part of its SPS strategy, as well as part of its redesign of the community justice system.	The Scottish Government review of throughcare project detailed in response to recommendation 25 will be exploring a range of options for throughcare policy and legislation including the feasibility of extending statutory throughcare to all offenders serving sentences of less than four years. The Committee will appreciate that this may have significant cost implications for the whole of the public sector and all possible options will need to be evidence based in conjunction with key partners, particularly local authority criminal justice social work, housing providers and the NHS.
28.	The Committee recognises that there is tremendous scope for developing mentoring programmes within prisons and outwith in throughcare provision and welcomes the SPS's approach. The Committee believes that there are many other opportunities for utilising a mentoring scheme and recommends that these are given due consideration in the strategy on purposeful activity.	<p>The development of mentoring schemes is fully embedded into Phase 2 of the Scottish Government's Reducing Reoffending Programme. The Committee will be aware that the Reducing Reoffending Change Fund partners (Scottish Government, Scottish Prison Service and the Robertson Trust) recently announced (11 April 2013) a further investment of £7.7m of spending which has been allocated to six mentoring projects for offenders which will operate over the next two years. These projects include a national service for women offenders led by SACRO, a national service for prolific young male offenders led by the Wise Group and four other regional or specialised projects:</p> <ul style="list-style-type: none"> • Includem will work with difficult, chaotic and violent offenders • VASLan will combine mentoring with an emphasis on employability- recruiting volunteer mentors from business and

		<p>industry</p> <ul style="list-style-type: none"> • Action for Children & Barnardo's who will focus on young male offenders; • Tayside Council on Alcohol who already have a track record for delivering mentoring to offenders in their region. <p>The projects will establish a network of mentoring schemes which will work inside and outside prison as part of our approach to ensure that prison staff, social workers and voluntary organisations better prepare prisoners for release into the community. An independent evaluation of the projects will report back in 2015 and we will of course be happy to share the report with Committee members. The outcome from the evaluation will be critical to exploring new approaches to receipt of care in the community and access to universal services such as housing and benefits.</p>
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