

JUSTICE 2 COMMITTEE

Tuesday 1 February 2005

Session 2

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JUSTICE 2 COMMITTEE

4th Meeting 2005, 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)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Cathy Jamieson (Minister for Justice)

Stella Perrott (Scottish Executive Education Department)

CLERKS 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 1 February 2005

[THE CONVENER *opened the meeting at 14:04*]

Interests

The Convener (Miss Annabel Goldie): I welcome members to the fourth meeting in 2005 of the Justice 2 Committee. I have received no apologies and I am pleased to welcome Fergus McNeill, who has joined us for the agenda item on youth justice.

As a matter of courtesy, I pay tribute to our outgoing member, Mike Pringle. The committee will join me in expressing our thanks for his contribution to our proceedings. I welcome his successor, Jeremy Purvis, and invite him to declare any relevant interests.

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD): I have none to declare, convener.

Item in Private

14:05

The Convener: We move to the second item on the agenda. Is the committee agreed that we will discuss a draft report on the Serious Organised Crime and Police Bill, which is item 5 on the agenda, in private?

Members *indicated agreement.*

Subordinate Legislation

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005 (Draft)

14:05

The Convener: Agenda item 3 is an item of subordinate legislation that is subject to the affirmative procedure. I welcome the Minister for Justice and her advisers, Mr Nicholls and Mr Spratt. Minister, I am happy for you to speak to and move the motion in your name, in connection with the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005.

The Minister for Justice (Cathy Jamieson): Thank you for that invitation, convener. I am grateful for the opportunity to explain to the committee the background to the order.

Members will be aware that the Scotland Act 1998 recognises that, in some cases, it would be more appropriate for Scottish ministers to be able to exercise executive powers in areas where primary legislation continues to be a matter for Westminster. Section 63 of the 1998 act allows functions in reserved areas, so far as they are exercisable in or regarding Scotland, to be transferred from a minister of the Crown to Scottish ministers. I hope that members have read the Executive note that explains that the order proposes to transfer functions in four separate areas. I will run through those areas briefly.

The first area is the Fire and Rescue Services Act 2004, regarding fire service pensions. United Kingdom ministers have made an order under the 2004 act to ensure that the existing pension scheme can continue and that Scottish ministers retain the ability to make amendments to it in respect of Scotland. However, at present, Scottish ministers do not have powers to make arrangements for new pension schemes for the fire service. The order that we are considering today provides for the transfer of those powers.

The second area is the Electricity Act 1989 and the Energy Act 2004. We have agreed with our counterparts in the UK Government that certain functions that were amended and created by the Energy Act 2004 should be transferred to the Executive. Those functions relate to the requirement to consult before amending the renewables obligation, as well as to new ways in which suppliers might meet their obligation.

The third area relates to the European Communities Act 1972, the Food and Environment Protection Act 1985, the Food Safety Act 1990 and the Food Standards Act 1999. The

amendment that is presented in the order in relation to food is a technical measure that is intended to ensure that we can continue to regulate food safety and food standards matters for Scotland, following a change in the overarching European framework of food law.

The fourth area concerns anti-terrorist traffic regulation orders. The order will change the current position whereby the Home Secretary has the power to make anti-terrorist traffic regulation orders in Scotland. It was agreed with Her Majesty's Government that the power to regulate or control a road in the case of a terrorist threat was best placed in the hands of Scottish ministers, as they are in control of road transport policy in Scotland. As the orders make provision for dealing with matters under the auspices of terrorism, which is a reserved matter, Scottish ministers will require the agreement of the secretary of state before making such orders.

I believe that those are appropriate functions to be exercised in Scotland by Scottish ministers, and I hope that the committee will approve the transfer of those functions to Scottish ministers, as set out in the order.

I move,

That the Justice 2 Committee recommends that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005 be approved.

The Convener: Thank you. Do members have any questions for the minister on the order?

Members: No.

Motion agreed to.

Youth Justice

14:09

The Convener: Agenda item 4 is the committee's youth justice inquiry. I will allow a few moments for the minister's advisers to change places.

I thank the minister for being available to give evidence in our inquiry. There are various issues of interest to committee members, but I will start the batting by dealing with the partnership arrangements that exist throughout Scotland. The committee has been taking evidence in different parts of Scotland in which, at first sight, there seem to be differences in the practical application and operation of partnerships. There are diversities throughout Scotland in the engagement of the voluntary sector in youth justice at strategic and operational levels. It might be helpful to the committee if the minister would clarify what kinds of strategic and operational partnerships she wants to see throughout Scotland and how she expects them to work.

Cathy Jamieson: Thank you for the opportunity to talk about that important issue. When we drew up our youth justice strategy and considered the strategic priorities for youth justice, we were clear that there ought to be a youth justice team in each local authority area and joint working between the agencies and organisations that have responsibility for young people. The key elements that we expect to be addressed relate to a spectrum of activities ranging from work on preventing and diverting young people from getting into trouble in the first place, to effective intervention when they begin to get into trouble, to work in regimes that require a greater degree of control over young people's lives, whether in secure accommodation or intensive support projects.

It is important to acknowledge that youth offending is not a problem for social work alone. I have said that on a number of occasions and have had numerous discussions with chief executives and political leaders of local authorities to try to encourage the local authorities to take a much more corporate approach so that education, social work and housing departments and those who are involved in community safety partnerships and antisocial behaviour strategies all consider the problems in a given area. Although we have put in place an overarching framework through the national standards that we expect people to meet by 2006, we acknowledge that there are differences between big-city areas and rural areas. I expect local authority departments to join up and I expect there to be a good working relationship

between youth justice teams and external agencies.

The convener mentioned the voluntary sector, which in many instances has a major role to play in working jointly with local authorities to provide services for young people.

The Convener: That is helpful. Do you see the participants in youth justice strategy teams as token figures from their sectors or as live communicators who will ensure that, where their sector is affected or has something to contribute, the dialogue is active?

Cathy Jamieson: I certainly do not see any participant as a token representative of their sector. If that were the case, it would have to be addressed locally. There ought to be dialogue that goes further than addressing matters that affect particular agencies. The people on the team have a responsibility to drive forward the strategy in their area, to ensure that the different players contribute to progress and, importantly, to monitor the effectiveness of what is happening.

Again, members will be aware that we brought in consultants to look at what is happening throughout Scotland. We did a mapping exercise to look at all the youth justice projects that are in place and to consider the effectiveness to date of what is happening in different areas. I expect the youth justice teams to be central in ensuring that we tackle the problems that communities expect us to, particularly those around persistent offending.

14:15

Jeremy Purvis: As a new member of the committee, I have not been part of the inquiry. However, I have done my best to read up on previous evidence sessions and evidence that the minister has provided, part of which concerns the budget. I think that the minister indicated to the committee that there is funding of £1.3 billion for youth justice. How much of that is for core social work services? I have visited hearings in the fast-track youth justice scheme in the Borders and I am aware that progressing youth justice depends very much on the social work element. How much of the increased expenditure over the period will be for core social work?

Cathy Jamieson: I will take you through the funding breakdown for the £1.3 billion. First, the child care strategy has an impact of some £29.75 million. I will not go through the year-on-year figures, because members can get that information elsewhere. Further examples from the breakdown are: around £137 million for early education; £78 million for integrated community schools; and £58 million for the national priorities action fund for study support, with an additional

£24 million to that fund for support for parents. There is a range of things within the £1.3 billion. I could list a number of examples in relation to schools. The breakdown for work in local areas includes £30 million for community wardens and £4 million for the community safety partnership awards programme. There is also spending on our work on drug-related issues.

All the work to which I have referred is intended to bring about changes that would give young people a better quality of life. For example, we have given £175 million over three years to the changing children's services fund and we have provided £66 million to social inclusion partnerships. We have funded the better neighbourhood services fund and youth court pilots. We have provided additional funding for leisure and sports activities and so on. We have given £108 million to sure start Scotland and £6.5 million to the children, young people and families unified voluntary sector fund. We have also funded throughcare and aftercare in the working for families programme.

On the specific projects that have been put in place to tackle the problems of youth crime and disorder, money goes to the local authorities through grant-aided expenditure and an element of what is spent on social work will cover children and families. We have tried to identify additional mechanisms to increase the amount of money that is available. Jeremy Purvis referred to the fast-track programmes. Additional resources were put in specifically to ensure that the programmes went alongside the fast-track children's hearings. We are in the process of evaluating that and considering what the outcomes have been.

Jeremy Purvis: Okay. I will come back to the fast-track scheme in a moment. However, I wonder whether any element of the funding supports social work, particularly youth justice social work. Certainly, for a hearings system to be effective, it requires such support. I wonder whether you can come back with information on such funding or whether you know what proportion of their funding local authorities spend on the hearings system. Obviously, the funding for the other areas to which you referred will not be effective in bringing about the change that you want unless the core social work back-up exists to service those areas.

Cathy Jamieson: I have with me five pages of figures that I can give you; I think that some of the information came to the committee previously when it was dealing with budgetary matters.

We have tried to target additional funds and to direct them specifically to improving services and ensuring that we have the right services in the right area. Interestingly, one of the things that showed up in the work that PA Consultants Ltd did

was that we probably had just about enough places throughout Scotland in youth justice programmes but that they were not always necessarily in the right place.

The other aspect that we must consider is how effective the programmes are. We are putting in more and more money, but we want some changes in behaviour and outcomes. For example, we have tried to ensure that additional resources have been allocated to the fast-track hearings pilots, intensive supervision and electronic monitoring, but if we do not get the outcomes that we want, we will have to assess whether that money has been well spent. We can certainly provide more figures on that element of social work.

Jeremy Purvis: I appreciate that. I regret to say that, as a former member of the Finance Committee, I am used to looking through many pages of figures.

Cathy Jamieson: We will be delighted to give them to you.

Jeremy Purvis: You said that you intend to analyse the fast-track hearings first, but how much will such analysis influence any decision to move budgeting away from funding initiatives and pilots towards mainstreaming such approaches? Is there a timescale for analysing the outcomes of the fast-track pilots and for mainstreaming that approach in the budget?

Cathy Jamieson: The issue is not as straightforward as that. We cannot simply analyse individual projects and then decide to mainstream every aspect of them; we need to consider what works.

That said, irrespective of the outcome of the fast-track pilots, we must ensure that we have the additional resources to assist local authorities in meeting the national standards by 2006. That is quite important, because as you rightly pointed out it is not simply a question of introducing more and more projects. We must improve the overall position; that is why we have set national standards and why we have provided additional consultancy and support to ensure that local authorities are on the right track. We must speed up systems so that young people get into the programmes that they need earlier. We are not simply waiting for the results of the pilots without doing anything in the meantime; we are directing resources to local authorities. Indeed, we might get different results in different fast-track pilot areas, and I would want to examine those results in more detail.

Maureen Macmillan (Highlands and Islands) (Lab): Submissions from rural authorities to the inquiry have highlighted how the remoteness or size of their area has led to particular problems

and additional costs in delivering services. For example, Highland Council and Argyll and Bute Council cannot have central services, which means that their efforts are dissipated and cost more to deliver. On the other hand, some urban authorities that are affected by high levels of deprivation are more concerned about the sheer volume of work. How does the funding formula work?

Cathy Jamieson: Given that there are five pages of figures, there are probably a number of different formulae that take account of matters such as rurality and problems in urban areas. Each funding stream has different criteria and, knowing that the committee will want to consider the matter, I can certainly provide members with a bit more of a breakdown instead of trying to go through everything now.

Maureen Macmillan: That would be helpful, because we want to understand this matter.

Cathy Jamieson: We have tried to take account of problems in specific areas to ensure that, for example, rural issues are addressed. Indeed, we opted to introduce fast-track hearings pilots in geographical locations that contained rural communities as well as urban and mixed urban and rural communities. We felt that we could learn from such a model.

Colin Fox (Lothians) (SSP): One of the themes of our inquiry has been diversion and early intervention schemes. Experts have pointed out persistently that those schemes are very effective when they nip problem behaviour in the bud and stop it spiralling down to a point at which it becomes much more difficult to turn round. However, many submissions have suggested that provision is not uniform—indeed, that it is quite patchy from one area to another. How satisfied are you with the range of provision and services throughout Scotland?

Cathy Jamieson: Again, we have to strike a balance between having a national framework, standards and expectations that must be met and allowing local people to devise local strategies based on the position in their area. If we were not to do that, the alternative would be to have a single organisation to manage youth justice and people might have views on that.

We expect the youth justice teams in each area to try to identify the young people who are at risk—those who are coming into the system and are at risk of moving up the scale. The teams need to be able to put in place appropriate measures for those young people. The committee might want to ask me later about the figures.

Some 1,200 young people across Scotland are deemed to be persistent offenders under the definition that I announced in the Parliament back

in November. If we break down that figure into different local areas and different youth justice team areas, we find that the numbers are very few in some areas and, obviously, greater in others. However, each number is an individual young person who is known to social work, education and probably to other agencies, including the police. Given that they are known about, the next job is to ensure that they get the programmes.

The same approach needs to be taken in trying to identify the young people who are on the verge of getting involved in offending behaviour. We are not talking about young people who live in a vacuum; they are known to people and their behaviour is visible. I am thinking, for example, of the system of police restorative warnings being rolled out. We need to pick up the young people's behaviour at an early stage, involve their parents and ensure that the problems are identified and worked on. Those are the kind of things that I expect people to take account of in terms of the national strategy and the national action plan. In each local area, it is important that people look at how best to deliver them.

Colin Fox: I will come to the figures in a second. What is your approach to the areas in which diversion and early intervention schemes are patchy? How would you intervene and press the case for greater provision in those areas?

Cathy Jamieson: I am not sure whether the member has in mind a particular area where patchy provision of early intervention might lead to an upsurge in offending. If so, I would be interested to hear his views on the area in question. As I said, we must get the balance right in relation to what we put in place to meet national expectations. Agencies have to meet national standards in dealing with young people when they come into the system. I would also expect diversionary schemes to be put in place throughout each local authority area.

As the committee is aware, over the past couple of years the justice budget has included additional resources to run summer projects, such as sport and leisure activities, to divert young people away from trouble. Many of those projects have been successful and the report back has been very good. We are seeing imaginative initiatives through which young people are being engaged in new and different ways and outside the traditional times of youth provision. For example, there is the twilight football project in Dumfries, which I have visited. A twilight basketball project has been launched recently and a range of other things has started up. With the provision of relatively small amounts of money, activities can be put in place. Importantly, the activities are the kind of things in which young people say they want to be involved.

The effect of such work is a reduction of the hot spots where young people hang around and are likely to come to the attention of the police. I expect people to look at such initiatives in each area and, within the overall framework, to identify where the problems lie and what the solution is.

Colin Fox: I turn to the issue of the figures. You made a point about the importance of early intervention. This week, the committee received a submission from Polmont young offenders institution. Of its current population, 85 per cent have previously served a custodial sentence; on average, they have already committed seven offences. A number of witnesses have said that there is a need for a clearer evidence base to show the effectiveness of diversion and early intervention strategies. They have asked for figures to back up the idea that early intervention is the more effective way of dealing with youth offending. Do you agree? Is the evidence there?

Cathy Jamieson: There is a catch with that one. If diversionary activities are put in place and young people do not get into trouble, it is difficult to prove that, if the activities had not been in place, the young people would have become involved in offending behaviour. That is why a strategic approach is important. If we divert young people from hanging around in places where they should not be and channel them into productive activities that they enjoy doing and which have value for the community, such as sport and leisure activities, they will be less likely to be tempted to become involved in criminal activity.

When young people cross the line and start getting involved in offences or offending behaviour, we do not do them any favours if we condone that or do nothing about it. That is the point at which the intervention may not be as extreme as it is for persistent young offenders, but something still has to happen to let young people know that what they are doing is not appropriate. If they have problems, we must try to provide resources to assist them and their families to deal with those problems. The issue is not only about diversion at the sharp end; we need to work throughout the spectrum.

14:30

Mr Stewart Maxwell (West of Scotland) (SNP): I have questions on residential and secure care. What are your plans to ensure that quality care exists for looked-after children, both in the community and across the range of residential provision?

Cathy Jamieson: Whether care is in residential provision, run by local authorities or the voluntary sector or, at the sharp end, in secure care, quality is important. We know from history that if we do

not get the quality of care right, the life chances of young people who go through the care system are unlikely to be particularly good.

There has been a lot of discussion in the Parliament about the need to increase the number of secure places. I have made it clear that I want to ensure that we improve quality, at the same time as increasing the number of secure places. That means reconfiguring the secure estate, not simply building an extra couple of blocks somewhere. For example, we need to think about the needs of girls and young women, whose reasons for coming into the system are often different from those of young men. We need to consider the needs of young people who are in secure accommodation because they have been sentenced by the courts versus the needs of young people who are there for their own care and protection. We are increasing the number of secure beds, but we are also trying to tackle some of those problems. That is why we are considering girls units and how to get the mix right. People do not end up in residential care simply because of offending behaviour. We have put some of the money from the youth justice fund, in particular the money for intensive support, towards close support and supervision programmes, in which young people spend part of their time in a residential facility if necessary, but receive support to allow them to go back into the community.

Of course, all the units are, rightly, subject to rigorous inspection processes. The Scottish Commission for the Regulation of Care, the social work services inspectorate and, where education is provided, Her Majesty's Inspectorate of Education all have a role in ensuring that we get the provision right—not just the buildings, but the quality of the care that is provided.

Mr Maxwell: I am glad that you mentioned the number of secure care beds, which has been an issue for several years. The Executive is committed to increasing the number of places, but concern has been expressed to the committee—the minister might have heard similar concerns—that young people might be put in secure places when the only reason for doing so is a lack of residential accommodation that would be more appropriate for the young person's circumstances. How do you react to that? Is there a danger of that happening?

Cathy Jamieson: Rightly, secure care is a scarce resource. Strict tests must be met before a young person is put into secure accommodation: the person must be either a persistent absconder who puts themselves at risk or a person whose offending behaviour puts others at risk. I do not believe that there are whole swathes of young people who end up in secure accommodation who should not be there. However, I do think that, if we

get things right earlier in the process, we might be able to use other options to try to prevent some young people from ending up in secure accommodation. An option that will be available is intensive support and electronic monitoring. In some instances, it might be appropriate to put such monitoring in place for the young people concerned. I find it interesting that people have suggested that. Usually, the argument that is put to me is that lots of young people are waiting for secure accommodation but cannot get in.

Mr Maxwell: I would say that both arguments have been put to us. However, we are not talking about “whole swathes” of people; we are talking more about people at the margins.

Cathy Jamieson: Some young people have a pattern of behaviour that, if not curbed, seems likely to lead to their going into secure accommodation. Social work assessment and hard choices about intervening early might prevent a young person from ending up in that accommodation.

Mr Maxwell: I accept that.

Some of the evidence that we have received discussed the requirement for a more co-ordinated national strategy, particularly on the resourcing and use of residential care in general. What are your views on that? Do you recognise a problem in the lack of a national strategy, or do you have a different opinion?

Cathy Jamieson: I am aware that local authorities have at times been concerned about the cost of residential accommodation. It is worth bearing in mind the distinctions between the different forms of residential care—whether we are talking about children's homes run by local authorities or in partnership with the voluntary sector or about residential school facilities—before we move on to discuss secure accommodation. Different resources will be required in different sets of circumstances. It will not necessarily be the case that each local authority will run each and every facility. Local authorities have to begin to think about partnership arrangements, perhaps involving other authorities, to ensure that, in each area, if a young person needs a particular facility, there is at least a way to access it.

The proposition that, rather than try to deal with things at a local level and take account of the needs of the local population, we should transfer responsibility to a national system is interesting.

Mr Maxwell: I do not think that that is what has been suggested, but there is concern about possible variation in service delivery. That is the motive for having a national strategy, rather than a desire to be run from the centre.

Cathy Jamieson: That goes back to the reason why such services are inspected, why national standards are put in place, and why certain requirements need to be met—to ensure that the accommodation that is provided is fit for purpose and is of the right kind for young people.

We should not forget the range of other ways in which young people can be looked after. A number of arrangements involving foster carers aim to ensure that young people are appropriately supervised. All those arrangements ought to be part of the package.

Mr Maxwell: I do not disagree with that. Many of the young people whom we are talking about have a complex set of needs and specialised services are required to meet those. How is the Executive ensuring that what is going on now is monitored and how is it planning to develop services, in particular the specialised services? How will it ensure that they are resourced adequately?

Cathy Jamieson: I am not sure whether you are referring to—

Mr Maxwell: I am referring to secure care in particular.

Cathy Jamieson: The secure care proposals and our approach to the work on secure care came about because of work that had been done to assess the needs throughout Scotland; the likely numbers involved; the traditional geographical spread, with young people coming from different local authority areas; where units would be best placed to meet that geographical spread; and the need for gender balance and a balance between sentenced young people and young people who are in the accommodation for reasons of care and protection. All those factors were taken into account, and we want to continue to have regard to them.

There is another interesting point about all this. We did not consider secure accommodation as consisting of secure units in isolation; we considered it in the context of developing close support projects and of the work that was being done on youth crime prevention. We ensured that, at every stage of the process, we had different layers of measures in place to try to meet the needs of young people.

There are matters on which we need to keep a close eye, particularly in relation to secure accommodation. There are issues with young people being in secure accommodation at the age of 16 or beyond. For some young people, it will be right to remain there, but others, particularly those who are sentenced, might transfer to Polmont. That all needs to be managed properly. The educational opportunities for young people who are in secure care at times have given cause for

concern. We want to try to ensure that we improve on all those matters.

Mr Maxwell: Do you have a structured plan in place? You have talked about all the things that have been done leading up to the present situation and you have stated that you will continue to examine and monitor the situation, but is there a structured plan in place for the necessary planning and monitoring?

Cathy Jamieson: When I was Minister for Education and Young People, we had the 10-point plan on youth justice, which has been followed through in a range of areas. The work that we have done in secure accommodation was one strand of that. If you are asking me whether we will continue to monitor the effectiveness and quality of the service that we provide, the answer is yes, we will do that in a number of different ways. Local authorities have a role in that, and we must consider how we inspect services. That will continue to be done.

Bill Butler (Glasgow Anniesland) (Lab): Problems with the continuity of care and throughcare in residential and secure care have been noted in many of the submissions that we have received and much of the evidence that we have heard. There is a feeling that provision is patchy and that there is a lack of a national strategy—or, at least, that there is variation in service delivery—and that those issues contribute to difficulties in the system. What plans do you have to address those issues, given that they are critical to meeting young people's needs effectively and sustaining changes in their behaviour so that the work that is done is not lost?

Cathy Jamieson: Historically, there have been concerns about the process of young people moving back into the community from residential care, whether they were there on welfare grounds or because of offending behaviour. On throughcare, work has been done to produce a plan to ensure that we have greater consistency across the different local authority areas. The lack of consistency can be felt most acutely when a young person moves from secure accommodation straight back into the community, so work has been done to ensure that we have additional resources in secure accommodation, that staff are available to deal with throughcare and that young people have the right kind of support in moving on.

That approach is reflected in some of the work that we are doing at the more adult end of the youth justice system. I am very conscious of some of the issues to do with young people coming out of Polmont. On the criminal justice side of our strategy, we ensured that, when we put additional resources into throughcare in the prison system, young people were targeted so that we had an

opportunity to pick up and try to deal with some of the problems.

Maureen Macmillan: I will ask about engagement between local authorities and secure accommodation institutions. I get the impression that the local authority does not always engage with youngsters once they have been put in secure accommodation. Should the local authority engage with young people continuously while they are in secure accommodation? What guidance is there on that?

Cathy Jamieson: That is not a question of guidance, because young people who are in secure accommodation are under the local authority's supervision and the local authority has a responsibility towards them, which includes helping to ensure that they are prepared properly for returning to the community. Local authorities should not abandon and have no input to young people who end up in secure accommodation. If there are concerns, a number of safeguards are built into the process, including review periods and times within which cases must be considered.

14:45

Maureen Macmillan: There can be distance issues when the local authority is Shetland or the Western Isles and the secure accommodation is elsewhere.

Stella Perrott (Scottish Executive Education Department): There are regulations on local authorities' duties in respect of young people in secure accommodation. There are difficulties when young people are located far away from their homes. The island authorities take particular care to find alternatives to that. They have welcomed additional resources to keep young people locally. However, we recognise that distance can be an issue, particularly for families.

Jackie Baillie (Dumbarton) (Lab): We took evidence from a number of people, who all reported that there is a problem with the availability of mental health services for young people. First, do you have figures for spend on child and adolescent mental health services in Scotland, compared with in England and Wales? I am happy to take that information separately, if you do not have it to hand. Secondly, do you think that current service provision is adequate? If not, what can we do to improve the situation?

Cathy Jamieson: I cannot give you the figures that you are looking for off the top of my head, or even from my notes, because they do not fall within the remit of the Justice Department, but I am sure that we can get the information.

It is clear from discussions that people are concerned to ensure that adequate resources are

available to deal with the duties that will arise from the Mental Health (Care and Treatment) (Scotland) Act 2003. As members will recall, during its passage, an amendment was lodged to ensure that young people under the age of 18 had a particular place.

There have been concerns about the number of educational and clinical psychologists and about young people having access to their services. There is on-going work to ensure that all those areas are addressed. However, as I said, those services come under the auspices of the Health Department, although I am sure that we can get the figures that the member is looking for.

Jackie Baillie: From the evidence that we took, it seems that while child and adolescent mental health services are not the entire answer to the problems of persistent reoffending, they are a critical part of it and have a contribution to make. What dialogue will you have with the Minister for Health and Community Care to ensure that there is adequate coverage, because such services contribute directly to your agenda?

Cathy Jamieson: When we examined secure accommodation places and how to proceed, we were clear that we wanted to build in such services. Where we had concerns about particular young people or groups of young people, we wanted to ensure that they had access to such services. As always, I am happy to work with other ministers to ensure that we put in place provision where it is needed.

Maureen Macmillan: In answer to a question a while back, you said that we have to identify young people who are on the verge of offending, rather than just persistent offenders, and that others will know that those young people are on the verge of offending. One place in which they would be known is school, but we were told in evidence that education services do not always play their part in identifying young people. It was suggested by, I think, Includem that truancy flagged up the danger of young people getting into offending. It thought that there ought to be bridging projects that would bring truants not directly back into school, but into some kind of educational project that would then bring them back into school. Can you comment on how education can engage better with the youth justice agenda?

Cathy Jamieson: Education services can engage well and positively with young people who have problems, including those who are involved in offending behaviour. I have seen some good examples of such engagement where bridging projects—for want of a better expression—have been designed within school buildings. Although the young people are not within mainstream classes, they are nonetheless retained within the school and do not miss out completely on their

education. In other areas, there are places where young people attend a different project to receive some education with a view to getting them back into mainstream schooling. In the work that I have been doing with local authorities to try to get them to adopt a corporate approach to such matters, I have been reminding them that, when a young person is on a supervision order, it is the responsibility of the local authority to consider how best it can support that young person. That includes looking after their education needs.

You will probably recall that a few years back we did a lot of work on trying to improve educational outcomes for looked-after children and we set local authorities some pretty tough standards that they had to try to meet. Some of those standards cover matters that people might think of as being pretty basic, such as having a care plan that includes a section about a young person's education. However, those issues continue to be important.

In a broader context, the integrated community school model can often reveal at an early stage where there are difficulties for young people—problems might be picked up at primary school—and provide the opportunity to involve parents and others in the community in flagging up issues and supporting young people. I would be disappointed if it was felt that education either did not have a part to play or did not play its part, because it is clear that education has a part to play. There are many good examples of education playing its part and that is what we hope to see.

Maureen Macmillan: Are there enough good examples? Are there enough projects? The other comment that was made to us—by Includem, I think—is that although such projects exist, there are not enough of them.

Cathy Jamieson: People must consider what is appropriate in each local area. I have seen very good examples of such work throughout Scotland. People might require to focus on young people who are on the verges of truancy or offending. There are issues about the point at which intervention should take place. The principle is always that one should not go in at the sharp end—intervention should be appropriate. I suggest that local authorities would not want to ignore warning signs. If warning signs are being flagged up, it is important that somebody in the local authority picks that up. I have seen good examples of social work services and education services working together and with the police to identify young people about whom they have concerns and seeking either to get them into formal projects or to provide them informally with additional support.

Jackie Baillie: You will be aware that there has been additional funding to develop the workforce

in early years and education. What has been made available specifically for residential child care and secure care accommodation? Given the need to back-fill posts and high staff turnover, you will be aware that there are cost issues in relation to training staff and helping them to be eligible for registration.

Cathy Jamieson: Obviously, you are aware of the resources that went into trying to recruit people into qualified social work posts. Incentives have also been introduced to get people into training. However, there is no quick fix. Part of the work that was done when we launched the work on improving the social work workforce was to consider the social care workforce. The intention was to highlight the fact that such jobs are valuable, that we need people to do them and that people would have opportunities for training if they became involved. Work is being undertaken on a framework to assist local health and education services and social services in planning and delivering more integrated approaches to children and young people, particularly in relation to mental health. That will have an impact. Money has been committed to child and adolescent mental health workforce development over a couple of years, to upskill and provide additional training for people who already work in that sector.

We still have a job to do to ensure that people are prepared to enter such work and can continue their training. As we know, work with difficult young people in residential settings is among the most demanding work. In a range of other settings—not just in social work—we are looking for people to be involved in working directly with young people.

Bill Butler: What age range do you have in mind when setting the youth justice agenda?

Cathy Jamieson: In youth justice, young people up to the age of 18 are within the scope of the children's hearings system. On the adult side of the criminal justice system, we have tried to address the particular needs of young offenders, such as those who end up in Polmont.

The crossover point will always exist. Some of the work that we have done to pilot the youth court and fast-track hearings recognised that, for some young people who might well be fairly persistent offenders at the age of 15, we needed to try a different approach. One benefit of the youth court pilot is that it brings together all the agencies and organisations round the table to ensure that the right programmes are put in place. That is a positive spin-off.

Bill Butler: I accept all that. The crossover involves 16 and 17-year-olds, so why do the national standards not cover the processing of young people in the adult criminal justice system?

Cathy Jamieson: That is because the national standards were set to deal with the children's hearings system and to speed the processes in it. They are intended to ensure early intervention. You will be aware of the work in the Education Department, under the auspices of the Minister for Education and Young People and the Deputy Minister for Education and Young People, on a wider review of the children's hearings system. Interesting issues to debate will arise from that review, but I do not want to encroach on other ministers' territory.

Bill Butler: Heaven forfend, minister. Thank you for that clarification.

The committee has heard many times and from many sources that recruitment and retention problems in children and families social work services have undermined or at least slackened progress on youth justice. How much progress has been made to address such difficulties in social work? What does the Executive plan to do to ensure that progress is sustained?

Cathy Jamieson: As I said, several initiatives were taken to increase the number of people. I will be corrected if I am wrong, but I understand that record numbers of people were applying for social work training and that additional spaces have been made available.

I am always cautious to say that dealing with the issues is not only the responsibility of child and family social workers. A range of professionals and other people can play a positive role in working with young people who are at risk of being involved in offending behaviour. They might be youth workers, people who work in the community, people in education or the police.

I have said before, probably at a committee meeting, that some of the best youth work that I have seen recently involves community police working with community activists and others in their local areas. I caution against the notion that the way to solve the problem is with more and more social workers, because a range of people must be involved in the process and we should try to make the best use of the wide range of resources. In some cases, young people themselves are involved in running projects, particularly at the diversionary end, and we should not forget how important that is as part of the strategy.

Bill Butler: I accept that. As you will know, at present only 30 per cent of the workforce has the required minimum qualifications, and the date by which the sector must meet qualifications standards is 2009. Are you confident that it will achieve that?

15:00

Cathy Jamieson: Again, that particular issue is no longer in my portfolio. The question would be best addressed to the education ministers, who could give the committee an update on the current position.

Bill Butler: In your conversations with them, are they reasonably confident?

Cathy Jamieson: I hope that we will see some movement towards that. One of the difficulties is that the matter goes back to before the establishment of the Scottish Parliament. A number of reports at that time were particularly concerned about the lack of qualifications, particularly among residential care staff and those who work with the most difficult and troubled young people. There has been an expansion of opportunities for people to get training places. I would not like to hazard a guess at whether all those people will go to work in that sector, but there has certainly been an expansion of opportunities for people to get the relevant qualifications if that is what they choose to do.

The Convener: I started the questioning by discussing partnerships and asking about the youth strategy groups. Will you clarify whether you consider that voluntary sector providers should have a place on those groups?

Cathy Jamieson: At the local level, it is important for people to look to all the agencies who might have a useful role or something to add to the process. Where the voluntary sector is involved in providing places, I cannot see why anyone would want to exclude it from being involved in developing the strategy. Good practice suggests that we want to bring people together.

The Convener: That is helpful. I ask you to remain seated while we deal with the final aspects of the inquiry.

Members have received a summary paper that shows the evidence that we have heard so far, and I need to ascertain whether members want to engage in further evidence taking or hear from further witnesses. Do members agree that a sufficiently broad spectrum of evidence has been taken?

Jackie Baillie: With the supplementary witnesses whom we invited previously, I think that we have covered all areas.

The Convener: That is helpful.

The summary paper also notes the emerging themes. Have any other issues arisen from the evidence that members would like to be covered in the draft report?

Bill Butler: The summary paper is fairly comprehensive. The clerks are to be

congratulated on recapitulating the salient points in the paper and we should use it as the basis on which to proceed.

The Convener: That is helpful. It looks as if we can begin to focus on the draft report. If the clerks feel able, we might be able to consider that at our meeting on 22 February. If that is agreeable to the committee, is it agreed that we would take the item at that meeting in private?

Members *indicated agreement.*

Serious Organised Crime and Police Bill

15:03

The Convener: I intimate to members that since our meeting started this afternoon—indeed, while we were dealing with the previous item—the clerks have received from the Executive a supplementary memorandum on the Serious Organised Crime and Police Bill, which we are to consider under agenda item 5.

I am confronted with something of a dilemma. I do not know what is in the supplementary memorandum, and it seems to me that it would be difficult for the committee—which is already faced with an exceedingly challenging timetable, as the minister will understand—to adjust the draft report if the Executive has made other relevant information available. However, I am advised by the clerks that the minister has indicated willingness to make a statement on the supplementary memorandum and to take questions from members.

The minister will understand that my patience is slightly frayed by this approach. It might be the intention of the Executive to subject the committee system of the Parliament to the danger of being regarded as derisive, but I, as convener of the committee, have no intention of being complicit in that objective. I am prepared to use my discretion as convener to table the supplementary memorandum. To enable members an opportunity to consider it, I will grant an adjournment of 10 minutes. I propose that we then reconvene and that we allow the minister to make a statement on the supplementary memorandum. Also, I will permit members to question the minister. Does the committee agree to that course of action?

Members *indicated agreement.*

The Convener: We will adjourn until quarter past 3.

15:05

Meeting suspended.

15:16

On resuming—

The Convener: I thank the minister for remaining with us during our suspension and welcome to the committee her adviser, Mr Hugh Dignon.

Members have now had an opportunity to read the supplementary memorandum. I suggest that we deal with this extra item on the agenda by

allowing you to speak to it briefly, minister. I will then allow members to ask questions. It is important to remind members that, although it is perfectly legitimate to question the minister on the content of the supplementary memorandum and any issues that that might raise in relation to previous discussions, it would not be appropriate to refer to or quote anything from the draft report, which is a private document.

Cathy Jamieson: I thank you for being so understanding, convener. I understand that your patience must be wearing thin, but I felt that it would be better to try to approach the issue in this manner and to give the committee its proper place rather than for you to consider a report in private session and for me then to bring further material to you when there was no chance for committee members to consider it properly. I understand the difficulties that that has caused you, but I am grateful for the opportunity to speak this afternoon.

In the Parliament and in the media in recent days, there has been much discussion of the proposals to extend protection for a small number of royal residences in Scotland and the impact of that on the rights of ordinary people to access land. Once again, I state that the Executive views land reform as being one of the cherished achievements of devolution. Supporting and protecting those reforms will remain an integral part of the Executive's programme. However, we are also firmly committed to ensuring that we provide an appropriate level of protection for the royal family when they are resident in Scotland. The level of protection that we provide must be as good as that which is afforded to them in any other part of the UK. That is something that the Scottish public are concerned about and would expect us to ensure. That is why we originally brought forward proposals for extra safeguards to protect the three main royal residences in Scotland.

I am aware that concerns have been raised in the Parliament by back-bench members of both partnership parties and of other political parties about whether those safeguards are needed at this stage. We listened carefully to those views and balanced them against the significant gains that we believe that the proposed legislation brings to the safety and security of our citizens and have therefore today asked the Home Office to amend the Serious Organised Crime and Police Bill to remove the clauses that create an offence of entry to a designated site without lawful authority. I suggest that it might be helpful for me to discuss with the committee at some point how the committee might help us to assess the evidence in favour of such a new offence and consider the need or otherwise for action in Scotland on that issue.

However, I want to reassure the public and other parliamentarians that we will remain vigilant in ensuring that Scotland's police forces use all the existing powers that are available to them to ensure that the royal family can spend time in the residences and be free from threat. As we have stated throughout the controversy surrounding the issue, the UK Government will still be able to designate any of the sites on the grounds of national security. However, with the withdrawal of these clauses, only the Home Secretary will now have the power to designate sites. He has previously given an assurance that he will consult Scottish ministers before doing so, but there will be no statutory role for Scottish ministers or for the Scottish Parliament.

The clauses represent a small part of a very important piece of legislation that is designed to strengthen the safety and security of communities the length and breadth of the UK. Ministers believe that it is important to focus on securing the Parliament's agreement to several of the important measures that are included in the Serious Organised Crime and Police Bill. Those include much needed regulation to crack down on the rogue elements of the private security industry in Scotland and powers to ensure that agents of the proposed serious and organised crime agency are subject to the direction of the Lord Advocate in the investigation and prosecution of crime. I believe that those are the real priorities in the fight against crime. To lose those measures would benefit only one group in Scottish society—the criminals. I do not believe that the Parliament wants that to happen.

I am grateful for the committee's time and I hope that members will accept that we have acted with the best of intentions and that we have ensured that the committee was as up to date as possible with the position before it had to consider its report. I am happy to try to deal with any matters that members might want to raise.

The Convener: Thank you for that statement. Let me be clear about this: the amendment that is now before Westminster seeks to remove the power of Scottish Executive ministers to designate sites. Is that correct?

Cathy Jamieson: It deals with the powers that it might have been argued Scottish ministers would have had. It will allow the Home Secretary to designate sites on the grounds of national security.

The Convener: If the Home Secretary does so designate a site—albeit that it is intended that he would communicate with your colleagues in the Scottish Executive were he minded to do so—the effect of that designation would be to create an offence that would be committed by anyone who

enters that geographical part of Scotland. Is that right?

Cathy Jamieson: Even if the other provisions had remained in the bill, the Home Secretary would still have taken a power to do exactly what you have said—to designate an area of Scotland if national security is at stake. The Home Secretary will still have that power.

The Convener: That will involve a part repeal of the Land Reform (Scotland) Act 2003, which was passed by this Parliament.

Cathy Jamieson: That was going to be the case whichever way the committee wanted to look at the issue. The Home Secretary will retain powers to designate sites in Scotland on the grounds of national security. The Home Secretary gave me a commitment that he would consult Scottish ministers. Under the previous proposal, there would have been an opportunity for Parliament to debate and discuss the designation, but the Home Secretary always retained the right to designate sites on grounds of national security.

The Convener: But the practical effect for Scots law is that exercise of that power by the Home Secretary will require the revocation of the appropriate section of the Land Reform (Scotland) Act 2003.

Cathy Jamieson: The previous proposals would have meant that there would have been two different processes. The Home Secretary always intended to take the powers to designate areas on the grounds of national security. In addition, there was a proposal that the royal residences would be designated under an order of the Scottish Parliament and Parliament would be involved in that process. The Home Secretary has given a commitment that he will consult Scottish ministers before he exercises the powers that he will have.

Bill Butler: We all agree that, as you put it, ensuring the safety and security of communities is the paramount aim of the bill. You mentioned the regulation of the private security industry and the protection of witnesses and the provisions on those matters are important. For the sake of clarity, does the amendment that removes these clauses mean, in effect, that the powers that were to be ceded to Scottish ministers and the scrutiny that was to be afforded to this Parliament will no longer be available, and that the powers that our partners in the UK Government wish to devolve to us now remain with them? Is that what you are saying the effect is?

Cathy Jamieson: I am saying that the effect is that it will no longer fall to Scottish ministers to propose designations on the three royal residences, that it will no longer fall to the Parliament to scrutinise those proposals in detail, and that the provisions whereby the Home

Secretary could designate any site in the interests of national security remain. The level of consultation that the Home Secretary decides to undertake is something that he and I will no doubt discuss in due course, but you are correct in saying that the amendment means that a level of scrutiny and an opportunity for the Parliament to exercise its influence will no longer be available in those specific circumstances. However, it would be up to the Parliament—that is why I suggested that the committee could perhaps assist in some way—to consider whether to introduce appropriate legislation in Scotland at some point in future if it was felt that there was a gap in the system.

Bill Butler: That is something that the committee and the Parliament might consider. Of course, if the amendment that removes that clause had not appeared before us, we would not have had that additional work to do in future.

You are saying that the devolved functions that were to be given to Scottish ministers and the scrutiny afforded to the Parliament are now not to be given, that they remain reserved and that, whereas it could have been you, minister, with your deputy, members of this committee and the whole Parliament here in Scotland who decided on Scottish matters, it will now be Charles Clarke. Good person though he is, it is now Charles Clarke who will decide such matters. Is that right?

Cathy Jamieson: You are putting it very eloquently. The reason why I made the proposals and tried to negotiate with the Home Secretary in the first place was that I believed that the Scottish Parliament would perhaps be interested in having a role in that process. However, I have to be honest and say that, given the reservations that have been expressed by members of various parties over the past week or so, it seemed clear to me that members did not feel that they wanted to use that route in order to be able to exercise those powers.

Bill Butler: Perhaps we should have been bolder. Thank you, minister.

Mr Maxwell: Bill Butler put an interesting angle on what is happening here.

Cathy Jamieson: It was an accurate angle.

Mr Maxwell: I thought that it was a completely inaccurate angle, but let us just develop that point for a moment. In the previous situation, if the bill had gone through as originally intended, the Home Secretary would have been able to designate sites on the basis of national security, and Scottish ministers could have designated the Queen's land and that of the heir to the throne and Crown land. That was the position. The position now is that the Home Secretary can designate sites on the basis of national security—full stop.

Cathy Jamieson: My view when we made the proposals previously was that I felt that the Scottish Parliament would have an interest, as Scottish ministers certainly would, in ensuring that if we were to designate sites in Scotland, we would be aware of the sensitivities around the right to roam and access. I felt that we would want to ensure that, if we talked about the three royal residences—Maureen Macmillan mentioned Balmoral at the previous committee meeting—we would do that in a sensitive way that was consistent with the principle of ensuring people's access unless there was a very good reason otherwise. However, the reality—as Bill Butler has pointed out—is that if Parliament does not wish to have those powers, they will be exercised by the Home Secretary in the interests of national security. He has the right to do that.

Mr Maxwell: With all due respect, that is the point that I am trying to get clear. The Home Secretary will be able to designate sites wherever he wishes on the grounds of national security, but not on the basis that the land is Crown land or on the basis that it is owned by the Queen in her personal capacity. Is it correct that he will be able to use the national security angle, but not those two reasons?

15:30

Cathy Jamieson: Ultimately, that will come to the same thing. The Home Secretary will have to make a judgment on whether he believes that it is right and proper to designate such an area. Bill Butler was right to point out that, ironically, the effect of the new proposal will be to give the Scottish Parliament less of an opportunity to scrutinise such matters in detail.

Mr Maxwell: According to the answer that you have just given, the Home Secretary could designate a place such as Balmoral for national security reasons. You mentioned that there was disquiet among back-bench members of various political parties about the idea that the law of trespass would be used in relation to the Queen's land and Crown land. That was the proposal that was going to be introduced. We are opposed to that and that is why the amendment to the bill has been tabled.

If the Home Secretary said that he intended to use his power—which you have said that he would do in consultation with the Scottish ministers—to designate Balmoral or other Crown land, would the Scottish ministers oppose that, given that you have had to come here today to discuss the proposed amendment?

Cathy Jamieson: I will not make a judgment on what I would say to the Home Secretary when he has not produced a specific proposal. Under my

original suggestion, Scottish ministers would have laid before the Parliament the order that would have designated the area in question and the Parliament would have had the opportunity to scrutinise it as part of the parliamentary process.

I must return to the point that Bill Butler was right to identify. Given that there has not been parliamentary support for that position—or rather, it has been indicated that there has not been parliamentary support for that position—such designations will now fall to the Home Secretary. He will have that power. I have no doubt that he will keep his word and consult Scottish ministers, but at this point I will certainly not indicate what my response to such a proposal would be, because a specific proposal has not been made.

The Convener: Other members want to get in, so I ask Mr Maxwell to make this his final question.

Mr Maxwell: I have two quick points. Although last week the Deputy Minister for Justice gave the committee a robust defence of why what was proposed in the bill was essential, this week you have come to tell us that you want the proposal to be withdrawn. Will you explain why such a robust defence of a power that was said to be essential was given last week but you have now decided that it should be withdrawn? You have said that the Scottish Parliament will no longer have powers of scrutiny over Crown land and land that is owned by the Queen in her personal capacity, but is it not the case that the Sewel motion is the problem? If we had introduced legislation in this Parliament, this Parliament would have scrutinised all such matters and we would not have had to deal with the truncated effort that the Sewel motion represents?

Cathy Jamieson: The Sewel motion is not the problem at all. The deputy minister was right to explain in some detail why all the provisions in the Serious Organised Crime and Police Bill are important. I do not think that anyone—certainly no one at this table—would suggest that the royal family should not receive the same protection regardless of which part of the UK they happen to be resident in. That is the point at issue.

I proposed a solution that I felt would give the Scottish Parliament some say in the process. However, having taken account of the concerns that have been raised, I am now proposing that we take a different route. I have made it clear that I am interested in hearing the committee's views and that the committee may wish to consider the matter in further detail. For example, it may want to assess whether a specifically Scottish solution could be introduced at a later date. We must recognise that there was such an option on the table. For various reasons, people had concerns about that. I have listened to those concerns, but it is important to acknowledge that the Home

Secretary is responsible for national security. I would expect him to do what he needs to do to ensure that the appropriate protection is given.

Jeremy Purvis: I am grateful for the media attention during my first attendance at a Justice 2 Committee meeting. I did not know that my comments on youth justice would be so profound.

The Convener: Ask your question, Mr Purvis.

Jeremy Purvis: I also agree with the minister on the need to protect the royal family and I condemn the erroneous comments about the prospect of all Crown land being designated. I very much welcome the minister's approach.

I want to make two points. First, given the fact that trespass legislation has already been in operation in Scotland for more than 10 years under the Criminal Justice and Public Order Act 1994 and other measures, and given the police powers that already exist, will the minister ensure that proposals to afford the same level of protection on both sides of the border can be scrutinised by this or other committees of the Parliament? Secondly, given the provisions in the Land Reform (Scotland) Act 2003 that allow for the recognition of designated areas and of individual property and the privacy of the owners of that property, what mechanism will the minister set up to ensure that the Parliament can scrutinise whether there is a necessity for any new powers that might be introduced and how those would fit in with existing Scottish statute?

Cathy Jamieson: I have no immediate plans to bring any proposals back to the committee.

I felt that it was important that the committee recognised the current position. Given the concerns that have been expressed by committee members and other back benchers, I feel that it is important that, if possible, we now work with the committee to arrive at some solutions. It may be of interest to committee members to consider further, for example, the views of the police and others. As Jeremy Purvis rightly points out, a law of trespass has already been introduced by other legislation.

The bottom line is that we attempted to ensure that the Scottish Parliament had an opportunity to be part of a process, but the level of concern that was raised leads me to believe that we need to look at that afresh. Although I have found the level of concern surprising, those concerns have nonetheless been raised. However, I doubt that we would get the Parliament's approval to put at risk the bill's other serious measures, which I know many people have fought and campaigned for over a long period of time. The committee has an opportunity, if it so wishes, to try to work with ministers to consider a way forward.

Colin Fox: I have two questions. First, does the minister accept that the Executive is in complete disarray, given the complete U-turn that it has made within a week? Last week, the Deputy Minister for Justice argued for one position; this week, the Minister for Justice argues for the complete reverse. Given the minister's selective response to the concerns that have been raised, does she accept that what people see is not so much an Executive listening to the concerns of the committee and of other members as one that is attempting to put in place a simple political fix before Thursday's parliamentary debate?

Cathy Jamieson: No. It is important to recognise that—

The Convener: On a point of information for Mr Fox, the debate will take place tomorrow.

Colin Fox: I will try to get there in time for it.

Cathy Jamieson: It is not a question of trying to fix something in advance of a debate, as Colin Fox put it. We had a serious situation, in which the proposals did not appear to be getting the support of the Parliament. It is incumbent on me as the minister to hear the concerns that have been raised and to try to address those by looking for a way forward. I take the role of committees in the Parliament very seriously indeed.

The Convener: Does the minister accept that the committee has been unable to express a collective view? We are not even at the stage of considering a draft report because of the time schedules imposed by the Executive.

Cathy Jamieson: I absolutely understand that. However, I felt that it would not be in the interests of the committee—indeed, that it would be discourteous to the committee—if I did not use the earliest possible opportunity to allow the committee to take this further information into account in compiling its report. I took the view that, irrespective of whether the committee's patience was wearing thin, the committee would probably on balance prefer such a solution to the alternative, which would have involved the committee being given that further information after it had gone to the trouble of preparing its report. My view was that such a course of action would not have treated the committee or the parliamentary process with the respect that it deserves.

Colin Fox: I hope that the minister accepts that she appears to have shown little foresight or awareness of the likely view of the committee and the Parliament on the matters that we are discussing. It appears that she has teased the Parliament with the sight of limited devolution and then withdrawn it.

Cathy Jamieson: That is not the case at all.

Colin Fox: I accept what you say, but I wonder whether my understanding of the second supplementary memorandum that you have placed in front of the committee and spoken to is correct. In essence, you are arguing that you are withdrawing our citizens' right to access to their land in order to protect the royal family. Is there not a stark contrast? The royal family's protection is being put ahead of the rights of citizens of this country.

The Convener: You should leave that as a question, Mr Fox.

Colin Fox: Is that a fair summation of the position?

Cathy Jamieson: That is not the case at all. I have made it clear that a whole range of measures in the Serious Organised Crime and Police Bill will have a huge impact on the lives of our citizens and constituents. It is important to do what we can to ensure that we take those measures forward in the fight against serious and organised crime. That is what our constituents expect us to do.

The public and our constituents also expect us to ensure that the proper provisions are put in place to ensure that the royal family has protection in its residences, irrespective of where the residence is in the UK. A possible solution was put to committee members for consideration. Far from not having the foresight to anticipate problems, I heard and listened to representations from many people in the Parliament—including back benchers from different committees—and it appeared to me that we had to try to find a different way forward. It is important that you should be under no illusion. The Home Secretary has a responsibility for national security and he will exercise that responsibility.

Jackie Baillie: I am astonished that two of my colleagues on the committee have not welcomed the memorandum—after all, we are talking about something that they argued for only seven days ago. Perhaps they now realise the consequences of their actions.

I agree with Bill Butler's analysis. I think that all scrutiny will be removed from the Scottish Parliament and that the Home Secretary can now designate on the basis of national security. I want to pursue that point, as it is important for the committee to understand the process by which the Home Secretary can designate sites, whether that is open to parliamentary scrutiny at Westminster—although that is being denied here—or whether national security overrides transparent processes that we have come to associate with politics in Scotland. It would be unfortunate if that were the case, as genuine concerns were expressed in the committee about the curtilage of buildings being

designated and the time limits available for designation. Perhaps I am wrong, but I think that we have lost the ability to influence all those things.

Cathy Jamieson: The member identifies a number of issues. At Westminster, orders will be laid under the negative procedure. I intended to pick up on a number of concerns that committee members raised to try to ensure that the Scottish process was suitable for how we operate in the Scottish Parliament. I certainly heard a number of people raising concerns about whether there would be open-ended designations, whether there ought to be affirmative rather than negative resolutions and so on. Jackie Baillie is absolutely right. Given that we do not have the support even for getting to that stage, we have, in essence, ensured that the Home Secretary must make a judgment about where and how he exercises his powers.

Maureen Macmillan: I endorse what Jackie Baillie said about curtilage. Perhaps one of the minister's tasks will be to explain to the Home Secretary what curtilage is.

Cathy Jamieson: With respect, it would have been easier to do that through laying a resolution in the Scottish Parliament, but I do not have that opportunity.

Maureen Macmillan: Indeed. I totally agree.

I note that you said that perhaps there was scope for a stand-alone piece of legislation. In the light of our timetabling difficulties, how realistic is that?

Cathy Jamieson: I am not convinced that a stand-alone piece of legislation would be the answer. With the committee's assistance, we would have to tease out what some of the objections were in a bit more detail, so that we could find a piece of legislation or a legislative slot that allowed us to address those concerns in proper time and bring forward something appropriate. There are a number of areas in which people raised concerns. People expressed the concern that they did not have time to deal with the bill appropriately and wanted to discuss the provisions. I have tried to find a way of allowing people to do that, but I do not think that it would be simply a case of introducing a piece of stand-alone legislation.

The Convener: Thank you for that. Is there any concluding observation that you want to make on the basis of the questions that have been posed to you?

Cathy Jamieson: There is nothing that I want to add. The members have asked some pertinent questions. However, I place on record my thanks to you. I realise that this was an unusual situation

and that the committee has a busy schedule. I know that you now have to prepare your report, and I hope that you recognise that I offered to make these comments today to enable the committee to be fully apprised of some of the discussions that I have been having with colleagues here and at Westminster. It was important for me to treat the committee with the appropriate respect.

The Convener: I receive your remarks in the spirit in which they are made. My angst may not be completely assuaged; nonetheless, I think that this supplementary session has been instructive. Thank you.

15:46

Meeting continued in private until 16:50.

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