

JUSTICE 2 COMMITTEE

Tuesday 30 November 2004

Session 2

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JUSTICE 2 COMMITTEE

34th Meeting 2004, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

Mr Stewart Maxwell (West of Scotland) (SNP)

*Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

THE FOLLOWING GAVE EVIDENCE:

Jennifer Davidson (Scottish Institute for Residential Child Care)

Bill Duffy (St Mary's Secure Unit)

Lorne Findlay (Scottish Commission for the Regulation of Care)

Professor Andrew Kendrick (Scottish Institute for Residential Child Care)

Rod MacCowan (HM Prisons Inspectorate for Scotland)

Dr Andrew McLellan (HM Chief Inspector of Prisons for Scotland)

Frank Phelan (Howdenhall Centre)

David Wiseman (Scottish Commission for the Regulation of Care)

CLERK TO THE COMMITTEE

Gillian Baxendine

Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 1

Scottish Parliament

Justice 2 Committee

Tuesday 30 November 2004

[THE CONVENER *opened the meeting at 14:03*]

Subordinate Legislation

The Convener (Miss Annabel Goldie): Good afternoon and welcome to the 34th meeting in 2004 of the Justice 2 Committee—we get fresher with every week that passes. I welcome to the meeting the Deputy Minister for Justice, Hugh Henry, and his colleagues from the Executive Justice Department, Joyce Lugton and Norman Macleod, and thank them for coming before us. I also welcome Fergus McNeill, who is assisting us with and advising us on our youth justice inquiry. I have received no apologies, but Kenny MacAskill is here in place of Stewart Maxwell.

Tenements (Scotland) Act 2004 (Consequential Provisions) Order 2004 (Draft)

The Convener: Item 1 is consideration of subordinate legislation. The draft Tenements (Scotland) Act 2004 (Consequential Provisions) Order 2004 is subject to the affirmative procedure, so the deputy minister is required to speak to and move a motion in respect of it.

The Deputy Minister for Justice (Hugh Henry): Section 31 of the Tenements (Scotland) Act 2004 gives Scottish ministers the power to make incidental or consequential amendments to enactments. The draft order uses the power to make a minor change to the Title Conditions (Scotland) Act 2003. Section 128(3)(a) of that act contains a list of schedules with which members will be familiar. Those schedules contain forms and, given that it is necessary to change forms from time to time, it is sensible to change them by order rather than by primary legislation. The Tenements (Scotland) Act 2004 introduced a new schedule to the Title Conditions (Scotland) Act 2003, which the draft order will add to the list.

I move,

That the Justice 2 Committee recommends that the draft Tenements (Scotland) Act 2004 (Consequential Provisions) Order 2004 be approved.

The Convener: Thank you. There are no questions, so do members agree to recommend that the draft order be approved?

Members *indicated agreement.*

Tenements (Scotland) Act 2004 (Notice of Potential Liability for Costs) Amendment Order 2004 (SSI 2004/490)

The Convener: Item 2 is also consideration of subordinate legislation. I thank the minister for staying for our consideration of four instruments that are subject to the negative procedure, the first of which is the Tenements (Scotland) Act 2004 (Notice of Potential Liability for Costs) Amendment Order 2004 (SSI 2004/490), copies of which members have before them.

Correspondence on the order between the Subordinate Legislation Committee and the Executive has also been circulated. Do members have questions about the order? I noted what the Subordinate Legislation Committee said about the overlap of seven days and the Executive's explanation. Clearly it is better that the order be enforced than not, but there is a gap that might place purchasers at risk for that interval. Is the Executive mindful of the fact that it might face a compensation claim if a purchaser suffers loss as a consequence of the omission?

Hugh Henry: We do not think that that will arise. I will perhaps defer to my officials in a moment, but when it became obvious that the order required to be made, the 21-day rule meant that there would be a gap, which is unfortunate. We could have breached the rule, but did not think that a breach, which should happen only in exceptional circumstances, was warranted in this case.

The Convener: For the committee's information, how would the rule have been breached?

Hugh Henry: By the time the matter came to our attention it would not have been possible to give proper notice and bring the order into force on 28 November.

Mr Kenny MacAskill (Lothians) (SNP): I understand why in the normal course of events you would not wish to breach the rule. After weighing up the matter, the Subordinate Legislation Committee thought that a breach of the 21-day rule would have been beneficial. Are you happy to accept that, given that that committee suggested such a breach as a way of ensuring that the order and the schedule that it amends were brought into force contemporaneously?

Hugh Henry: The nub of the Subordinate Legislation Committee's concern was that purchasers could be affected adversely. We do not agree with that conclusion, which is why we did not believe that it was necessary to breach the 21-day rule. It is a straightforward difference of opinion.

Mike Pringle (Edinburgh South) (LD): I am on the Subordinate Legislation Committee, so I have discussed the order. The committee's view was

that although the Executive has previously breached the 21-day rule when we thought that it should not, it did not do so in this case, although we thought that it should. Every member of the Subordinate Legislation Committee thought that purchasers would be affected, although we accepted that they would be affected only for a short time. Perhaps nobody will be affected, but quite a lot of people could be. Why do you think that purchasers will not be affected?

Hugh Henry: A new owner will not be liable for work carried out before he or she acquires a property unless a notice that describes the works is registered at least 14 days beforehand. The earliest that any notice could be registered would be 29 November, so a new owner who acquires a flat at any time before 13 December would not be liable.

We argue that the order will assist owners of tenement flats who propose to carry out works. They can register a notice at least two weeks before they carry out the work and know that even if a flat is sold immediately after the work is done the new purchaser would be liable for a share of the costs. What matters is the issue about planned work. We consider that the possibility that such planned work would be carried out in the week beginning 29 November is unlikely in the extreme. It is a matter of judgment—a difference of opinion. We do not think that there will be the adverse consequences that have been suggested.

The Convener: On reflection, minister, is there any lesson to be learned from this?

Hugh Henry: The only lesson to be learned is that we must ensure that in everything we do we are absolutely perfect first time and do not overlook anything. No doubt we will achieve that at some point—we are nearly there. I am sure that we will reflect carefully on the matter.

The Convener: On a more positive note, has the omission been instructive?

Hugh Henry: Yes. Like everybody else, we learn as we go along. What has been remarkable since the inception of the Parliament is the amount of work that has been carried out and carried out well. It is to the credit of everyone involved that there are so few oversights, but occasionally they happen. When they do, we attempt to remedy them as quickly and effectively as possible. That is what we are doing on this occasion.

The Convener: Does the committee wish to make a specific recommendation on the matter that was raised by the Subordinate Legislation Committee?

Jackie Baillie (Dumbarton) (Lab): The minister's explanation has been perfectly adequate.

The Convener: Is the committee content with the order?

Members indicated agreement.

Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2004 (SSI 2004/491)

Advice and Assistance (Scotland) Amendment (No 3) Regulations 2004 (SSI 2004/492)

Legal Aid (Scotland) Act 1986 Amendment Regulations 2004 (SSI 2004/493)

The Convener: The remaining three instruments, which are again subject to the negative procedure, are the Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2004, the Advice and Assistance (Scotland) Amendment (No 3) Regulations 2004 and the Legal Aid (Scotland) Act 1986 Amendment Regulations 2004. I confirm that the Law Society of Scotland has been consulted on the instruments and has no comment to make. Is the committee content with the three sets of regulations?

Members indicated agreement.

The Convener: I thank the minister and his colleagues for their attendance this afternoon.

Youth Justice

14:13

The Convener: Item 3 on the agenda is our youth justice inquiry. We come to our first panel of witnesses, whom I shall not hassle until they have had time to sit down.

On behalf of the committee, I formally welcome to our meeting Dr Andrew McLellan, who is Her Majesty's chief inspector of prisons for Scotland, and Mr Rod MacCowan, the deputy chief inspector of prisons. I also welcome David Wiseman, director of operations, and Lorne Findlay, regional manager for central-east region, of the Scottish Commission for the Regulation of Care. We are grateful to the four of you for coming this afternoon and for making time available to be with us.

We want to cover a lot of subjects and colleagues have a lot of questions to ask, so without further ado I ask Bill Butler to commence proceedings.

14:15

Bill Butler (Glasgow Annie'sland) (Lab): Good afternoon, gentlemen. For the record and the committee's information, will you outline the main issues that were raised by recent inspections of young offenders institutions, residential schools and secure units?

David Wiseman (Scottish Commission for the Regulation of Care): I am happy to start. We are in discussions with the social work services inspectorate, Her Majesty's Inspectorate of Education and other interested parties on the future regime for inspection of secure units; the inspection process requires the involvement not just of the care commission, but of those other bodies. Involvement is required of HMIE from an educational aspect, and of the SWSI, because Scottish ministers have a process of approval for secure units.

Members may be aware that we recently conducted a joint inspection because of complaints and whistle blowing in respect of the Kerelaw unit which, although it is based in Ayrshire, is managed by Glasgow City Council. What I am going to say is not purely about Kerelaw, but about the inspections that we have carried out in the five secure units over the past two years.

Issues have come up around whether the culture within secure units support young people or provides a negative environment for them, which is important. It is also important in that context to note that people who have not offended before, but who go to a secure unit, sometimes

find that they are in an offending regime, so the police have to be called to particular incidents. We have some concerns about that.

The design of the secure units and the location of certain elements are matters for consideration. I know that that is to an extent being addressed through the Executive's expansion of the secure regime, on which considerable work is being done. That will address some of the concerns about the physical nature of some of the properties that are being used.

There are a number of issues related to staffing, such as the adequacy of staff numbers and difficulties in recruiting people into this area of work. It is a challenging area. There are issues around the use of sanctions and rewards, and what that does in terms of the organisational culture, and what it sometimes indicates about power relationships.

Concerns have been expressed about the use and management of restraint. I know that the committee will hear evidence from the Scottish institute for residential child care, which is currently working on good practice guidance on use of restraint. However, there are concerns about how people use restraint and whether there is good recording of its use and of aggressive incidents. There is also a need to clarify some of the parameters for appropriate strip-searching, which needs greater guidance. There are also concerns in respect of, for example, health care and food quality.

Those have been the main areas of concern over the past couple of years.

Dr Andrew McLellan (HM Chief Inspector of Prisons for Scotland): On young offenders institutions and prisons, in theory all male under-21 offenders will be held in Polmont and all female under-21 offenders will be held in Cornton Vale. Unconvicted people of both sexes will be held from time to time in other prisons, but I will concentrate on people who have been convicted.

Our inspection of Polmont raised as a significant concern the considerable difference that good conditions make to the attitude, engagement and involvement of prisoners. I spoke to the Justice 1 Committee about that. In Polmont, very good conditions exist side by side with very bad conditions. The remarkable difference between young offenders in different conditions encouraged me to believe what I think I have always believed—which I hope I will communicate to the committee—which is that a young offenders institution does not simply affect a prisoner through programmes and care, but through a package of conditions that consists of relationships with staff, education and work.

Provision for unconvicted people throughout Polmont is thin, as it is in all places in which unconvicted people are held. However, for convicted people in Polmont, our report drew attention to the high quality of programmes for addressing reoffending behaviour in terms of the numbers of programmes, the numbers of people who attended them and the anecdotal responses of those who have attended them. There are only five people on my team, so we do not have the kind of research facility that would make it possible to do a statistical analysis of that evidence.

Equally, there were positive contributions from people from HMIE who accompanied me on the inspection. I invited them to inspect the education side for me. Our report contains affirmations that there is positive education in Polmont. I must declare to the committee that I am married to a person who teaches in Polmont, so I might have an interest in saying what the report says about education there. However, you must understand that it was HMIE, not I, who inspected the education side.

Bill Butler: We are not questioning your objectivity, Dr McLellan.

Dr McLellan: I welcomed the teachers' remarks, though.

I hope that the committee believes, as I do, that preparation for work—getting up in the morning and going to work, getting work habits, learning trades and making things—is good for prisoners in all sorts of ways. However, there is not enough such activity in Polmont. Prisoners do not get the kind of access to that activity that they would like.

Finally, on Polmont, significant and important developments there include the links centre and a throughcare process by which more and more outside agencies are embedded in the prison. Prisoners can access and address them at an early stage.

Although I said, "Finally", I want to say a word more about something to which I may come back later, which is the quality of two more slightly unstructured parts of Polmont that are significant in terms of engagement. One is the youth centre, which runs a variety of personal and social programmes, and the other is the chaplaincy, which is significantly and seriously engaged in Polmont. I hope that members will not question my objectivity on that aspect, either.

The Convener: Certainly not.

Dr McLellan: Cornton Vale's number of young offenders are much smaller than Polmont's numbers. There are 500 people in Polmont, but there are only about 29 convicted people in Cornton Vale today, many of whom are transient and will be there for only a short time. Therefore, it

is much harder in Cornton Vale to build sustained programmes of education, work and so on. In addition, there is the awful state of the physical and mental health of many young women who come into Cornton Vale. Establishing good physical and mental health for them has been a high priority. It would be fair to say that there are factors that make the engagement of under-21 prisoners with work, education and throughcare much more difficult.

As I always do when I get the chance, I will draw the committee's attention to the fact that, when we speak of under-21 people in prison, we must remember that there are people in prison from time to time who are under 16. Today, there is one person in prison in Scotland who is under 16.

Maureen Macmillan (Highlands and Islands) (Lab): I want to ask about young prisoners who are held on remand. You talked about convicted prisoners, but do you have any concerns about what happens to remand prisoners? From visiting institutions, I know that it is often impossible to engage young people on remand with the education services. They are being held on remand, so they are free to choose what to do and there are concerns that they do nothing productive or interesting.

Dr McLellan: The law of the land severely limits what kind of engagement a prison can have with a person who has not been convicted, which seems to me to be entirely just. In most prisons, under-21 remand prisoners will from time to time be offered opportunities, but those opportunities are infrequent and are not stimulating. In most prisons in which under-21 persons are held, remand prisoners will spend quite a bit of time locked up in their cells. That is less true of unconvicted under-21 women, who might be found in prisons in Inverness or Aberdeen and who become part of the small community of women there for whom there is more opportunity. It concerns me that some unconvicted under-21 people in Polmont are still slopping out.

The Convener: Do you know what proportion of people in Polmont and Cornton Vale are drug addicted?

Dr McLellan: The figure that was cited at the beginning of the year was for women. In the first four months of this year, 100 per cent of people who were admitted to Cornton Vale had illegal substances in their bodies, including under-21 women. My colleague is looking through the report on Polmont and will be able to give me some helpful statistics.

The Convener: Mr MacCowan might want to give us that information if he is familiar with the report.

Dr McLellan: I am grateful to be rescued.

Rod MacCowan (HM Prisons Inspectorate for Scotland): The figures from the Polmont report for the reporting year 2003-04 show that slightly fewer than 2,500 mandatory drug tests were carried out. The underlying negative rate for those tests was 88 per cent, meaning that 88 per cent of the young offenders who were tested were clear of substance abuse during the period for which they were in Polmont. I do not have the figures for admission testing, which would tell us what percentage of people entering the young offenders institution tested positive or negative. The Scottish Prison Service would be able to provide those figures to the committee.

Dr McLellan: Anecdotally, I know that all staff at Polmont would tell you that, although addiction is an immense issue for prisoners on entering the institution, addiction to alcohol is, characteristically, the main driving factor among young offenders.

Colin Fox (Lothians) (SSP): Good afternoon, gentlemen. I have your 2003-04 report from Polmont in front of me. I would like to ask two questions of the four of you. First, what feedback do you get from young people in the young offenders institution, the residential schools and the secure units? What kind of issues do they raise? You mentioned programmes and access to work. Are there other things that you have not mentioned, which they raise as problems in respect of their custody?

14:30

Dr McLellan: The process by which we carry out inspections involves, as an essential element, listening to prisoners. We listen formally and informally to prisoners who are selected at random or who choose to speak to us, and whom we meet as we walk around the place. All the conclusions that appear in the report are based on evidence that was given to us by prisoners. Nevertheless, it is not undiluted evidence, nor is it naively accepted.

It occurs to me that, from time to time, not all prisoners tell the whole truth—although that trait is not limited to prisoners.

If I may, I will offer two pieces of feedback that are generally characteristic of young offenders in Polmont. The first is that, when young offenders come into the institution, they have an immense lack of self-esteem and they lack a sense of that to which they are entitled. They seem content to put up with what can only be called a kind of general bleakness, which disappoints me immensely.

Secondly, because I believe that the fundamental purpose of my job is to protect prisoners from the opportunity for ill-treatment from prison officers, I always give prisoners the

opportunity to tell me whether prison staff are treating them badly—if, indeed, that is the case. However, very, very seldom are those questions taken up—I hasten to add that they are not asked in the presence of staff. The committee ought to be comfortable with the general quality of relationships.

I said in my report that two cultures exist in Polmont: one group sees it as an institution for young people who happen to be forcibly detained and the other as a prison that happens to contain young people. I am confident that no physical ill-treatment of prisoners is taking place; even by members of the second group.

Colin Fox: And yet, one of the conclusions of your report is that

“some staff show very poor attitudes towards the young adults.”

How do you explain that?

Dr McLellan: I do not think that that conflicts with what I have just said, which was that no physical ill-treatment takes place. However, I have seen with my own eyes and heard with my own ears the extremely authoritarian, punitive and belittling style that can occasionally be found at Polmont, although that is not the prevailing style.

I am clear that that section of our report had a considerable effect on Polmont. I know that steps have been taken since the report was made to address those cultural questions.

David Wiseman: I will talk about secure units and my colleague might want to say something about criminal justice accommodation. Our primary aim is to ensure that the people who use the care services are at the heart of the inspection process. We build in clear opportunities to interview and speak to the young people who use the services and their relatives, if any of them are involved. We also work closely with organisations that help us with the process. We have involved Who Cares? Scotland in helping people to express their views—their concerns and what pleases them—about the regime that they are in at that point in time.

The process can differ, as it depends on the nature of the inspection or investigation, for example whether it concerns a complaint. We expect to use about 29 hours of inspection time per year on a secure unit—that allows us to inspect it twice a year. Our investigation into the whistleblowing at Kerelaw unit took a lot of time because of the nature of the complaints. We spent a lot of time getting the young people to a position in which they felt free to talk to us and then talking to them about their complaints. In all, we spent 463 hours on the investigation into that complaint.

We have received indications that there is potentially inappropriate use of restraint in some situations. The principal reasons stem from management issues, such as the lack of proper training, support and guidance, and the lack of appropriate opportunities for staff to consider other ways to manage challenging behaviour—in many of the circumstances that we are talking about, the behaviour is, indeed, challenging.

Lorne Findlay (Scottish Commission for the Regulation of Care): Mr Fox asked about what young people say to us. As Mr Wiseman said, we go into secure accommodation units twice a year. During the most recent inspection of one of those services, about which you will hear more from colleagues from the school, the major point that the young people made was about the intrusive nature of visits when their families came. Illicit drugs or other things coming into the school mean that it is difficult for some schools to strike a balance between care and control. If your mother came to see you, you would expect to have a private conversation with her, but the balance between the need for privacy and the reason why a young person is there can make it difficult for that to happen. That was one of the things that the young people highlighted when we were considering one of our national care standards, on how easy it is for young people to keep in touch with people who are important to them. That was the direct experience of an inspection that took place just two months ago.

Colin Fox: That is valuable, but I wonder whether I can come at the question from another point of view. You alluded to the inadequate number of staff and issues of staff retention. You have the evidence from the youngsters. What issues are the front-line staff raising? Does concern about staffing levels come primarily from them?

David Wiseman: I am being very general in this context. Obviously, the situation varies from secure unit to secure unit, and the problem does not apply to all secure units. In some cases, there are difficulties in retaining staff, which have meant that there are pressures during particular periods of the day or night, when staff feel that they do not have an adequate number of colleagues with them. That can lead to practices such as locking a young person away, which one might not do if there was an adequate number of staff.

Some staff have said that they occasionally feel disempowered, because part of the difficulty concerns the appropriate way to restrain someone who is becoming challenging and what might happen if something goes wrong while they are restraining them. Again, that is to do with having the appropriate support and training to enable people to know what methods to use. In some

situations, people have felt that management external to the unit has perhaps not been as supportive as it could have been or has not visited the unit often enough to see what the requirements are. Certainly, some of the units are managed from a distance. For example, the Kerelaw unit in Ayrshire is managed externally from a distance by people in Glasgow.

Colin Fox: Does Dr McLellan have anything else to say about front-line staff in the young offenders institutions?

Dr McLellan: I have one comment that applies particularly to Polmont and then I will make some more general comments.

In Polmont, staff profit from the good conditions, just as much as prisoners do. Staff hate compelling prisoners to stop out and working in such conditions; their morale is very much better in the new halls.

More generally, staff find change difficult, and there have been many changes in both of the young offenders institutions. Staff raise with us all the time their concerns about savings, which each institution is required to make. A 5 per cent target for financial savings is set for every institution.

Staff talk a lot about new relationships—known as partnerships—between management and trade unions in the prison service. I also believe that staff are honest enough to recognise, and we are honest enough to hear, that some of the very damaged people who are in young offenders institutions are difficult to deal with and very unpredictable. They have unstable lives and backgrounds, and staff sometimes find that stressful to deal with.

Maureen Macmillan: You say that staffing is sometimes inadequate. Is that because staff members are off sick and there are not enough people to cover for them, or is it management policy to have an inadequate number of staff on duty?

David Wiseman: There are particular requirements for registration as a service with the care commission that will include having adequate staffing levels. However, there are difficulties if there is a high level of sickness and absence, and there have also been difficulties with the recruitment and retention of staff.

Mr MacAskill: We have heard comments about the culture and conditions in prisons. What is the feeling about institutions' ability to support positive changes? Presumably that comes down partly to conditions, but are there other factors? Is it felt that there is an optimum period for a sentence? To put it another way, is there any period of time so short that all that can be done is to contain the

offenders, with no possibility of seeking any support for them?

Dr McLellan: That is a wide range of questions, Mr MacAskill. I take it that they were directed at me.

Mr MacAskill: Yes.

Dr McLellan: I will start with your final question. If people are in prison for one day, as can happen in certain circumstances, no useful intervention can possibly take place. However, in particular at Cornton Vale, even quite a short time in prison can do things for some people's physical health. Occasionally, having decent food and somewhere to sleep for three weeks, or being able to talk to someone about addiction issues, might not be entirely wasteful. It might be destructive to other parts of someone's life such as family relationships and jobs, but it can do some good for their health.

The Scottish Prison Service's response to the Executive's consultation on reoffending said that short prison sentences were not good. It said that they should be banned and it has much more evidence than I do. I certainly have evidence of the family, employment and educational disruption caused by short prison sentences. If we assume that behind the imprisonment of most people is an educational or employment deficiency, addiction or, often, family instability, it is naive to think that a short time in prison can address any of those matters. However, I am not aware of any statistical research that says that interventions are useful after a certain length of time. I know that, in other jurisdictions, sentences of less than six months are not handed down, and not so long ago, a high-profile English judge said that sentences of less than one year were not productive or helpful. However, I do not have access to the kind of research that would affirm that.

Mr MacAskill: What about the culture and benefits? You touched upon the difference that the conditions in prisons can make, but what encourages positive changes in behaviour?

The Convener: Perhaps Mr Wiseman or Mr Findlay will answer that.

Lorne Findlay: That is not the question I was going to answer. However, Dr McLellan talked about physical well-being. We have to start by getting hold of someone whose life is in uproar and getting some sense into it, never mind whether that changes their criminal tendency. The starting point is holding on to someone and beginning to give them some control, so that their life is not completely out of kilter. That is about health and having a good throughcare policy. It is about joined-up thinking and is very much like the question that the committee asked us to consider in our written submission. What will make a

difference is not just what happens in a secure unit or young offenders institution; it is what happens after that. Can we continue to encourage the developments that have taken place within the unit? Can we continue to help offenders to understand their health better and to see what drugs will do to them?

I am conscious that I might not have answered your question, but I want to get across the fact that, although we can contain and hold somebody in a residential unit, and do a lot more than that, it is equally important to think about how we hold on to that person when they are moved from secure accommodation to an open unit or from an open unit back into their community.

14:45

Mr MacAskill: You and Dr McLellan have mentioned how it is possible to make changes to people's disruptive lifestyles and to address the problems with which people come into the service. Do you view that as a *raison d'être* and as part of the ethos of your institutions, or is it simply a matter of doing something that is otherwise not being done and which, it could be argued, should be dealt with somewhere other than in your laps, into which the young people fall? Is such work a consequence of your role or should it be one of your roles?

The Convener: Do you want to continue with your theme and answer that point, Mr Findlay?

Lorne Findlay: I am not sure whether it should be a role of the service, but it is a fact; it is what happens. It is pretty drastic that we have to lock somebody up to get that control over their life, but the committee is considering wider services that could provide such control without it being necessary to lock somebody up for their own safety or the security of others.

David Wiseman: It is important to say that some young people who are engaged in the youth justice system will not go to secure units or prisons, but might still require care and support through other methods. Fostering, adoption or children's care homes, which do not have secure environments, are other ways of supporting young people—there are other methods of working with children. However, there is a group of young people who have challenging situations and disruptive lives who require an environment that helps to protect them and the community.

The Convener: Do you want to add anything to that, Dr McLellan?

Dr McLellan: There is a public safety issue, as well as the need to help prisoners, and both of those are important. The public expects prisons to encourage prisoners not to reoffend and, although

I do not provide any of the things that are provided in prison, when I inspect, I do so to see the contribution that prison makes to reducing reoffending. In that context, education, programmes to address personal change, family links and work opportunities are all significant.

The Convener: What would you describe as the main gaps in the types of services that are available in residential and custodial facilities?

David Wiseman: I will use the word “gaps” loosely. Currently, we are reviewing the regulatory process with the Scottish Executive to determine whether there are gaps in it and whether any of those gaps or any of the existing regulations are hurdles for innovation and for the development of services that might be better able to support people. For example, we had to work hard to determine how best, under the Regulation of Care (Scotland) Act 2001, we could regulate services that are not care homes for children or young people, but which might take one or two young people away to accommodation for a period of time to work with them. We found that the regulatory structure was not able to deal easily with the fact that services are moving on, developing and becoming much more diverse and innovative.

From my point of view, the question of gaps concerns not only whether there are gaps in services, but whether the regulatory process is flexible enough to deal with the diversity and innovation that we want to develop in services.

The Convener: What current gaps in services do you identify, Mr Findlay?

Lorne Findlay: One key matter about which we are concerned and which we highlighted in our written evidence relates to mental health issues for children and young people. When we were working up our formal response to the committee, we became aware of Fiona Myers’s study “On the Borderline? People with Learning Disabilities and/or Autistic Spectrum Disorders in Secure, Forensic and Other Specialist Settings”, which was a crossover study involving secure accommodation and young offenders establishments. Everybody in the sector is concerned that some people who are in secure accommodation and who have mental illness or mental problems or difficulties are not as well recognised or appropriately helped as they might be. If it has not already done so, the committee might want to invite Fiona Myers to speak about the study. She identified that the problem is slightly greater in young offenders establishments than it is in children’s establishments. There are a number of reasons for that, which might be worth investigating with her. The issue is a concern for everybody.

The Convener: Dr McLellan, have you identified any gaps?

Dr McLellan: I have identified two general gaps and some more specific ones. One general gap is the lack of provision that would ensure that no person under 16 is ever detained in prison. Another is the cost of what I consider to be the good idea of concentrating all young offenders in two institutions. Polmont and Cornton Vale are far away from where families live, which produces extra strain and stress and difficulties for family contact.

As I said, gaps exist within the institutions in the provision of a completely profitable and useful daily regime for girls. It has been found to be more difficult to provide such a regime for girls than it is to provide one for boys. In Polmont, there is a considerable gap in the quality and quantity of the food that is provided. The lack of work and training for work opportunities in Polmont is another significant gap. There are serious gaps in provision at the time of release and in preparation for release. Painfully and unbelievably, there are gaps in the provision of accommodation—some people simply cannot find somewhere to live. Gaps also exist in associating people with proper support for drug or alcohol problems in the community. Support is needed there as much as it is in prison.

This will sound sappy, but many young offenders are released from prison without having anyone who is interested in them or who cares about them. We need a kind of national system of aunts. That sounds frivolous, but the real issue is that we need people who care. There is public good will that could be made use of in that respect, but that matter is beyond me.

The Convener: That is helpful.

Jackie Baillie: Much of the written evidence that we have received and some of what has been said today suggests that weaknesses exist in the continuity of care—throughcare—for young people who leave care or young offenders institutions. Do you agree and, if so, how would you improve such care?

I have a supplementary question for Dr McLellan. The homelessness task force spent some time debating what to do with young people who leave prison and require accommodation. The Executive gave a substantial sum of money to the Scottish Prison Service for external agencies to make provision for accommodation for such people. I assume that that has not happened.

Dr McLellan: The rough sleepers initiative had a significant impact on prisons, which was perhaps the context for my use of the adverb “unbelievably”—one would have thought that the matter would have been addressed. I do not have

figures for this, but prisoners staying in young offenders institutions have said to me, four days before they were released, that they had nowhere to go.

On throughcare and links with outside organisations, I very much welcome the improvement that has been made in the past two or three years. There are two particular developments that I draw to the committee's attention. One is the development of what are called links centres, which are not about the prison reaching out to the community, but involve the community being embedded in the jail—there is a significant difference as far as ownership is concerned. A range of partnerships are engaged in the process at Polmont, including Apex Scotland, literacy support, housing agencies, speech and language therapists and Jobcentre Plus.

The second development relates to the whole point of release. We must recognise that the moment of release is the moment when many young offenders walk away from any kind of engagement or support. Even the best throughcare will be rejected by some people.

Jackie Baillie: So you would not recommend any areas for improvement in throughcare.

Dr McLellan: That is a huge extrapolation from what I have said.

Jackie Baillie: I was waiting for something to come out.

Dr McLellan: I said earlier that there are key gaps in the provision of accommodation and addiction support in the community for people who are being released. We have not yet spoken of one significant category of young offender, for whom public safety would seem to demand that there should be positive throughcare—people convicted of sex offences. Such care is a matter both of public safety and of support for the individual.

David Wiseman: Some of the areas in which we occasionally see issues or signs of difficulty are not areas that we regulate ourselves. There are clear indications that questions sometimes arise about the level and adequacy of care management on the part of social work services. That is sometimes linked to issues with the retention and recruitment of social workers. Young people often discuss the fact that they have not seen their social worker for a certain period of time while they have been in a secure unit or open school.

Some good work with young people has been done by advocacy and befriending organisations such as Who Cares? Scotland. However, its resources are stretched, too. The amount of

support that local authorities provide to Who Cares? varies from area to area. In some areas, local Who Cares? facilities are given quite a lot of funding by local authorities; in others, there is very little. That is why the ability of Who Cares? to provide support has been stretched. We could not do much of our work if such organisations were not helping young people to speak out. That area needs to be looked into.

Mike Pringle: We have touched on training and recruitment—somebody answered a question from Maureen Macmillan about that. What is your view on workforce issues? What qualifications are required for prison? Are people getting sufficient opportunity to qualify? Is subsequent training available to improve how staff deal with people? Are we recruiting enough people of the required standard? Are we able to retain them? If not, does anybody have a view on how we might retain them and keep the workforce more compact?

Dr McLellan: Mr Pringle needs to understand that, under the terms of my appointment, I am specifically excluded from inspecting staffing matters; I am required to inspect the conditions and treatment of prisoners, although inevitably such questions arise. Mr MacCowan is a lifelong Scottish Prison Service person, so he might be in a better position to respond.

15:00

Rod MacCowan: Traditionally, the prison service has not had any difficulty with recruitment. All prison officers receive fairly extensive initial training. I presume that you are talking about the skills that staff have in delivering interventions and programmes. In that respect, SPS has pioneered a system in which uniformed staff and prison officers are specifically trained in delivering such programmes and are supported by a range of specialists such as psychologists and college teachers. As far as maintaining skills levels is concerned, the prison service makes a fair investment in staff training, particularly for those who work in programmes.

Mike Pringle: You said that there is no problem with recruiting prison officers. Is there any problem with retention?

Rod MacCowan: I am sorry, but I am not able to answer that in detail.

Mike Pringle: One of the other witnesses might have a view on that.

The Convener: Fair enough.

Lorne Findlay: There is a significant difference between SPS staff training for services in custodial units and training for services that involve children, which has more to do with the care model than the control model. Our sister organisation, the Scottish

Social Services Council, is responsible for identifying appropriate training needs for care services. In the kind of work that we are discussing, there is a distinct crossover between care and control, and vocational qualifications in criminal justice allow people to have training in the care model, but with a control element, or in the control model, but with a care element.

The Scottish Executive has set up a centre of excellence, which is run jointly by the University of Stirling and the University of Edinburgh under Bill Whyte, to examine criminal justice matters in the care setting. Although such initiatives are in their infancy and do not attract huge resources, they are around and people are more aware of them than they used to be. The Government's challenge to the Scottish Social Services Council is to have the 100,000 people who work in the care industry qualified and trained appropriately. That will not happen overnight; indeed, it is taking its time to work through. However, the most difficult question is whether we train people under the control model, which has that prison aspect, or whether we train them under the care model. The two elements sit uncomfortably together.

David Wiseman: The Scottish Social Services Council's codes of practice for employers and employees very much relate to this matter. For example, under the employer's code of practice, an employer must ensure that people are suitable to enter the workforce and understand their roles and responsibilities; issue written policies and procedures that enable workers to understand their responsibilities under the codes; and provide training and development opportunities. Similarly, the code for employees makes clear their responsibility for continuous professional development. As I have said, the council produces the codes, and when the care commission inspects regulated services over the next two years, it will examine how people apply them.

Mr MacAskill: From evidence that has been gleaned from inspections and research, to what extent do you think residential and custodial services can be described as being effective in reducing offending? We have heard the argument that containment gives the public and the individual security. However, what about rehabilitation and reform?

Dr McLellan: I can merely repeat the statistic that the Scottish Executive published in its consultation document, "Re:duce, Re:habilitate, Re:form—A consultation on Reducing Reoffending in Scotland", which is that 60 per cent of offenders are reconvicted within two years. That does not necessarily mean that they reoffend within two years, because some of them are convicted of an offence that predated their sentence. Nevertheless, the figure is startlingly high.

David Wiseman: We have been regulating secure units for only two years, so we are not in a position to give an indication on the matter. The material must be considered in conjunction with material from the social work services inspectorate and others.

Maureen Macmillan: Mr MacCowan said that it was not difficult to recruit prison staff, but Mr Wiseman implied that it was difficult to recruit care staff. Can we find out why it is difficult to recruit care staff? Is it because of pay and conditions?

David Wiseman: There are a variety of factors. Some of them might relate to pay and conditions, but there are other aspects of reward—not only financial reward—in the service. We are all aware that people are sometimes under the spotlight when they work in the social care sector. We are in the business of managing risk and people know that if something goes wrong, they might find themselves at the sharp end. People can get similar pay and conditions without the challenges and stress that are around in the social care sector. We must recognise that.

There are a number of other factors. That is why the national workforce group, which is chaired by the Deputy Minister for Education and Young People, has been examining recruitment and retention throughout the social care sector. Initially, it is considering social workers, but it wants to consider the wider social care sector. There are difficulties about the image of working within social work.

The Convener: Are there any final questions from members? If not, I ask the witnesses if they would like to make any concluding remarks.

Dr McLellan: I draw to the attention of the committee a matter that pleased me at Cornton Vale. It has a small pre-release independent living unit, in which one person under the age of 21 has had the opportunity to live partly in the community, in preparation for release. It is useful to draw that imaginative and hopeful development to the attention of the committee in the context of some of the comments that I have made today.

David Wiseman: My final comment is to say that, because of the nature of the questions, we have concentrated on matters of concern and difficulty, but a large amount of good-quality work goes on in difficult circumstances—although it is clear that in some areas there could be improvement.

The Convener: On behalf of the committee, I thank Dr McLellan, Mr MacCowan, Mr Wiseman and Mr Findlay for joining us. I think that we all agree that the evidence session has been immensely helpful.

I welcome to the committee our second panel of witnesses. The panel comprises Mr Bill Duffy from St Mary's secure unit in Bishopbriggs and Mr Frank Phelan from the Howdenhall centre in Edinburgh. We are pleased to have you with us this afternoon.

Members of the committee have a lot of questions that they would like to ask. If there is anything pressing that you want to say by way of introduction feel free to do so, but you might prefer it if we proceed straight to questions.

Bill Duffy (St Mary's Secure Unit): Just ask the questions.

Bill Butler: Good afternoon, gentlemen. For the committee's information and for the record, can you outline the range of residential provision types that are available in Scotland and explain where your school or unit sits within that range?

Bill Duffy: I work for the voluntary sector. I work in St Mary's, which is the largest secure facility for young people in Scotland. It has 30 secure beds and six close-support beds. It is one of three large national secure units. There are several smaller secure units, about which Frank Phelan will be able to talk. Currently, there are between 96 and 125 secure beds. St Mary's is in Glasgow. The other national providers are Rossie secure unit in Montrose, which was built in 1962 and was the first secure unit in the whole of Britain, and Kerelaw secure unit in Stevenston, near Ardrossan in Ayrshire, which has already been mentioned.

St Mary's is one of a group of four residential facilities. The other three are residential schools: one for girls only and two others for boys. Although I am currently the principal of St Mary's, I am also the project sponsor—not words that I want to say too loudly in here—for two other secure developments: St Philip's School in Airdrie and the Good Shepherd centre in Bishopton. I am also involved in the reconfiguration of the secure estate, with responsibility for the building and for the recruitment of 210 staff.

Frank Phelan (Howdenhall Centre): I am the principal of secure services for the City of Edinburgh Council. I manage the Howdenhall centre and the St Katharine's centre. The Howdenhall centre used to be an assessment centre but became the Lothians' secure facility back in the mid-1980s, when secure services legislation was introduced in Scotland.

St Katharine's is 10 years old and was built as a replacement for the Howdenhall centre. However, the decision was made to keep the Howdenhall centre open because of the demand for places for Lothian young people and then Edinburgh young people. A year ago, we moved into a new Howdenhall centre. Currently, we have five units in

the two centres, two of which are secure units that offer places for 12 young people plus a reception suite. When fully operational, we also have 15 close-support beds, which are part of the continuum of care that we offer to young people in Edinburgh. We sometimes take young people from outwith Edinburgh, but our priority is young people in Edinburgh.

Bill Butler: I am grateful for that. Pardon my ignorance, but can you explain to me the difference between a residential school and a secure unit? Is there any difference in their definition and in the work that is carried out in them?

Bill Duffy: By definition, a secure unit is required to be a locked facility that young people cannot leave freely. A residential school would not have that level of security. There would probably be a higher ratio of staff to young people in secure care, although the gap is now closing between that and the situation in residential schools. A secure unit is a facility that the young people are not allowed to leave and a residential school is a facility that they are allowed to leave.

The range of work that is undertaken in both is similar, although the intensity of the work might be different in secure care. Residential schools tend not to deal with young people who have been referred from the courts system, but take 99 per cent of their young people from the children's hearings system. Secure care is closer to the locked end of young offenders institutions; in a sense, it is a cross-over between the justice system and the children's hearings system.

Bill Butler: I am grateful for that clarification.

The Convener: I should have told the committee that we hoped to be joined by Mr Richard Murray from Rossie secure accommodation services in Montrose but, unfortunately, personal circumstances have prevented him from joining us and he has had to send his apologies.

Jackie Baillie: Part of my question has been answered. Can the witnesses give me a profile of the needs and characteristics of the young people who arrive at secure accommodation and residential units?

Bill Duffy: Have you got all day? I will split my answer into two parts: boys and girls. I deal with both young men and young women. The young women are an increasing group for us. In 2000, 9 per cent of my admissions were girls and, last year, they accounted for 34 per cent of my admissions. Frank Phelan's recent inspection report showed that 60 per cent of referrals to the Edinburgh units were girls. The girls come to us out of control, in crisis and with chaotic lifestyles.

They do not stay a particularly long time. The average stay for girls in St Mary's is 35 days.

15:15

The Convener: What is the age profile of the girls?

Bill Duffy: The girls are aged between 12 and 16, but the vast majority will be between 14 and a half and 15 on admission.

The boys represent the more chronic group and they stay longer. There is a 50:50 split between those who have been in court and those who have been through the children's hearings system. However, 80 per cent of the girls have been through the children's hearings system.

We see the boys coming from a long way off. Usually, we get paperwork about the boys about a year before they are admitted. When they hit difficulties at a certain stage, the court or the panel intervenes and says that they have to come into secure care. They stay with us for an average of about 150 days. As someone else said, their biggest problem tends to be a dependence on alcohol, rather than drugs. There is a binge-drinking culture involving Buckfast and various other tipples that results in non-attendance at school and offending.

Unfortunately, occasionally a young girl is pregnant on arrival. This year, we are heading for our second baby to be born while the young person is a resident. That is a difficulty.

Often, the young people show a level of relief when they arrive because the merry-go-round has stopped and they have around them a group of people who are willing to sit down and listen to them and begin to deal with some of the issues. Especially with girls and young women, the work that we do relates to finding appropriate places for them to move to and arranging a range of throughcare services. A lot of time and effort is put into trying to get them into places in which they will be supported and be able to get the kind of service that they need. There is more of a crisis-intervention model. It is time limited and involves accessing a range of services.

The girls bring a level of violence that is far greater than that of the boys. The most difficult behaviours that we tend to get and the most unpredictable violence come from the girls and young women rather than the boys. That violence is particularly, although not solely, directed towards female members of staff.

Jackie Baillie: Why has there been such a dramatic increase in the number of young girls coming into the system?

Bill Duffy: I do not know. The trend is recent and dramatic. Girls and young women are, perhaps, more visible in society than they were before and are out there doing exactly the same things as the boys and young men whom I have looked after. The courts and the hearings system are now seeing that boys and girls are doing very similar things. For the first time, girls and young women are stealing cars and being charged with road traffic offences. That was unheard of even five years ago. There is an increased level of violence by girls as well.

I have been involved in this area for 32 years and know that, although girls used to be on the fringes of such offending activities that were being undertaken by young men, they are now in groups of girls that do many of the things that all-male groups do, such as staking out territories in certain areas and being much more visible. Within our communities, girls are causing a level of difficulty that they did not in the past. The police and everyone else are responding to that and girls are finding themselves in court and before children's panels.

Frank Phelan: It is difficult to give a profile because we deal with a range of young people. I agree with what Bill Duffy was saying about young women. Many of them fall within the category of what might be called eruptors, which means that they will be chugging along with their difficulties with little social work intervention and without coming to anyone's attention and then, all of a sudden, end up in a secure unit. That ties in with Bill Duffy's point about crisis intervention and limiting the amount of time that they will need to stay in secure care. Another reason why we are dealing more with young women is that it is now socially acceptable within young women's peer group for them to behave in a different way than they did before. Before, if gangs of young people engaged in violent activity, the young women were on the periphery, whereas now they are involved dramatically in the offences that are being committed and in a high level of violence.

Mike Pringle: You talked about the age profile of girls. Is it the same for boys?

Bill Duffy: Yes, roughly. We get the odd younger boy, but the vast majority are between 14 and 15 on admission.

Colin Fox: Given what you said about the needs and characteristics of the youngsters who arrive with you, will you give us your candid opinion of what you do well in dealing with them and what else needs to be done? What needs do you meet and what needs do we have to consider in the inquiry?

Bill Duffy: Our broad view is that the secure estate needs to be reconfigured. We could really

do with a specialist unit for girls, which will not be built and ready until the middle of 2006. There is a gap in provision, because young women and girls are currently in mixed institutions, which can be inappropriate, depending on the offending background of the other people who are around. We would do better if we had better facilities. We need to modernise the estate, which is already happening as we are getting new builds.

We need to do something about what is out there for young people when they leave us. I work with 18 user authorities; they are all different and all have a different range of available services. The authority that is furthest away from where I am working is Aberdeen City Council. It is difficult to develop personalised and individual services for young people, which is what they need. When they go back out, they need to get into something that will fit with them and allow them to continue the journey that they have started.

The key thing in secure care is good assessment. We need to get hold of the young people early on and get them engaged in considering why they are there. We have to consider education, health, social care and the family. There is a bit of a gap, which there has always been, in psychiatric assistance. There is no forensic adolescent psychiatrist available to us in the west of Scotland. The psychiatrist whom I am using currently is an adult forensic psychiatrist, who is semi-retired. When he goes, I do not know what the answer will be, because there is nobody to replace him at present. There is a difficulty with mental health assistance. We have developed our own psychological service across the sector to deal with mental health issues.

I am probably not answering your question, which was about what we can get better at doing. We can always get better at engaging with young people. It is about meeting them and being able to understand where they are coming from, which requires a lot of time and effort and training for staff. We need to get better at a range of such things, but there is evidence that we are moving in the right direction.

Frank Phelan: We provide a place of safety for young people and provide safety for their communities. The young people are extremely destructive to the communities that they are in prior to admission. They are also extremely destructive to themselves. What we do well and what I see as one of our main tasks is providing that element of safety for young people. It is about engendering feelings of safety in them and allowing them to consider their time with us as a journey on which they can start taking back responsibility for their actions. Although they are in secure accommodation with lovely facilities that are well kept, we are depriving them of their

liberty, locking them up and taking away their choices. Our task is to give them back choices that they can handle responsibly, which I think we do particularly well. We are good at what we do with young people when they are with us.

In Edinburgh secure services one issue that we have identified that we need to develop—we have given it some thought and we are moving it along—is where people go when they leave us. In some ways, it is simple when they go to our open units, because they are still part of our service. The relationships that they have built are maintained, as are their understanding of us and the well-established predictability, rhythms and routines of their lives, from which they gain a lot of comfort. However, when they leave us, how do we manage the transition into the community and maintain their progress? There is no point in our offering an extremely effective service when they are with us if it is not effective when they leave us.

The Convener: Mr MacAskill, I know that you are interested in external agencies, which Mr Duffy has covered fairly comprehensively, but feel free to contribute if you wish to address other areas.

Mr MacAskill: No, I am content.

The Convener: I would like to ascertain the extent to which heads of residential and secure units are consulted on and involved in youth justice developments generally and, in particular, in the youth justice strategy groups.

Frank Phelan: I have just been invited on to the youth justice management group of the City of Edinburgh Council, which is where I will be able to be more involved. Secure accommodation is sometimes synonymous with youth justice, but I do not consider that a lot of the young people with whom we work should be discussed within a youth justice context. Although some of the young women whom we deal with—even some of the young men—will have committed a number of offences, the issue is the risk that they present to themselves through their self-destructive use of alcohol and drugs, and their allowing themselves to be sexually exploited by so many people in the community. Within Edinburgh secure services we do not simply take a youth justice approach to the young people with whom we deal.

Bill Duffy: In my career I have had the opportunity to have my say on a range of committees and in various places. Currently, within secure care we have a national forum, which is run by the Executive for all providers and which includes the Scottish Commission for the Regulation of Care, HMIE and health. It is a good opportunity for people to get together to express concerns about the coalface and to try to balance what we hear from the Government about strategy with what we think is required at our end. We meet

regularly, which has been a real plus in the sector over the past couple of years.

The Convener: What about youth justice strategy groups?

Bill Duffy: I have been to some of those. More recently, because of my involvement in the building trade, I have not been going to as many, but I would like to get back to them.

Maureen Macmillan: You flagged up a lot of issues to do with throughcare once young people leave secure units or residential schools. In particular, you mentioned girls and young women and the need for personalised and individual services. However, you indicated that those services are not being provided, because local authorities have various programmes and support mechanisms that do not offer what is necessary for young people. Given that that needs to be done better, the big question is how we do it better. The SPS seems to be able to involve the community in prisons, which provides a pathway for prisoners to access services when they need them, but what is happening now in your service and how can it be improved?

Bill Duffy: All our young people should have a social worker, and the vast majority of them do, and that is probably our strongest link back to their local authority. The crisis in the recruitment and retention of social work staff has not greatly helped; neither has the recent tendency to switch young people from children and families services to criminal justice as they move out of secure care and residential schools. It is not helpful if, after the young people have developed relationships with members of staff, those people change due to the difficulties with staff retention in local authorities.

Because we are a national service, it is difficult to be involved with one individual. For example, one person may be from Aberdeen, while another may be from East Renfrewshire. It is interesting that there is always a huge amount of effort and support to get the young people into secure care, but the situation is not always the same when they are on the way out of care. The clear message should be that young people must be prioritised on their way out of care as much as they are when they are on their way in, when there are always extensive files and a push can go all the way up to the director, more often than not.

15:30

When young people are on the way out of care, it is sometimes not so simple to identify where they will live and with whom. It seems crazy that we invest hugely in such young people and prioritise them so well to get them into secure care, but we do not do that when they are on their way out. People must consider the size of the

investment in the young people in financial terms and in terms of staff time, education, health and so on. It is not good enough to let such investment just slide when young people are on their way out of care. We must prioritise the young people as they leave care. That happens in some authorities, but not in others.

The Convener: Do you agree with that, Mr Phelan?

Frank Phelan: Yes. However, we deal mainly with Edinburgh young people. Only 16 per cent of our most recent group were from outwith Edinburgh. Therefore, we have advantages that other secure units do not have in terms of direct links and building relationships.

One of the matters to be clear about is that social workers, when they are allocated, are intensively involved with the young people who are with us and their care plans. In our units, we insist that social workers attend weekly to meet the young people and the key staff involved. Therefore, there is no notion of waiting to the end before trying to do the care planning. In addition, regular reviews take place. If young people are with us through the children's hearings system, the maximum length of time that they can be with us without having a hearing is three months. Therefore, every three months there will be a review of the secure authorisation at a hearing. At that time, we must be clear about what the care plan is.

We identify early on external agencies that are suitable for meeting the young people's needs and they will be part of the care planning process. This might sound a bit strange, but one of our difficulties is that we are sometimes victims of our own success. We are the people, as staff and adults, with whom the young people identify. Trying to introduce other agencies and people into that equation can be difficult for our young people. They do not want to start building relationships with others, because they get what they want from us. I suppose that that is why we have spent a lot of time recently considering how our staff can go out from the secure unit and start supporting people in the community.

We are considering turning one of our open units into a throughcare and aftercare resource, in which the team would have two tasks. First, they would provide a living experience for probably three young people, who might be leaving one of our open units rather than secure care and who would be ready to return to the community. They would have an experience of what it is like to live on their own and to have to cook, budget and so on. They would experience that, rather than trying to do it in the unreal and unnatural situation of a secure environment or in one of our close-support units. Secondly, the team would follow our young

people when they go back into the community. Therefore, we would track them whether they were going home, or into supported accommodation or other places.

Maureen Macmillan: I do not want to be simplistic about this, but are you saying that it works well if a secure unit is in the local authority area from which the young people in the unit come, because you can work hand in glove with the local authority, and that the problem is when local authorities are distant from a secure unit to which they send young people? I know that the area that I represent does not have a secure unit. Is the problem a matter of distance? Should we consider having secure units in other parts of the country, even though such units might be small?

Frank Phelan: One of the advantages of being a facility that the City of Edinburgh Council runs is that we take young people from Edinburgh, which means that we have links and can make links. Bill Duffy talked about working with 18 different local authorities, which means that he must try to make strong links with 18 different throughcare and aftercare teams and try to understand what facilities and resources they have.

We recently employed one of our residential staff in going out in Edinburgh and finding out what is available. There is a range of services, but our young people are not taking up some of them. On paper, there is no gap in services, but there is a gap in young people's ability, willingness, motivation and confidence. The issue is about how we make the links. That is where we have fallen down in the past. We have not been able to deliver because we have not had the resources to bridge the gap with the young people. We cannot just send young people out and rely solely on their social workers, because that puts too much pressure on them to deliver.

The Convener: Does Mr Duffy want to add anything on that aspect?

Bill Duffy: That we should have a secure unit wherever one is needed is an interesting notion, but I do not suppose that we will ever get to that point. Given the range of services, including an educational curriculum, that secure units must provide, it perhaps makes sense to have bigger units. However, it can be difficult dealing with 18 different local authorities. Because of our differing experience with them, we have had to develop a throughcare team to link with them.

About 20 per cent of our young people go out to our step-down facility, which is a six-bed unit. Such units work much better, because we can retain an interest in the young people and, as Frank Phelan mentioned, relationships need predictability. The young people from that unit go on to school externally or to college or work.

Those facilities are much more localised. Sadly, the young people who attend such facilities are often those who have no home to which they can go, so they tend to be retained within the care sector. However, that kind of facility works well.

A group that I am particularly concerned about—this is probably not the right time to say this, but I will say it anyway—is sexually harmful young people. I run a specialist unit for such young people. Currently, we have an extreme difficulty in matching the needs of those young people when they are on the way out. The nearest residential facility in the community that deals with such young people is in north Wales. The other one that we use is in Cambridge. Our agency tried to develop a similar residential facility in Scotland but, after receiving planning permission, we decided that we could not open it because of the feelings in the local community about the development of such a resource.

We need to know about those young people. In that sense, they are like their adult counterparts. We need to know where they are and we need to continue to support them when they get stressed and anxious, which is when they are more likely to revert to the harmful behaviours in which they have been involved. There is a dire need for that kind of specialist facility—it would not be a huge place, as there are not many such young people—so that we can support those young people in their community. We need some ownership of that group of young people. If we can provide sustainable support and help for them, they are much less likely to revert to the kind of behaviours that brought them into care in the first place.

As I run a specialist facility, I have concerns that we are not providing for that group of young people. I have had to send Scots kids to Cambridge and north Wales, but the culture shock is quite difficult for them. At a time when we do not want them to become increasingly anxious, they have to be much further away from home and from the natural supports that they would look for. People mentioned gaps earlier, but that is a real gap in throughcare that somebody needs to do something about.

The development of agencies such as Includem, which works with some of the most difficult young people in certain local authorities, has been really good for us. Working in partnership with us, Includem picks up young people while they are in one of our residential care units and supports them when they move out. It works in the community with some really difficult young people, including those who are leaving secure care and those who never enter in the first place. The development of those kinds of services across local authorities has really helped us in moving young people on.

The Convener: The issue of throughcare, in which I know Mike Pringle has an interest, has been extensively covered, but are there any points that he wants to clarify?

Mike Pringle: That issue has been covered, but I want to ask about one or two other things.

In view of what Mr Duffy has just said about sex offenders, will he comment on the Canadian experience of providing circles of support for adult sex offenders? Perhaps he could comment on that, if he knows anything about it.

Bill Duffy: I read one bit of paperwork on that a while ago after colleagues had attended a conference in Canada. Dr McLellan mentioned the need for aunties, but we also need grannies and other supports out there. There is no doubt that what is often missing for many of our young people is a network of support that is there for them regardless of what they have done. It is nearly always the mums who come to see the young people whom I have in care and, usually, the only support that the mums have is their own mum. We need to build on that. Networks in local communities are significant for young people and can provide a way forward.

Mike Pringle: Mr Phelan said earlier that the people whom we are discussing are destructive to their communities, which I do not doubt. What community orders of one sort or another have young people had before they come into secure care? Will the Antisocial Behaviour etc (Scotland) Act 2004 result in more young people remaining in the community?

The Convener: As we are a bit tight for time, I ask for brevity.

Frank Phelan: Antisocial behaviour orders will not make much difference to the young people with whom we work, who are at the high-tariff end of the scale. I am not sure what the impact of the act will be, but I am sure that the intensive support and monitoring system will have an impact because it will provide a level of support that may prevent young people from ending up in secure care. That higher level of support might also allow us to move young people on from secure care more quickly than we do at present.

Bill Duffy: I agree. However, I am sometimes concerned that our young people like to press additional buttons and break more rules. Sometimes, in trying to keep them out of secure care, we set challenges that may bring them in. I will wait and see how the legislation works.

Mike Pringle: You have reservations about it.

Bill Duffy: Yes, because of the young people whom I know—some of them go right to the cliff edge before they stop, but I know a lot who jump off. If we put lower-tariff measures in the way,

some young people see those as things to knock over or get through. They are on a track that they see taking them until they hit the wall. To be positive, I hope that the act works, but it is a challenge to a certain group of young people. They break the rules and are told by adults that if they break them again, something else will happen. They build negatively on the consequences.

Mike Pringle: One point that you made earlier that surprised me and, I suspect, other members, was about girls and violence. We have not yet covered the issue of numbers of places. Do we have enough secure places to cope? Are secure units in the west or the east constantly under pressure? Mr Duffy said that we need a specialist unit for girls, but my question is a more general one about numbers.

Frank Phelan: That is always a difficult question to answer because the demands that are placed on secure care units are a symptom of the availability and robustness of other facilities. There is a political focus on secure care, but if the focus were on supporting and resourcing ordinary children's homes and residential school provision, the demands that are placed on secure care would be lessened. We will see whether the intensive support and monitoring system allows some young women to be supported in their communities. Until those issues are tackled, I cannot say whether we need more secure care places.

Secure care is expensive. Let us not beat about the bush: we are locking up young people, even though the United Nations Convention on the Rights of the Child says that that should be done only as a last resort and for the shortest possible period. If we build more secure units willy-nilly without considering other provision, we will be in danger of locking up more young people than need to be locked up.

Bill Duffy: I agree. Last year in my 36-bed unit, the average daily use was 35.83 beds and we have a fairly substantial waiting list. However, when I started my career, there were 18 secure beds and about 2,300 specialist residential beds throughout Scotland. We now have 96 secure beds and about 300 specialist residential beds. We have a community solution and a secure solution, but the bit in the middle, which used to do an awful lot of good work on diversion, has been chipped away at. Each time we reduce the size of the bit in the middle, more people come into secure care. During my 30 years in the sector, the figures on where young people end up have changed significantly.

Mike Pringle: Clearly, you have a lot more experience in the sector than the rest of us have.

The Convener: On behalf of the committee, I thank the witnesses for joining us this afternoon.

We have found the evidence helpful and extremely interesting.

We will have a brief break of five minutes.

15:45

Meeting suspended.

15:52

On resuming—

The Convener: On behalf of the committee, I welcome Jennifer Davidson, the director of the Scottish institute for residential child care, and Professor Andrew Kendrick, who is also from that organisation. Thank you for joining us this afternoon. Without further ado, we will head for questions if that is acceptable to you.

Mr MacAskill: On the basis of the available evidence, do you think that secure care is being properly targeted? Are there adequate checks and balances to ensure that it is being used appropriately?

Professor Andrew Kendrick (Scottish Institute for Residential Child Care): I will be in a better position to answer that question in about a year's time. I am involved with colleagues from the University of Stirling—which is a lead partner in the research—and the University of Glasgow in a three-year study of secure care, which will consider effective decision making. The study will be concluded at about this time next year.

However, on the basis of past evidence—and picking up some of the points that were made earlier—there is an issue to be addressed. Research has shown that young people in secure care often do not differ that much in their characteristics from young people in open residential settings. The research has found that the use of secure care has more to do with the ability of open residential settings to manage the difficult behaviour of young people than with the specific characteristics of that group of young people.

There is an important issue concerning the variation throughout Scotland of thresholds for the use of secure care. That has been touched on in the context of the relationships between individual secure establishments and local authorities and how those relationships can be managed. In Edinburgh, the secure accommodation establishments are linked to the local authority. That combination means that it is difficult to say whether secure care is being used most appropriately and effectively.

The Convener: If I understood correctly the evidence that we have just heard, there seems to be pressure on beds at the secure end and in

community facilities, but some kind of big gap in the middle. Would you like to comment on that? What alternatives are being developed in the residential sector?

Jennifer Davidson (Scottish Institute for Residential Child Care): It is important to say at the outset that we particularly appreciate being consulted on the matter, because we see secure care as an integral part of the continuum of care.

You mentioned community care, but we must also look at the residential care services that exist for children and young people. We know that, because of a current lack of services, secure care tends to be used more than it should be. For example, there is a lack of psychiatric facilities for young people and a lack of services for girls, who may not need to be locked up because they are not in any way a danger to society but are a danger to themselves. Unfortunately, all that we have in Scotland are services to enable girls to be locked up, and that is the only way in which they can get the help that they need. We are dealing with young women who are injuring themselves or putting themselves into harmful situations such as prostitution. We also have a lack of services to help young people to deal with substance misuse issues. Because of the lack of services in the middle ground between community care and secure care, more people are being referred to secure care.

The Convener: That is helpful. Do you agree with that, Professor Kendrick?

Professor Kendrick: I do.

Another issue that has been touched on concerns the relationships between different sectors and local authorities. In secure care, there is a mixture of voluntary agencies and local authorities. In the residential schools sector, services tend to be provided by voluntary and private agencies. That means that there is tension in the relationships between residential schools, some secure care establishments and local authorities, much of which has to do with cost. The relationship can be quite difficult in terms of what is in the best interests of young people when cash-strapped local authorities make decisions. Although I am sure that most would say that they do not make decisions based on cash, we have to take that into account.

I have found in certain research that I have done that young people who are placed in residential schools may become stable and begin to engage again in education—in a sense, they start to make progress towards stability and success—but at that point it is felt that they can be moved out of the residential school and back into the community, even though they might not be at that stage. They may have started that journey, but they have not moved on further.

The Convener: Jackie Baillie is interested in this area, but we have covered quite a lot of the ground.

Jackie Baillie: Absolutely. I have only one supplementary question. Do the witnesses think that there is a geographical gap in provision? Is the alignment of services across Scotland the right one?

Professor Kendrick: That has been touched on in relation to secure care, but there is also a major issue in relation to residential schools. A lot of residential schools and secure establishments are national resources, and when people have to travel the length of Scotland the issue becomes one of making links with the community, with family and with community services. I have been carrying out research with a residential school that has set up a unit for sexually aggressive young people. That is a national resource, which takes young men from all over Scotland. It is incredibly resource intensive in terms of the staff time that is taken to travel distances and make connections, and it is incredibly difficult to focus on throughcare and aftercare because of the distances involved.

Colin Fox: What research are you aware of into the views of the young people who have been through the system in secure units and residential care? What issues do they raise, particularly after they have been through the experience?

16:00

Jennifer Davidson: One of the partners of the Scottish institute for residential child care is Who Cares? Scotland, which has done work on the views of young people. A recent report called "Let's face it", which examined residential care in general, found that there are pockets of good practice, but the relationship with key workers and staff was emphasised.

Concerns were raised about bullying and safety within the units. One issue that we have taken on board is the use of physical restraint in residential care facilities and the lack of staff training. Perhaps staff are unaware that physical restraint hurts and is humiliating, and sometimes it is used as a punishment as opposed to a measure for the young person's safety. Those were some of the general issues that were raised by young people in residential care.

There is a recent, but as yet unpublished, Who Cares? Scotland report into young people living in secure care. When the young people were asked how they felt about the decision that had been taken for them to come into secure care, the majority of them agreed with it. However—this is quite poignant—some felt that the system had failed them and that if other resources or support had been available sooner, they might not have had to come into secure care.

The young people listed a number of the benefits of the programmes, and there are two key themes to highlight. First—Professor Kendrick alluded to this—it was difficult at times to maintain contact with families and friends because of the locations of the secure units. One young person spoke about his father taking three-and-a-half hours to get to the unit; they were allowed a one-hour visit before he had to return. The issues are quite poignant and young people have the same concerns as those that we heard earlier. Another concern is about physical contact. One young person told how they were not allowed to hug a parent during a visit; no physical contact was permitted. Although it might sometimes be necessary for an establishment to take such a decision for a young person's safety, young people say that it is difficult for them.

The second theme is young people's rights. Young people certainly have some sense of their rights, but they might not be entirely clear about them. They were clear about how to use complaints systems, but they were concerned that the staff might not have knowledge of the rights of young people in secure care. Young people felt very strongly that strip searching was a horrible, degrading and unnecessary process. They understood that it might be used as a measure of protection, but they felt that it was a frightening and humiliating experience. The research has raised questions about routine strip searching and the decisions that are made about it.

In essence, all this raises questions for the report writers about whether there ought to be policies that create a bit more consistency between secure care accommodations to ensure that policies such as those on contact with family and strip searching are clear, explained to the young people and consistent throughout secure accommodation. I have tried to deal with the issue in a nutshell, but those are some of the strong messages that we hear from young people.

Colin Fox: You have told us about a wide range of things, but what are the regular features? What you have told us is interesting, but I get the impression that there is a wide spread of views. Is there continual bullying? Is that one of the common complaints?

The Convener: Is what you have just articulated based on Who Cares? Scotland's unpublished research?

Jennifer Davidson: Yes.

The Convener: So it is not direct research evidence from you.

Jennifer Davidson: That is correct. Who Cares? asked me to present the information, because it knew that I would be here and it was unable to send representatives.

The Convener: It asked you to comment.

Jennifer Davidson: Yes.

The Convener: I presume that Who Cares? would be amenable to sharing its research with the committee if we requested it.

Jennifer Davidson: I imagine that it would be happy for you to learn about its research.

The Convener: I am sorry for asking about that just as Professor Kendrick was about to answer Colin Fox's question.

Professor Kendrick: That is okay.

Over the years, in my research on residential child care, bullying and peer violence is one of the issues that young people have raised consistently. It is one of the areas—certainly in residential care—that need to be addressed much more consistently. A lot of focus has been on past scandals of abuse by staff, which many developments have come into place to address. The next issue to be addressed must be bullying and peer violence.

Having said that, the research has shown that young people often say that they prefer residential care to foster care. That is sometimes to do with the relationship with their family. They see a foster family in some sense as being in competition with their own family. Residential care can be more neutral in that sense, which is important. Recent research has also shown that residential care and the peer group can be supportive. It is not the case that there is bullying in all residential settings. In good residential homes, young people can support themselves effectively and sometimes the staff get in the way of them supporting themselves.

Mr MacAskill: We have seen in written evidence that throughcare is a problem. Will you comment on the quality and consistency of services in that area and on the likely impact of the Children (Leaving Care) Act 2000?

Professor Kendrick: Certainly. Research has always shown that throughcare and aftercare services are patchy. Evidence was heard earlier today that in different local authorities there are different approaches to throughcare and aftercare. That covers a range of issues, such as accommodation, health, education and careers. The developments around the new legislation are crucial in making the transition as successful as possible.

Interesting research has been done by Professor Sonia Jackson, who studied a group of young adults who had been in the care system and had succeeded. They were all either in employment or in further education and either had their own home or were living in rented

accommodation. Only small numbers had been involved in reoffending. The point has been made about aunties and grannies. One of the main protective factors was that one person supported the young person through the transition period from care to aftercare. Stability and continuity are important factors, which need to be addressed in throughcare and aftercare. A lot of the negative factors to do with young people in residential and secure care relate to the speed of movement and young people never having a sense of stability. That is what we must try to address in order for young people to succeed.

Bill Butler: Do any workforce issues such as qualifications frameworks, staff training needs, retention and turnover require to be addressed? Would you like to comment on any or all of those issues?

Jennifer Davidson: Much is being said about the shortage of social workers who are qualified to work in children and family services. Our concern in residential child care is the lack of staff and the recruitment and retention problems across the board. The issue was mentioned earlier.

The SIRCC has undertaken a qualifications audit of the residential child care workforce—we completed it at about this time last year and it was published in the spring. Approximately 30 per cent of the workforce currently have or are undertaking the qualifications that are required to meet the Scottish Social Services Council minimum qualifications requirements, which the sector has until 2009 to meet. Although 30 per cent may not be too bad a figure, it is quite discouraging for us, because it is not dramatically different from the figure in our first qualifications audit, which we undertook three years previously, despite the fact that many staff have undertaken education to meet the qualifications requirements. We therefore have concerns about the retention of qualified staff in residential care.

Some of the reasons for the retention problem relate to the retention and recruitment problem in social work fieldwork. Many recruitment campaigns are on-going to get qualified staff to come into children and family services. We find that qualified staff in residential care are being drawn into other services rather than staying in residential care. The ways forward are not entirely clear, but one issue that should be considered is the status of the workforce and in particular how the pay compares to that for fieldwork. The loss of staff from residential child care is not likely to abate until we have a concrete look at the pay received by qualified residential child care staff.

Bill Butler: Does Professor Kendrick agree with his colleague?

Professor Kendrick: Very much so.

One concern is about image. In the recent parliamentary debate about fostering, it sometimes seemed as though foster care is seen as the positive service and residential care is seen as the negative service. We must highlight the fact that the services are complementary. Secure care, residential schools, children's units and foster care must be seen as part of an integrated service for children and young people. They should not be seen as competing with one another. That has the spin-off effect of giving residential care a negative image, which has an impact on recruitment and other staffing issues.

Bill Butler: Can you suggest how that image could be improved, or is it a given?

16:15

Professor Kendrick: It is not a given, but to improve the image everyone—I include the media—would need to consider the positives that are provided by secure care and residential care rather than only the negatives. Last year, I was interviewed by a journalist about bullying. I tried to give a balanced view, but when the interview was published the headline screamed “Bullying horror in children's homes” and my name was used in the article. I did not find that particularly positive. There has to be a shift in how residential care is seen as part of the services for children and young people.

Bill Butler: Thank you. [*Interruption.*] Sorry, do you want to add to that?

Professor Kendrick: We have spoken about some of the gaps in the provision of health, mental health and education services. In some projects in residential care, health professionals and mental health professionals are working with residential child care staff. The health professionals and mental health professionals are not working directly with the young people—although they may in certain instances—but providing support and consultancy to residential care staff who can then work directly with the young people. The point has been made that the relationships between residential care staff and the young people are crucial. It is not always beneficial to bring in one specialist after another; it can be better to maintain the consistency of those relationships.

As I said, I was involved in work with a unit for sexually aggressive young men. The pilot project lasted for three years and only one member of staff who had started the project was left at the end. In a sense, there was no build-up of expertise; people had to be trained again and again. The retention and the turnover of residential care staff is a significant issue.

Jennifer Davidson: The care in Scotland campaign for recruiting social workers might be a

place to target attempts to change the image of residential child care and to recruit residential child care staff. That would be a concrete way of changing the face of recruitment for residential child care.

Employers are faced with a difficult situation. A large number of staff have to undergo qualification training within a short period and employers have to pay for the backfill of shifts while those staff undertake their education. There is a crisis for many employers in trying to support their staff to become qualified. Often, employers are unable to support their staff and those staff struggle to undertake qualifications because their employers are unable to give them the time to study. We need to find ways in which to support employers in helping their staff to achieve the qualifications that they will need by 2009.

Maureen Macmillan: I would like to hear your comments on the provision of residential secure care in Scotland compared to the provision in other jurisdictions. We do not want to keep reinventing the wheel. Is there any research to show that other countries are doing it better? Can you give us some ideas?

Professor Kendrick: I do not think that there is any research to show that other countries are doing it better, although other countries are doing bits of it better. I am in discussions with a colleague in Finland about some comparative work. In Finland, very few young people are locked up—the number of young people who are locked up has been reduced over the past 25 to 30 years from about 120 to fewer than 10. That is a drastic reduction. However, Finland has a much larger residential care sector. The country has a similar-sized population to that of Scotland, but it has twice the number of residential care places. However, although young people in Finland may not be locked up in prison or secure accommodation, there are more locked psychiatric wards there than in Scotland. Moreover, the age of criminal responsibility in Finland is 15, whereas ours is much lower. Part of the problem with comparative research is that whole systems, including their fundamental principles, can differ from one country to another.

Jennifer Davidson: I agree.

Maureen Macmillan: So we have to sort the matter out for ourselves.

Professor Kendrick: We need far more research to find out what is happening in other countries. We think that we have hardly scratched the surface of examining the effectiveness of residential schools and secure care and medium to long-term service outcomes. However, my Finnish colleague said that we in Scotland have carried out much more research into residential

care than has been done in Finland. We need a much broader agenda of research to examine in detail the specifics of what works.

Maureen Macmillan: Do we need greater national co-ordination, planning and funding of residential and secure services?

Professor Kendrick: We definitely need to address that issue. After all, previous reviews of secure care have called for greater co-ordination of secure provision. One of the outcomes of the major inquiry into abuse in children's homes and foster care in Wales was a call for a national strategy of children's services, which is now under way. We must begin to consider ways of co-ordinating services and how we move beyond their fragmentation. At the moment, we cannot secure that necessary continuity because young people move between services that might have different systems of physical restraint or assessment or different programmes. Although we do not want to argue for a central estate or to impose a rigid system, we need to think about how we can introduce an integrated service and consider children's services as a whole in a complementary way instead of in the current fragmentary way.

Jennifer Davidson: I echo Professor Kendrick's remarks. The fact that there are 32 local authorities makes it more difficult for each authority to think strategically about what are actually national services.

The Convener: Do the witnesses have any final comments to make?

Professor Kendrick: As a previous witness pointed out, people tend to focus on concerns. However, we must not forget that positive work is being carried out across the range of residential and secure care services and that there are success stories. We are starting to build up the evidence about what works. It is now a case of spreading the word to ensure that people have a positive perception of all services.

Jennifer Davidson: In fact, the issue is not just about recognising good residential services, but about improving and increasing them to ensure that they can deal with some young people's difficult behaviour. If that happens, there will not be so much demand for secure care beds.

The Convener: I thank the witnesses and, on behalf of the committee, express our appreciation for your presence this afternoon. We all agree that we have had a constructive and helpful evidence session—it has been fascinating to hear the different perspectives. We are indebted to you and are sorry that you occupied the final slot of the evidence taking. Nonetheless, as I have said, your evidence is much appreciated.

Prisoner Escort and Court Custody Services Contract

16:24

The Convener: We move to our consideration of item 4. Members will have received a copy of the paper that was prepared and circulated by the clerks, which gives us a helpful update of where we are on the subject. We need to determine what to do now. The three options that are outlined in the paper embrace all ways forward.

Colin Fox: Of the three options, I am inclined to go for option B. Although I am satisfied with the paper, given that we asked for an examination of the issue, it is appropriate for us to look at the subject again once the contracts have been rolled out properly and thoroughly. We should re-examine the issue in six or 12 months' time.

Bill Butler: Colin Fox's suggestion is eminently sensible, as option B gives us time to monitor the situation.

Mike Pringle: I agree.

The Convener: That is helpful. It would not be acceptable for us to forget about the issue. However, if we were to take up option C and do something early in the new year, that would put a bit of pressure on the committee as our timetable is a little uncertain at that time. If the committee is agreed, we will follow option B and diary the item. The clerks will assist us in bringing the item back on to our agenda at an appropriate time before the summer recess. Are we agreed?

Members indicated agreement.

Constitutional Reform Bill

16:25

The Convener: We move to our consideration of item 5. Once again, papers have been circulated to members. We know from the Lord Advocate that the Constitutional Reform Bill is to be the subject of a Sewel motion. The committee will recall that we prepared a report, which I think members will agree was useful, on the basis of the evidence that we took. The committee now has to determine what, if anything, it wants to do. In a sense, the matter is out of our hands. Committee members can express their views on the matter in the chamber when the debate on the Sewel motion is held. I am open to suggestions from the committee, however.

Bill Butler: The approach that is proposed in the paper is sensible and I have no difficulty with it, especially as it is the approach that we will have to follow in any case.

The Convener: My recollection is that the Lord Advocate is on standby to give evidence to the committee on 14 December. Are we content to proceed with that evidence-taking session and to take the approach proposed in the paper?

Members indicated agreement.

Mr MacAskill: What contingency plans do we have? A lot seems to depend on the evidence that might be forthcoming in the written submissions that we have requested by 9 December. Some of the evidence in those submissions might merit an invitation to give oral evidence.

For example, if we were to receive a submission from a judge, lawyer or other interested party that indicated that there is considerable concern on the issue, we might not feel that it was adequate simply to have that written evidence. Will we be able to hear oral evidence on any of the written submissions that we feel merit a public airing?

Although we have the opportunity to make our position heard in the limited Sewel debate that will be held on the bill, other organisations and individuals who have a considerable vested interest in the matter are restricted to making a written submission.

The Convener: That is a fair question. The one thing that we do not have control over is the timing of the Sewel motion. I understand that the desire on the part of the Executive is to bring it forward shortly. Perhaps the clerks can give us further guidance on the subject.

Tracey Hawe (Clerk): Essentially, the committee can consider the written evidence that it receives at its next meeting, when we are to hear

evidence from the Lord Advocate. If, at that stage, the committee felt that it wanted to hear oral evidence from organisations or individuals, the clerks could discuss the matter with our colleagues in the office of the Minister for Parliamentary Business. The matter is subject to negotiation.

The Convener: Might that have the effect of deferring the Sewel motion?

Tracey Hawe: It might not alter the timing of the motion being brought forward, but it might alter the date of the parliamentary debate on the motion.

The Convener: Right. It seems that the matter is partly outwith and partly within the committee's control. I can offer no comment other than to say that we will have to play it by ear. Let us see what evidence comes in and hear what the Lord Advocate has to say. As our clerk has said, if the committee has serious concerns, the Executive will listen sympathetically to them in so far as it can in respect of the timing of the debate on the Sewel motion. Subject to that caveat, is the committee content to proceed as outlined?

Members indicated agreement.

The Convener: I thank all members for attending today's meeting and remind everyone that our next meeting will be held on 14 December. We have a little break between now and then.

Mike Pringle: Does that mean that we are not having a meeting next week?

The Convener: That is another way of saying it. The further good news for the committee is that we have organised some festive fare for 14 December.

Colin Fox: Santa is coming early.

The Convener: I hasten to say that it is at the expense of the convener.

Mike Pringle: He has been already.

The Convener: I bring the meeting to a close.

Meeting closed at 16:31.

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