



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 23 November 2022

Session 6



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CRIMINAL JUSTICE COMMITTEE

29th Meeting 2022, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)
*Jamie Greene (West Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Pauline McNeill (Glasgow) (Lab)
*Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Keith Brown (Cabinet Secretary for Justice and Veterans)
Walter Drummond-Murray (Scottish Government)
Anil Gupta (Convention of Scottish Local Authorities)
Donald McGillivray (Scottish Government)
Kate Ramsden (Unison Scotland)
Neil Rennie (Scottish Government)
Lynsey Smith (Social Work Scotland)
Emma Thomson (Scottish Government)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 23 November 2022

[The Convener opened the meeting at 09:31]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): Welcome to the Criminal Justice Committee's 29th meeting in 2022. There are no apologies this morning.

Item 1 on our agenda is to decide whether to take item 7 in private. Do we agree to do so?

Members *indicated agreement.*

Pre-budget Scrutiny 2023-24

The Convener: Our next item of business is the conclusion of our evidence taking on pre-budget scrutiny of the Scottish Government's forthcoming budget for 2023-24. I refer members to papers 1 and 2.

I welcome to the meeting the Cabinet Secretary for Justice and Veterans, Keith Brown; Neil Rennick, the Scottish Government's director of justice; and Donald McGillivray, the director of safer communities.

To get us under way, I invite the cabinet secretary to make a short opening statement, and we will then move to questions.

The Cabinet Secretary for Justice and Veterans (Keith Brown): As the committee will know, earlier this month, the Deputy First Minister, in his statement on the emergency budget review, set out clearly the nature of the financial challenge that we face. The drivers of that challenge are well known; they include Brexit, the on-going impact of the Covid-19 pandemic, rising energy prices and high rates of inflation, which is, I think, currently at a 41-year high. Those pressures are impacting on households and on our vital public services.

Many of those pressures were evident when the resource spending review and the update to the capital spending review were published in May, and they have become even more pronounced in the subsequent months. Inflation means that our budget has already fallen by 10 per cent in real terms between this year and last year, and the announcements in the United Kingdom autumn statement do very little to address the damage that that has done to the Scottish budget.

Despite those pressures, and the necessary realignment of our spending plans, we have, this year, worked to continue to support front-line justice services. That includes support for the on-going process of recovery from the Covid-19 pandemic, with the number of outstanding trials reduced by more than 10,000 between January and September this year. In fact, the number has been reduced even further since then, by around 12,000, to around 31,000.

We are building on the success of the new digital approaches that were developed during the pandemic. For example, the new digital evidence-sharing capability will enable evidence to be shared more efficiently and swiftly, thereby helping cases to resolve earlier. We have continued to modernise the prison estate, with the opening of two new innovative community custody units for women in Glasgow and Dundee, which reflects our commitment to trauma-informed approaches to rehabilitation.

Crucially, in the context of the cost crisis, we are supporting justice organisations to offer pay settlements that are well above the levels that were projected when our budgets were set at the start of the year. That is significant and challenging for the justice portfolio in particular, given the high proportion of our portfolio spending—over 70 per cent—that is committed to staffing costs.

The resource spending review numbers for next year are not final budget allocations; those will be set out by the Deputy First Minister next month. However, it would not be honest or beneficial to our justice services to pretend that exceptionally difficult choices will not have to be made across all portfolios, including justice, in the final budget allocations.

The funding that the UK Government has outlined over the coming two years falls well short of the combined impact of Covid recovery, energy costs and inflation, so we will inevitably need to match our plans with the available resources. However, as far as possible, my aims for the budget process remain those that were set out in “The Vision for Justice in Scotland” document, which was published earlier this year.

Those aims are as follows. We will continue the progress of Covid recovery in our courts, in particular for the most serious cases in our solemn courts. We will ensure that there are trauma-informed approaches for victims and witnesses, drawing on innovative recommendations such as those that Lady Dorrian set out. We will support our police and fire services to continue to deliver vital public services as they modernise and adapt to changing demands. We will support the work of our legal professional and third sector services. We will invest in our prisons to support rehabilitation as well as effective community justice services, including alternatives to custodial sentences and remand.

Members of the committee will recognise, however, that we will need to respond to those priorities within an increasingly tight financial context that is likely to last for an extended period.

With that, I am happy to answer any questions that the committee has as part of its pre-budget scrutiny, and to consider those issues in the ongoing budget process.

The Convener: Thank you, cabinet secretary. As usual, I will open with a general question. You spoke about “exceptionally difficult choices” that will need to be made in the forthcoming year. Is there any scope for deviation from the totals that have been announced in the resource spending review and in the emergency budget? Have there been discussions about whether there is scope for

some sort of deviation around the budget that has been allocated so far?

Keith Brown: To clarify, convener, do you mean between different portfolios?

The Convener: Within justice, potentially.

Keith Brown: The resource spending review was based on information coming from the UK Government, and it was about trying to set out a path for the next few years to give some context. The budget itself is separate from, but related to, that process. Between and within portfolios, it is, naturally enough, possible to change those totals. That is part of the process that we are currently undergoing, in discussions with police, fire and the Scottish Prison Service. It is not fixed in stone as per the RSR.

The Convener: Leading on from that, in addition to moving and adjusting figures, I am interested in opportunities for efficiency savings and new ways of working. Can you expand a little on what opportunities there are, within the constraints of a very difficult budget, for that to be very much part of individual portfolios’ thinking with regard to their budgets?

Keith Brown: It will be different in different parts of the portfolio. I mentioned in my opening statement some of the digital innovations that we have developed and are looking to expand on. However, we will necessarily have to look to further public sector reform in order to try to fit in with those financial constraints that I have mentioned. I have had discussions with the chief constable of Police Scotland as recently as yesterday, and with other services, and I know that they are actively considering things that may help with public sector reform. Those things would be necessary anyway.

The experience of fire and police in particular is an excellent example of public sector reform. That was a difficult decision to take, around 10 years ago, and there were difficult periods afterwards; I am thinking about the establishment of the joint police and fire boards. In my view, however, having served on a joint police committee in a local authority, the level of scrutiny of the police is now far greater than ever before. Those services have already established substantial public sector reform, but there will be more to come, and they are actively considering that, perhaps in relation to how the three blue-light services can work more closely together, not least given the findings of the Grenfell inquiry. That will be happening.

The Convener: I have a final question on capital budgets. I am interested in more commentary from you about the adequacy of those. According to the Scottish Parliament information centre, some of the figures that we have suggest that the resource spending review

would mean a cut to capital spending of 3.1 per cent across the portfolio. Are there areas within that overall requirement that you, as cabinet secretary, consider to be ones in which it would be easier to effect cuts than in others?

Keith Brown: We are not proposing a cut, although you could argue that that might end up being the case, depending on whether there is a real-terms increase. The difference between real terms, which accounts for inflation, and flat terms is an important distinction to make. However, there are some flexibilities between resource and capital that we are examining closely. One example is body-worn cameras. There is obviously a capital cost to those but there is also a substantial revenue cost and we are looking to see what we can do to maximise the capital contribution.

It seems to me that, especially after the early part of the previous decade, between 2010 and 2016—I know that that is going back in history somewhat—we regularly had better capital allocations than resource allocations from the UK Government. We also had fairly frequent allocations of financial transactions, which can be applied only in limited ways. However, now, there is a much greater tightening of the grip on capital provision.

I make the point that the indicative capital funding envelope has been maintained from the spending review that was published in February last year. That maintains essential capital funding for the core justice services. That will always be a priority over new initiatives. It includes core services such as estates, technology and fleet. We have also confirmed more than £500 million of capital for our prisons, including the modernisation of the prison estate, which has been on-going for some time.

It is true to say that the spending power of that capital budget has been eroded by inflation and now pays for significantly less as the cost of raw materials increases. However, we remain committed to substantial capital investment in the justice system. We have to keep it under review and how that is done will be part of our discussion and negotiation with the different parts of the portfolio.

The Convener: I notice that you mentioned body-worn cameras in your reply. I will open questions up to members now and, if we have time, we can come back to that topic later.

Sticking with the theme of budgets, Katy Clark has a question.

Katy Clark (West Scotland) (Lab): I have a brief question on the capital budgets and the modernisation of the prison service. We have heard some evidence that, to put it crudely, newer prisons are cheaper than older prisons. Have you

considered that? Is there a business case for capital investment in that it will help budgets in the future?

Keith Brown: It is not a new idea that you can achieve efficiencies if you build something new according to modern standards and if you do it in the right way, not least because you can also make it much more efficient in terms of the climate change challenge. The proposed prison in the Highlands—the replacement for HMP Inverness—will be our first net zero prison, so yes, of course, we can make efficiencies. For a number of years, we have had a programme of renewing what is, in essence, a Victorian estate. We are going through that process. The business case is developed for each proposition that we have.

Collette Stevenson (East Kilbride) (SNP): I have a question on net zero prisons. One of the things that I have regularly asked about is district heating systems in, for instance, the replacement for Barlinnie.

Would you consider doing that? I do not know all the technical details, but effectively you would be providing energy for the prison and, outwith it, for the community and even for industrial estates there. You would be generating income by operating a district heating system in that public building.

09:45

Keith Brown: As I have said, the intention is to have HMP Highland as the first net zero prison. Deciding to develop a district heating system for an individual institution is probably outwith the justice portfolio. It would require the cross-Government working with the Cabinet Secretary for Net Zero, Energy and Transport that I think you are hinting at. Your point is perhaps whether—especially in relation to Glasgow, which has our largest prison population—having such a system could produce wider benefits. We are still in the formative stages of the process on Barlinnie. Perhaps Donald McGillivray or Neil Rennick will want to say more about that.

Neil Rennick (Scottish Government): I confirm that district heating is one of the options that has been considered for HMP Glasgow. As the cabinet secretary said, the overall design work on the prison is still in progress and will consider a range of possible opportunities for providing benefits for the local community. Ensuring that it is environmentally efficient is one of the top priorities on design for HMP Glasgow.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. His Majesty's Chief Inspector of Prisons for Scotland, Wendy Sinclair-Gieben, told us that she thought there could be a time slip on delivery of the HMP Glasgow project

because of budget restraints. Will you comment on that? Would the gap be filled, and do you have guarantees that the new prison will be ready for 2026?

Keith Brown: We have seen that there have been delays on large-scale capital projects right across the UK. Brexit features prominently in the reasons for those. The pressures that it has caused for supply chains and costs are substantial.

Our intention is to complete the project on schedule, but of course that will depend on a number of factors. There have been delays before now. Pauline McNeill has previously asked me questions about delays caused by the change in the prospective site that was to be used and the choice of a new site. We must acknowledge that. As I have said from the start in relation to HMP Highland, we are to some extent at the mercy of external influences such as Brexit, supply chain issues and labour shortages. We are trying our best to withstand those very real pressures and keep to programme, but I cannot deny that they are there.

Rona Mackay: Expanding on that a wee bit, we have been reassured that the new women's custody units will go ahead as planned, following on from the two that are already up and running. Is that the case?

Keith Brown: We want to see how the existing ones are working first of all. They are absolutely ground breaking—nowhere else has done anything like that—so it is only right that we ensure that they are having the intended effects before we move on to a further roll-out. That roll-out is intended, but it will be based on our experience with the two units that have been up and running.

Rona Mackay: Great.

Neil Rennick: I add that the new national facility at HMP Stirling is on track for opening next year.

Rona Mackay: Great. That is good to know.

I have one more question, and I suspect that my colleagues will have further questions in the same area. I understand that the replacements for HMP Greenock and HMP Dumfries are not currently a priority in the capital budget. Will they be added anytime soon? I know that that is like asking, "How long is a piece of string?", but are they still in the pipeline?

Keith Brown: That will depend on future capital allocations. There are issues with the age of the institution at Greenock, so in the meantime we have carried out works to ensure that it is in a proper habitable condition. The possibility of replacements will depend on future capital

allocations, which, as I have said, are currently as constrained as I can ever remember them being.

Rona Mackay: Thank you. I know that my colleagues will have further questions on that.

The Convener: Pauline McNeill wants to come in with further questions on prisons, and then I will bring in Jamie Greene.

Pauline McNeill (Glasgow) (Lab): I have a supplementary question on prison budgets. I previously put this question to His Majesty's Inspectorate of Prisons for Scotland and the Scottish Prison Service. You will know that, just by dint of the contract, the two private sector prisons are protected against inflation, which no one ever thought would reach double figures.

I put it to the chief executive of the SPS that she perhaps needs to have a discussion with the private sector prisons about sharing some of the pain. Have you thought about that? The issue might not be significant enough, but it seems unfair that two private prisons are protected financially when public sector prisons are not.

Keith Brown: That relates more to Addiewell prison than to Kilmarnock prison, because the Addiewell contract has an indexation feature. To be perfectly blunt, I would not have signed that contract. In a different context, the local authority in my area, which is small, is now buckling under the pressure of its private finance initiative contracts for schools. As you said, when inflation is at a 41-year high, the impact that that can have is very serious—it is potentially about £4 million per year in this case. We are involved in discussions, but room for manoeuvre is extremely limited.

To go back to my point about schools, my local authority has tried very hard during the past number of years to renegotiate some of those contracts, but that has proven to be extremely difficult. Get-outs from such contracts can be very expensive in their own right.

To be fair to the people who signed the contract, they did it with indexing in mind, and perhaps they would argue that they did not expect to have a long period of low inflation. They managed the process during that time, and they would expect the cost of inflation to be covered in the payments that are made to them, because their overheads will also be rising.

There is limited scope, but the SPS has been looking at it.

Jamie Greene (West Scotland) (Con): I have wider questions on budgets but, as we are on the topic of prisons, I may as well carry on with that theme.

We heard stark evidence from HM Inspectorate of Prisons on Barlinnie and Greenock. The warning was clear that if, on the next inspection of Greenock, the inspectorate is unhappy, the prison faces the real potential of being closed due to health and safety. Some of the descriptions of it were disturbing.

From a budget point of view, Wendy Sinclair-Gieben made it clear that

“the cost of maintaining Greenock prison outweighs its value.”—[*Official Report, Criminal Justice Committee*, 09 November 2022; c 2.]

She also said that it costs a fortune to maintain Barlinnie because it is old, and that it is only a matter of time before the building collapses. Rather than look at that in the silo of this year’s budget, is it not part of a bigger picture of chronic underinvestment in the prison estate that has led to a situation in which they are expensive to run and therefore any factors such as rising energy prices affect them more?

Keith Brown: That relates to the point that Katy Clark made, which is that, if we build new prisons, they can be made more efficient and savings can be made in that way. I acknowledge that, but we cannot get away from the hard fact of the Government’s capital allocations, which have to cover schools, plants, machinery, cars and other vehicles for various services. We have to live within the envelope that we have, and I would say that it is a false envelope, because it was originally based on the Maastricht criteria, if we want to go back to that—the UK wants to cap the total level of borrowing to that extent.

As you rightly say, borrowing to improve public facilities pays for itself in the long term; I agree with that, which is why we are replacing Barlinnie. Members know about the programme of replacements and improvements that we have in place across the prison estate, and we are trying to work our way through that, but we can go only at the pace at which the money allows. To repeat my earlier point, that money is going less and less far because inflation is eating into it. However, I accept that, if we can replace prisons such as Barlinnie, we will make savings in on-going costs.

Jamie Greene: In your opening comments, you said that this year you are looking at a real-terms budget cut of 10 per cent due to inflation. I want to probe you on those numbers and on how you came to that figure. My understanding is that the 2021-22 core block grant budget was £36.7 billion and that the 2022-23 block grant is £40.6 billion. That is roughly a 10 per cent increase, so although I understand that the effect of that might feel negated, I do not understand the 10 per cent cut. Could you explain the numbers?

Keith Brown: First of all, we said that inflation is at 10 per cent and rising. The budget that we have for this year is worth around £1.7 billion less than it was when it was announced in December. At that time, as you know, inflation was around 4 per cent.

Over and above that, the extra budget pressures for the higher-rate pay settlements that reflect that cost inflation are at around £700 million so far, and deals have yet to be done with the Prison Service, teachers and nurses. According to my figures, that has reduced the value of our budget by 2.6 per cent, which goes up to 5.2 or 5.3 per cent, when inflation is taken into account.

Those figures are very real. We cannot strip out from our budget the effects of inflation. I do not know anyone who seriously contests the tightening of the budget. The Welsh Government and UK Government departments have referred to the pressures of inflation. More worryingly, we now seem to be embarking on a further phase of austerity, given the budgets that have been announced. The pressures are very real. The public accounts can be checked; however, those are my budget figures.

Jamie Greene: Perhaps we can ask our colleagues in SPICe to verify my figures versus the ones that you used, cabinet secretary. I am just trying to get to an understanding of how you came to the assumption that your budget is 10 per cent lower in value this year than it was last year, which is the opposite of the figures that I have and is notwithstanding the £16 billion-plus in Covid consequential that was given to the Scottish Government, which has been spent on various issues.

The issue of pay rises is important. The financial problems that you face over the next few years are largely due to an expectation that the Government will have to increase pay across the public sector. We heard from Police Scotland witnesses, specifically, on the effect of that in numerical terms. They forecasted that even a 5 per cent pay rise per annum over the next four years would cost £220 million, and that paying for that would equate to the loss of around 4,500 officers. In other words, every 1 per cent that is awarded to the force equates to the loss of around 1,000 police officers to fund it. Is that of concern to you, and how will the Government approach the issue of pay rises, given that it is largely outside your control?

Keith Brown: The approach to pay rises will, necessarily, have to take inflation into account. As you will know, the UK Government has projected the start of a significant fall in inflation during the middle of next year, if memory serves me correctly. Inevitably, the approach to pay rises will take into account the real cost of living.

Briefly, there is of course a correlation between the impact of pay rises, our ability to pay for them and the overall budget. I have mentioned that, in the justice portfolio, around 70 per cent of our costs are people costs—whether directly in salaries, in pensions or in other costs. Those costs are significant, and they squeeze out the opportunity to do other things.

When it comes to the pay settlement that we reached this year—I imagine that the same process will inform how we approach further pay rounds—we recognise that police officers, prison officers and firefighters face increases in the cost of living, including in energy costs. We are trying our best to reflect that within the budget.

Although I neither recognise nor agree with your figures, you mentioned a correlation between paying more for pay and a squeeze on other things. This year, as I have mentioned, there has been £700 million of additional pressure so far, but that has not caused the reduction in police officers. That reduction was caused by the fact that Tulliallan was being used for the 26th United Nations climate change conference of the parties—COP26—and because of the restrictions of Covid. However, Tulliallan has now gone back up to its regular intakes of 300.

However, there is no doubt that there is such a correlation. I do not think that any Government has projected what it will do on pay over the next three or four years. I also make the perhaps obvious point that a 5 per cent pay increase this year does not disappear next year but is built on, so the pressures will grow.

It is our job to make sure that the number of officers in the police service establishment does not fall below the level that we think—and, more importantly, that the chief constable thinks—is necessary to do the job.

Jamie Greene: Clearly, however, the loss of 4,500 officers would have a stark effect on Police Scotland's ability to perform not just its statutory duties but its basic functions. We heard that the police simply would not turn up to certain types of crime—low-level crime, as it is often called—and would respond only to the most serious of events, due simply to being short of bodies, or boots on the ground. Clearly, that will be of concern to the public.

Therefore, the issue that the Government faces is that it must either concede to the demands for pay rises or simply say that there is a cap on how much money is available and accept the consequences. Those consequences could be industrial action, as we have seen already, officers leaving the force or, indeed, firefighters and other public service workers looking elsewhere for employment. How will the Government approach

those negotiations, given that it is under substantial pressure to concede to the demands of not just the unions but others, too?

10:00

Keith Brown: I am grateful that you acknowledge the pressures. You mentioned the idea of a cap. There is a cap—there is a cap on all that we do in the sense that we have the block grant, added to by whatever tax that we raise here and other sources of income. Therefore, that cap exists and has always been there. You are right that the question is how to marry things up within those pressures. I have no intention of overseeing a budget for the police force that results in 4,000 officers leaving. Despite press reports to the contrary, we have a very stable workforce in the police in Scotland—much more so than is the case in other parts of the UK—and there is real interest in applying for senior positions in the police force here.

On the point about situations where the police do not turn up for things, that has happened in many communities south of the border. In some communities south of the border, there has been no investigation of burglaries and other crimes for over a year and there is no intention to hold those investigations. We do not intend to oversee such a situation. However, I know from the discussions that I have had with the Scottish Police Authority and the police that they want to ensure that their model of policing is up to date and fit for going forward, rather than always looking back.

It is worth pointing out that the police start from a very strong basis. A police constable in Scotland gets about £5,000 more per year when they start than those elsewhere, and every rank up to assistant chief constable is paid higher in Scotland than elsewhere. We also have some of the lowest-ever recorded levels of crime. Therefore, the police start from a strong position and they do not intend to yield that position.

Based on the discussions that I have had, I think that there will be reprioritisation. Cybercrime is a real challenge, and the police will want to do more on that. There might also be a reconfiguration with regard to how the police want to deal with violence against women and girls. The position will develop over time, but the police will not have that level of fall-off in officer numbers—at least, there will not be a net fall-off of 4,000 officers. We do not intend to see that happen at all.

Jamie Greene: I am happy to finish there.

The Convener: Russell Findlay will return to the issue of prisons in his questions, and we will pick up questions on policing after that.

Russell Findlay (West Scotland) (Con): The more that the cabinet secretary talks, the more questions I have, but I will try to remain focused. I will begin with a budget question. The evidence that the committee has heard in the past few weeks has been nothing short of shocking. The police, fire, courts and prison services have all given pretty stark warnings about what might happen as a result of the proposed cuts. We do not yet know the exact details of next year's block grant, but we know that there will be an additional £1.5 billion that has been generated by health and education spending elsewhere in the UK. Given what we have heard about the situation that the justice system faces, will you ask your First Minister and the Government whether some of that money can be used to head off some of the crisis that the justice system faces?

Keith Brown: There will be substantial calls on the Government to do many things. Those calls will come not least from your party, which will demand, as ever, that health consequentialia are passed directly to health and that, as they say, we do not pass go. I concede that it is the Government's priority to ensure that health consequentialia go to health services.

You mentioned the sum of £1.5 billion over two years. I have just mentioned the additional cost of £1.7 billion that we face this year due to the erosion of value caused by inflation. Therefore, there is no question of that money being a bonanza that we can expect to resolve the pressures in our portfolios. However, I will fight my corner for the justice budget and for the police, firefighters, prisons and others. I will fight my corner for the court service, where we are doing tremendous work, with the astonishing reduction in the backlog of summary cases of 12,000 in one year. Of course I will do that.

You used the word "shocking", and I think that the budget that we have had from Westminster is certainly shocking. Many Government departments, as well as Scotland and Wales, have said that the pressures that we are facing this year are extraordinary. I am sure that you know the situation: the Scottish Government cannot change taxes during the year, and we cannot increase borrowing to cover pay. To have a £1.7 billion diminution in our budget and for that not to be recognised is shocking, I think, and that is the source of many of the pressures that we currently face. My job is to ensure that justice is well served by the budget process and that we maintain and improve the public services that we have under the justice portfolio.

Russell Findlay: Instead of blaming the UK Government for all Scotland's ills, let us get it on the record that the UK block grant is a record £40.6 billion. It is entirely up to your Government,

cabinet secretary, how it chooses to spend that money.

We have heard dire warnings from across the justice system about failures to spend money, not just this year but in many years gone by, and we have heard about fire stations in a state of serious disrepair, putting firefighters at risk. There are courts needing work done to them. In the time since Police Scotland's creation, 140 police stations have been shut down. We need to be a little bit more honest with people about the choices that your Government has made.

Turning to the issue of prisons, His Majesty's chief inspector of prisons, as well as issuing warnings about the state of Greenock prison—Jamie Greene touched on the possibility of calls for it to be shut down—said that the transfer of HMP Kilmarnock from private to public ownership should be paused. She suggested that the reason for that happening was ideological on the part of your Government. Do you have any response to what the chief inspector said about that?

Keith Brown: To respond to your first point, I did not actually say that we blamed the UK Government for all the problems in Scotland, but I will put the matter in context. It is not just Scotland or the Scottish Government that is saying this. The Welsh Government is also saying it, and UK Government departments are saying it. It is impossible to meet increasing demands and the huge rise in inflation due to the economic incompetence of the Government that you support. We cannot wish away those costs and try to pretend. You argued for honesty, so let us be honest about the source of the pressure. Everybody else knows where the main pressure comes from. Let us have that honesty, at least. Let us also have the honesty that says that, against that background, arguing for increases in budgets in virtually every activity of government is not honest. I think that we all know that.

Returning to the point about Kilmarnock, we stood on a manifesto in 2007 saying that we believed that it was fundamentally the case that prisons, given their nature and the service that they provide, should be within the public sector. Decisions on Kilmarnock and Addiewell were taken before this Government came into office. It is no surprise, and we have made it clear, that we intend to take Kilmarnock back into the public sector, which is where we believe it should be.

Russell Findlay: With the current financial situation and the pressures of inflation, which are of course a worldwide problem, as I am sure the cabinet secretary would acknowledge—given those extreme global circumstances regarding inflation—is it not worth looking again at the Kilmarnock transfer?

Keith Brown: The SPS has been engaged in discussions with the main subcontractor, Serco. That is really around the transfer being effected in a way that looks after the interests of the staff while looking after the safety of prisoners, too. The SPS is embarked on that process.

The member rightly mentions the costs of inflation. On the idea that we would somehow avoid those costs of inflation were we to go back to or maintain the private contractor, I do not know any private contractor that would want to bid for a contract that did not recognise the costs of inflation. I referred to that in the exchange that I had with Pauline McNeill on Addiewell.

You should bear it in mind that the Kilmarnock iteration of PFI came many years—nine years, I think—before the deal was done for Addiewell, by which time contractors were keen to ensure that the inflation costs were part of the bid that they made. I am not sure that there would be the savings that have been hinted at by trying to ignore inflation. In any event, as regards this Government's position, we believe that prisons should be in the public sector.

The Convener: I will try to stay on the theme of prisons, and I will bring in Pauline McNeill. We can then move on to another area of questioning.

Pauline McNeill: My question is on the police budget.

The Convener: I beg your pardon. Are there any other questions on prisons before we move on?

Collette Stevenson: I want to touch on the evidence that Wendy Sinclair-Gieben gave. She mentioned the contract for GEOAmeY for the transportation of prisoners to and forth. You touched on that, cabinet secretary, in relation to improving digital and information technology—through online court appearances, for instance. I believe that that is—or was—a 10-year contract. With regard to making efficiency savings, have you considered reducing transport provision, given that it is not fit for purpose?

Keith Brown: We have seen a substantial reduction in that over time as a result of Covid restrictions and a lessening of the need to appear in person for many of those practices. I have had extensive discussions with Wendy Sinclair-Gieben, and it is evident that the biggest problem that GEOAmeY has is staffing. We have had a couple of suggestions about how it might best address that situation. The SPS is working closely with it to try to deliver a prisoner transport system that supports the justice system and protects the public. It is developing quite creative modelling to lessen the impact of the staffing issues, including scheduled weekly meetings to develop short,

medium and long-term plans to improve the contractual delivery.

I might ask Neil Rennick to confirm the length of the contract. However, as per the contract, performance levels are monitored by the SPS, and any service failures are managed within the terms of the contract. We are aware that GEOAmeY is about 70 staff short of the requirements needed to meet its prisoner escorting contractual agreement. Therefore, those things must be managed.

To be perfectly clear, we do not think that GEOAmeY is at it. We know about the pressures with regard to getting staff, and we are trying to work our way through that issue.

Neil, do you know how long the contract is?

Neil Rennick: I cannot remember, but we will confirm that.

Jamie Greene: I will continue on the issue of prisons. The committee had two evidence sessions on prisons—one with the Scottish Prison Service and one with HMIP. We heard evidence that, if the current forecast for the budget comes to fruition, it might result in a situation in which prisons have to revert to Covid-like lockdown scenarios. That was described as a situation in which prisoners would be held in their cells for much or all of the day and in which there would be a cancellation of purposeful activity and third sector organisations coming into prisons. There would also be a reduction in rehabilitation, mental health and addiction treatment services. HMIP described that as a scenario in which people would leave prison more angry than when they went in. Clearly, that would be in no one's interests, least of all in relation to public safety. How do you respond to those warnings?

Keith Brown: We have no intention of having a situation in which the SPS sees it as necessary to resort to such restrictions. I am delighted to put on record my thanks to prison staff who managed during the pandemic when those restrictions were in place. There was always the potential for substantial unrest because of those restrictions, and yet the requirements were met successfully by prison staff, who did a tremendous job. We have no intention of needing to apply such restrictions.

I imagine that we might get into the issue of mobile phones for prisoners, but that and a number of other innovations were designed to ensure that that pressure was not felt and that, where restrictions were put in place, prisoners could still communicate with their families. Our whole approach is to avoid that sort of restriction, which would unnecessarily exacerbate the situation in prisons.

I will give the committee one anecdote. Part of the prior experience of a colleague who has

recently joined the Scottish Government was visiting prisons in the south-east of England and the midlands. He said that there is a marked contrast between those prisons and prisons here. He commented on the calmness that he observed when he visited Perth prison in particular. That is a testament to both the Scottish Prison Service and the way that we have tried to organise things.

We would not want to do what has been suggested, and I acknowledge that it is our responsibility to ensure that the SPS does not feel that it has to do that. However, we do not want to do that, because the consequences of substantial unrest in prisons would be, apart from anything else, substantially more expensive than some of the things that we are doing. I know that there is that pressure but, for that reason, we do not intend to see those restrictions being introduced.

10:15

Jamie Greene: The restrictions would be introduced as a by-product of financial restrictions. The inspectorate stated quite clearly that the SPS cannot

“manage against a flat cash budget without significant adverse impact”.

I know that it is difficult to pre-empt what your final budgets will look like, but do you expect to move money from other areas of the justice directorate budget towards the Scottish Prison Service to avoid that scenario, or will you ask the finance secretary for money from other Government departments to fund it? If you are making that commitment today—that is one of a number of commitments that you have made on what you do not want to happen—it is clear that more money is needed.

Keith Brown: You asked about whether there would be 4,000 fewer police officers. That is not what I intend to see. I also do not intend to see Prison Service restrictions of the nature that you have described resulting from financial pressures—although who knows what will happen in future pandemics?

I accept that I have to be accountable for the statements that I have made, but members will know that I cannot pre-empt the budget. There are two steps that are significant. The first step is what we can manage to get for the justice budget, which is partly my responsibility, as distinct from the indications of the resource spending review. The second stage is how that budget is used within the justice portfolio to make sure that those things do not happen. If they did happen, I would accept my part of the responsibility for that. However, my intention is to make sure that, with those two phases—the position of the justice budget when the DFM makes those decisions and

how we manage that budget—we live within that budget, whatever else is said, to make sure that those things do not happen.

The Convener: If there are no more questions on prisons, we will move on to policing. I bring Pauline McNeill back in.

Pauline McNeill: Good morning, cabinet secretary. You have said to Jamie Greene twice that you have no intention of presiding over a drop of 4,500 officers. I am pleased to hear that.

I want to drill down a bit on the discussions that you are having with the Deputy First Minister about the issue. I am sure that you have shared the same concerns that the committee and I have. Police Scotland’s submission said—and the chief constable has said this openly—that it is not only the drop in numbers that is a big concern. As we have discussed many times, the Scottish police service is special in the UK and internationally because of the type of policing that we have here. It is not only the 101 service that is special. Perhaps only 26 or 28 per cent of calls are crime related. The police are very much the line of last resort. You know that, and you have heard that in many exchanges that we have had.

What discussions are you having in the Cabinet and with the Deputy First Minister about how we can avoid that drop in officer numbers? It seems to me that, even if you could find money in the budget, given the period ahead, it is important to protect and preserve that model of policing for the future. Are you getting that across to the Deputy First Minister? We are not talking about just a straight flat cut and a cut in numbers; we could lose that model of policing for ever because, when things are changed, they do not come back to where they were.

Keith Brown: I will not go into the detail of the discussions that I have had with the DFM up to this week and in the period before the budget, but those points are being made.

I very much agree with Pauline McNeill. The way in which Police Scotland dealt with Covid, COP26 and operation unicorn is an extraordinary record of achievement. Not many other police forces could have achieved that. That has registered with other police forces around the world. Policing by consent and the model that we have compared with other models, such as those in some parts of the United States, have registered. There is a lot of interest in how Police Scotland conducted itself during those very pressured times.

Covid is the key example in relation to the point that you have raised, because the police moved into a space that is often to do with health. That the police were seen as the first point of contact is a symbol of the trust that people in Scotland have

in the police. I think that you are right. That has meant that they now have an expanded role, which the chief constable has always wanted, in relation to wellbeing and safety for the environment rather than only law enforcement for the population.

Crucially, when there is a health-related issue, we have to get better at the hand-off to health authorities. I mentioned some of the further iterations of reform that might come about in call handling and more liaison between the blue-light services.

You are right that the police have absorbed an additional pressure. I am involved in discussions about how we can better manage that. The classic example involves a person who is in severe mental health distress. The police will often have to attend. It is fair enough that they attend, but they should ensure that a professional is put in place as quickly as possible rather than a police officer being there for an extended period of time. I concede that that is a challenge that we have to meet, and it features in the discussions within the Cabinet. It will do in the run-up to the budget, as well.

Pauline McNeill: I am not asking you to disclose the details of the discussions but, given what you have said, I would like some reassurance that you want to protect police numbers and the police model. The only way in which that can be done is by having some kind of plan that is not the current one. Can you reassure us that there is a plan that the Cabinet supports? How far can you go?

Keith Brown: That is exactly the nature of the process. The plan specifically in relation to policing has to acknowledge the central role of the chief constable and the SPA. As recently as yesterday afternoon, there have been extensive discussions on those issues with the chair of the SPA and the chief constable. The intention is to ensure that the Cabinet, the Government and, I hope, the Parliament can support that plan in due course. Live issues very much along the lines that you have described are being discussed.

Pauline McNeill: I have a final question. There are many areas of the budget that you could look to and find savings in. The area that always comes up is court time for police officers, who have to give up their rest days and all the rest of it. To what extent is that being resolved by the ingenuity of technology? How far down the road are we with that? Can technology assist with that?

Keith Brown: That is a very good point. Obviously, members have been talking to the police. The police will tell members about the frustrations that they feel about the time that is tied

up in court, sometimes for cases that do not happen.

Neil Rennick can say more about the current pilot in Dundee, Hamilton and Paisley. As the need to address that issue is so urgent, we have said that, at the very earliest point at which we see promising outcomes from that to do with the way that cases are managed, we want to roll those out across Scotland. That is part of the discussions that we have had with the chief constable. It might be worth hearing a bit more about the detail of that from Neil Rennick.

Neil Rennick: A lot of those issues are discussed collaboratively through the criminal justice board, which the Crown Agent and the chief executive of the Scottish Courts and Tribunals Service have spoken about.

A number of different actions specifically on police officer time are being looked at to try to respond to that. One of those is the continuing work that we are doing to deal with the Covid backlog and work that down. The more we can move through that, the more that will help to reduce the number of police witnesses who have to come forward over time.

As the cabinet secretary said, there has been a reduction of more than 12,000 in those cases this year. The aim is to have the backlog of summary cases resolved by March 2024. Many courts are well ahead of that. That will reduce the number of summary court hearings that have to be held.

The second element that we are looking at is the development of remote witness police officers so that they can provide their witness statements to the court remotely from police offices, and they do not have to wait in the court.

As the Crown Agent and the court service chief executive have said, the pilots that are being taken forward offer real potential for resolving cases more quickly and at an earlier stage, and for reducing the number of police officers who have to be cited for court evidence. The intention is to run the pilots and, given the positive evidence that has come from them so far, to try to roll them out across other courts fairly quickly so that the impact is felt during 2023-24.

Pauline McNeill: During the passage of the Covid legislation, I raised a question about what I thought were pretty dreadful remote working circumstances in the sheriff courts, because the sound quality was so poor. I am delighted that the Government acted on that such that that approach will now be only for restricted purposes and not for full custody hearings. However, is that something that you are able to address—yes or no? I do not have an issue with things being done remotely, but there is no point in that if the quality of the

connection is so poor that it undermines the whole idea of it. I have an issue with that.

Neil Rennick: The police remote witnesses are a different issue from the wider question around virtual hearings. Obviously, we have had years of experience of witnesses—particularly vulnerable witnesses—providing evidence remotely from the witness suite. The court service is already experienced in that.

Pauline McNeill: [*Inaudible.*—the IT, then?

Neil Rennick: During the Covid pandemic, we provided extra capital resource to the court service specifically to assist it with remote witnesses. I highlight that as being one of the tragic circumstances of Covid, but the justice organisations innovated with things such as the remote jury centres and learned how to use technology remotely. Therefore, there are benefits that we are ensuring that we are not losing from the circumstances of Covid.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have an issue to raise on that point, so my question ties in nicely with Pauline McNeill's line of questioning.

I have had contact from local police officers this morning. They know about this evidence session and they made what was almost a plea. They know that resources are tight and that things will be difficult, but they are making a plea in relation to going to court; they think that the effect of the pilot could be massive due to the amount of time that they spend in court being "huge"—that was the exact word used in the text. I suppose that it is a plea about the pilot somehow being sped up and improved, which the officers on the ground think could be game changing in respect of freeing up resources.

The police officers asked me to raise two specific issues; the other issue is not quite as related to Pauline's point but also relates to police time. They feel that they are spending a lot of time covering for the ambulance service just now. We know the pressures that it is facing.

Those are the issues that I was asked to raise today. I appreciate that the point about time in court has already been answered, so I do not need a further response on that. It is more a plea—if we could get the pilot sped up, it could be good for everybody in the justice system as a whole.

Keith Brown: That is the point that we are making in relation to the pilot. The normal course of a pilot would be to conduct it, analyse it, see its impact and benefits and then, if that is the decision, roll it out. We are not doing so in this case because of the pressures that Fulton MacGregor has mentioned.

I hear the same from police officers; they are frustrated at having to spend time sitting in court or in anterooms at the courthouse for cases that are sometimes not even called when they could be doing other police work. The chief constable has made that point to me. The pilot will be rolled out in advance of the longer time period that we normally have for pilots.

On the second point, I think that I have already mentioned a couple of times that closer working between the blue-light services was, apart from anything else, one of the outputs from the Grenfell inquiry. However, it is obviously the case that more can be done there. We are giving active consideration to how we can make that working more efficient in a country of Scotland's size, not just between the ambulance service and the police but with the fire service.

Katy Clark: I have a question about body-worn cameras for the police. Police Scotland has told us that funding would ensure only 500 body-worn cameras, that specialist police arms officers in Scotland would have them and that a flat rate settlement would inhibit their roll-out.

As the cabinet secretary knows, in England and Wales, police officers already have that kit—and, indeed, are moving on to the second generation. Will you outline where you are on that issue, what discussions are taking place and whether you are looking at something beyond 500 and ensuring that the whole force is equipped?

Keith Brown: It is probably important to say that—as I am sure that Katy Clark knows—body-worn cameras incur both a capital and a revenue cost. Where the information that is gathered by the body-worn camera goes is an important consideration, too, as are the logistics behind that, which also has impacts for both the capital and revenue budgets. The ultimate decision rests with the chief constable, but I acknowledge that it will depend on the resources that he has.

10:30

You have drawn a comparison with south of the border. We are a bit different in Scotland, in so far as the proportion of the police budget that is spent on people is substantially higher in Scotland, which puts pressure on the remainder of the budget and what else can be done with it.

We have had representations from the Scottish Police Federation and others. The federation said that its priority, as one stakeholder, was the pay and conditions of officers, such was the pressure that they had been under, and taking into account the impact of the cost of living. We have responded to that. It is also true to say that we cannot spend the money twice. I acknowledge the financial constraints.

I am a supporter of body-worn cameras, which I think can achieve savings in the longer term, for various reasons—which you will be aware of—but we have to live within the resources that we have. Ultimately, however, a decision on further roll-out will be for the chief constable to take.

Collette Stevenson: Some pilot schemes have been run for what is almost a mental health emergency response team. Would that alleviate the need for attendance by police officers or other emergency services? I have spoken to some of our local police officers, and they have said that they often have to attend to people with mental health problems who are in complete distress. Are you actively talking with the Minister for Mental Wellbeing and Social Care about how that could alleviate the strain on Police Scotland and about how and when that is likely to be rolled out?

Keith Brown: Yes, that discussion continues. I have had discussions with the Minister for Mental Wellbeing and Social Care, which have also related to how we can better deal with some of the issues in prisons. It is probably important to acknowledge some of the pressures that the police feel, first of all when a call comes in, as to whether that call is better passed on to somebody with a mental health background. It is sometimes the case, however, that people go to the police because they think that that is where they need to go, and the police can sometimes get to places more quickly in an emergency situation.

What is of more concern—at least as has been expressed to me by the police—is how long officers then have to stay with a case before being able to hand it to somebody with mental health expertise. That issue, call handling and how quickly a mental health professional gets involved are the main areas that we are considering now, and they all form part of the cross-portfolio discussions.

Collette Stevenson: I have an additional question on that. Have triage cars been able to attend directly, rather than putting the onus on the police?

Keith Brown: With mental health professionals attending directly?

Collette Stevenson: Yes.

Keith Brown: I am not aware of that happening, but perhaps Donald McGillivray will know.

Donald McGillivray (Scottish Government): I am aware that mental health professionals have been put into police call centres to help with triage at the call centre point. There might be some local initiatives, which is what you might be referring to, but I am certainly not aware of a national scheme for that. I can find out more from the police, and I

can let the committee know, if that would be helpful.

Collette Stevenson: Thank you.

The Convener: I think that Russell Findlay has some further police questions.

Russell Findlay: Indeed.

Everyone in Scotland benefits to the tune of £2,000 per head in additional public spending compared with others in the UK, which I am sure that the cabinet secretary is very grateful for. That presumably helps to pay our police officers more than they get paid elsewhere in the United Kingdom.

Despite that, and as we have heard from evidence over the past few weeks, Police Scotland—uniquely—does not have body-worn cameras, as Katy Clark has already pointed out. They are used in every force in England and Wales. Some officers there have second-generation cameras. David Page says that they would have massive benefits and that they are supported by 81 per cent of the public. The cost of them is estimated to be about £25 million. Is it a priority to get those as a matter of urgency in order to protect officers and the public?

The Convener: I think that you perhaps covered that in your previous answer, cabinet secretary, but I am happy for you to follow it up, if you wish.

Russell Findlay: Perhaps I could ask it differently.

The Convener: I am sure that you understand what the question is, cabinet secretary.

Keith Brown: On the first point, about resources, I am not going to rehearse our differences of opinion about the munificence or otherwise of the UK Government. What I will say is that Governments of whichever colour, whatever resources they have, have to attach a priority. We have attached a priority to the fact that a constable will get £5,000 more if they start in Scotland, and every rank in the police, up to assistant chief constable, will get more. However, the decision on equipment and operational requirements is for the chief constable. I am not running away from the fact that he has to live within a financial envelope, which we have discussed previously.

I agree with the member about the benefits of body-worn cameras. For example, it might well be the case that, if officers have body-worn cameras that can provide a level of evidence, we can potentially avoid a huge public inquiry where there is a contested account of what actually happened. I do not doubt the benefits of body-worn cameras, but I think that it was Aneurin Bevan who said that politics is “the language of priorities”.

We have to decide on priorities, as does the chief constable. We have prioritised the pay and conditions of our police officers because we think that they are worth it. Beyond that, we have unavoidable pressures, but it will ultimately be a decision for the chief constable.

Russell Findlay: With regard to the £2,000 per head, those are Scottish Government figures—they are not open for debate or discussion unless you disagree with them.

I go back to body-worn cameras. The Scottish Government has set aside £20 million for constitutional matters next year. Now that a referendum is not likely to happen as a result of the ruling in court today, could that money be used for body-worn cameras?

Keith Brown: The option of getting out from underneath an utterly incompetent Westminster Government, which has presided over record inflation, a national debt that sits at £1.5 trillion—that can be compared with a country of Scotland's size, Norway, which has an oil fund of more than £1 trillion—and the record levels of taxation that the Tories—

Russell Findlay: My question was about body-worn cameras.

Keith Brown: You asked a question about the UK Government. I am saying that, given the incompetence over which the UK Government has presided, whether it is in tax, inflation or public debt, the opportunity to do things in a different and much more sensible and mature way than, for example, the Kwasi Kwarteng budget is a very valuable option for the people of Scotland. We also want to fulfil our manifesto promise, which was to offer that referendum.

Russell Findlay: Will you answer the question, please?

The Convener: I think that the cabinet secretary has answered your question, Mr Findlay. In the spirit of moving things on, I bring in Jamie Greene.

Jamie Greene: Cabinet secretary, it is interesting that you said that these are operational matters for the police. Deputy Chief Constable Will Kerr told the SPA in a meeting a couple of weeks ago that he was “professionally embarrassed” by the slow roll-out of cameras, which he described as a

“very basic bit of kit”.

It sounds as though those cameras are not nice add-ons but are must-haves, so I ask the cabinet secretary to reflect on his comments on the matter.

Speaking of incompetence, we have learned through freedom of information requests over the past couple of years that nearly 2 million calls to

the 101 service have either gone unanswered by operators or the caller has hung up. We had a frank and robust discussion about the state of the 101 service in this committee, and evidence was given to us. Is the cabinet secretary content and happy that that service is working well, to its full extent? Can he commit to it remaining in operation for the foreseeable future?

Keith Brown: Yes, I think that it will remain in operation, and no, of course I am not happy when there has been a service failure. Those failures have been well publicised, and I have raised them with both the SPA and the chief constable when they have happened.

However, the contact assessment model that is now used is very effective when it is used properly. That is probably borne out by the fact that in Scotland—I think that I am right in saying—the number of calls that are answered within 10 seconds is around 10 per cent higher than it is elsewhere in the UK. The rate for the proportion of calls that are answered in under 10 seconds currently sits at around 79.9 per cent, in comparison with 68.3 per cent for the rest of the UK. That should not be the only bar, however, and we acknowledge that the rate has to be higher. Nonetheless, the rest of the UK is a useful comparison, because many of the same pressures apply.

We have had the HM Inspectorate of Constabulary in Scotland assurance review into the contact assessment model for call handling. I do not deny that it identifies issues, but it also identifies a number of real successes. We welcome Police Scotland's plans to introduce the new digital contact platform, which will help to strengthen both the 101 and 999 services. Once again, I highlight that those are operational matters for the chief constable, and oversight of them is provided by the Scottish Police Authority.

Jamie Greene: If it is all going so swimmingly, why are people hanging up? Are they waiting for too long? Are the calls not being answered? Is there a lack of resource in the call centre? Is it anything to do with the centralisation of the service? What is the Government doing to get underneath the root of the problem? So many calls are being lost.

People phone not for the sake of it but because there is an issue. Often, they are unsure as to whether they should call 101 or 999. We are trying to alleviate pressure on 999 calls; clearly, that is the point of the 101 service. People are not phoning for fun. If they are hanging up, or simply not getting through to someone, that is a matter of concern. We all know of the grave repercussions when call handling goes wrong. We have had that debate in the Parliament many times.

What exactly has the Government done to find out why so many 101 calls are not being answered, and what exactly is being done to improve on that? Just a broad commitment that it will get better is probably not good enough.

Keith Brown: I acknowledge that, if somebody's call goes unanswered, that is a failure of service. I am not wishing that away.

My point is that, according to the Home Office, Police Scotland was well above average in July. It answered 79.9 per cent of calls in less than 10 seconds. I do not use the word "swimmingly", but that is an example, notwithstanding the pressures, of Police Scotland performing better than average.

In addition, to get under some of the issues in your point, Police Scotland, as I have said before, has been the first point of call for many things that are not its responsibility. That is reflected in those calls. We have looked at the nature of the calls. Some should be directed towards other services, and we are trying to ensure that that can be done. That goes back to my previous point about an increase in the necessary reform in call handling and better liaison between the police, the other blue-light services and other services. If they can alleviate call pressure by ensuring that calls are directed correctly in the first place, that will help to improve a performance that is already above average, such that we can drive out any failure to answer calls.

It is better than average, just now. It has to be better, and work to make it better is continuing.

Jamie Greene: People call the police because they are desperate. They phone for an ambulance and are told to wait for hours, so they phone for the police to take them to hospital. They phone the police because they have phoned local authority social work departments that are closed out of hours. They phone the police because other public services have let them down. That is why people call 101 when they should not do so—because they are desperate, and the police are the first and last point of contact.

We have heard evidence from numerous officers, and from the SPA and the Scottish Police Federation, that the police have become a catch-all service. That simply adds to the pressures, and it is directly down to a failure to deliver the other vital public services that people need in an emergency. What conversations have you had with your Cabinet colleagues about relieving those pressures on the police?

Keith Brown: Discussions with Cabinet colleagues about public services often centre on the fact that, after 12 years of austerity, more money should be invested in public services. I acknowledge that. We should invest more money in public services. However, almost uniquely, the

UK Government has decided on a programme of austerity, which has lasted for 12 years.

Jamie Greene: This has nothing to do with austerity and the UK Government; I am asking about your operational decisions—

Keith Brown: —and I am answering—

Jamie Greene: —in how you manage Government and how you and your colleagues manage public services. I know that you are keen to divert attention to England and Wales, but I am not. This is the Scottish Parliament, it is a Scottish committee and you are the Cabinet Secretary for Justice and Veterans in Scotland. If we could keep our focus on the budget, that would be great.

Keith Brown: If it is possible to answer without being interrupted, I will try to answer your question. The idea is not honest that anyone can talk sensibly about public services while excluding from consideration the financing for which, currently, we have to rely on the UK Government. We have to acknowledge the main driver. Most other people in the country realise that we have had 12 years of austerity-suppressed budgets for public services, and I do not deny that that has had an impact.

I have mentioned the fact that we are looking at the issue, so that we can alleviate the pressure on the police, through calls going to the right place in the first place. That would reduce the number and volume of calls.

However, despite that, and notwithstanding those pressures, which apply across the UK, Police Scotland is above average.

The Convener: I am watching the clock. We have 15 or 20 minutes left, and I know that members would like to come in on other issues—one of which is the Scottish Fire and Rescue Service. Jamie Greene, would you like to open the questioning on that?

Jamie Greene: No, I will let others come in. I have had a good run.

The Convener: In that case, I call Russell Findlay.

Russell Findlay: Eleven fire stations do not have a water supply; more than 100 have no rest or canteen facilities; more than 150 do not have sufficient showering facilities; 100 do not have the minimum toilet provision; 125 do not have dedicated locker rooms; more than 100 do not have dedicated drying facilities; 282 do not have dignified changing areas; and no fire station has a first aid room or space for nursing mothers. That has nothing to do with inflation, Brexit or the UK Government.

10:45

According to the evidence that the interim chief officer gave to the committee, more than “£482 million” has been removed

“from the cost base of the Scottish Fire and Rescue Service over the past 10 years.”—[*Official Report, Criminal Justice Committee*, 26 October 2022; c 46.]

That is due entirely to the amount of money that is provided to the fire service by the Scottish Government. Will you address those concerns and the concerns of firefighters about those extremely poor facilities?

Keith Brown: First, of course, the fire service has to comply with the stringency of the requirements on it, and there is no suggestion from the SFRS that the equipment is unsafe. I hate to correct the member, but I think that the backlog that he talked about was £492 million, rather than £482 million, according to the SFRS. However, we acknowledge the challenges.

The desperate attempt to pretend that this has nothing to do with settlements from the UK Government does not register with people out there. They know what the situation is, and what austerity has meant over the past 12 years—both in resource and in capital backlog. There is a backlog not in maintenance but in investment in the estate structure. That has been reviewed previously, and it is being reviewed again.

It is also true to say that many of the fire stations were built in a previous era, to provide fire cover for industries and housing that, in some cases, are no longer there. That is an opportunity to review the estate and to make savings through its rationalisation. In turn, that should allow additional investment in the remaining fire stations.

As you might have heard in evidence from the SFRS, it has developed a detailed community risk index model, which identifies the risks in individual communities across Scotland. That enables it to base on evidence its decisions on resources. We will continue to work through those issues with the SFRS, not least through the budgetary process that I mentioned previously.

The Convener: Rona Mackay has some questions about gender-based abuse.

Rona Mackay: My question relates to the courts and prosecution services. Before I ask it, I note that it is interesting and important that Conservative committee members have been asking overtly political questions—and, when the cabinet secretary responds with straightforward and honest answers, they do not like it.

Cabinet secretary, I will be interested to know about something that you touched on in your opening statement: the priority for funding to be given to Lady Dorrian’s review, the prosecution of

rape and sex offences, and the work of the Crown Office and Procurator Fiscal Service Covid unit. I turn first to Lady Dorrian’s review. Will budgetary implications affect that?

Keith Brown: Rona Mackay will know that, before starting the process for a bill, we have to go through a process of making sure that there is financial cover for its implications. As she has rightly said, those are substantial. A victims commissioner is one; a cost will be associated with specialist courts, too, if those are agreed; and a number of other recommendations will inevitably have costs associated with them. However, we have gone through the process to make sure that we have financial cover.

That does not mean that there is not still a challenge in making sure that we have those finances, but that has been taken into account and there is substantial progress on Lady Dorrian’s recommendations—both those that require legislation, some of which I have mentioned, and those that do not.

Rona Mackay: It is good to know that it is still very much on track.

I turn to the effect of court backlogs on the victims of domestic abuse. I understand that, because of the specific nature of those cases, they will take priority when it comes to clearing the backlog.

Keith Brown: My colleague Neil Rennick may be able to say more about the figures, but the extent to which that has been a priority throughout the pandemic is evident when we look at the balance of cases. To clarify, the success that I mentioned relates to summary courts. There has been a reduction of 12,000 cases—from 44,000 to 31,000, more or less. That is proceeding well. However, we do not see the same level of progress when it comes to solemn courts, so a change has been made by the court service to switch resources in order to effect a similar reduction in the solemn side of things—which may include some of the cases that Rona Mackay was talking about.

It might be worth hearing from Neil Rennick about domestic abuse cases.

Neil Rennick: The cabinet secretary has covered the matter well. Throughout the Covid period, the courts service has been publishing monthly statistics on the scale of cases and the progress that is being made with the backlog. The updates on that have confirmed the priority given to domestic abuse cases throughout the Covid period despite the challenges and pressures. That continues now.

As the cabinet secretary says, in the High Court, in particular, a very high proportion of those cases

will be sexual offences cases or the most serious domestic abuse cases. Last week, the court service announced the intention to establish two new High Courts and six new sheriff and jury courts spread across a number of locations, to try to speed up the process of dealing with the backlog in the solemn cases.

Rona Mackay: That is really encouraging to know.

Jamie Greene: I have questions about an area that we have not touched on a lot but that deserves some of our time, which is the effect of the budget on community justice.

There were a large number of submissions on community justice, although it did not feature as highly in our oral evidence sessions, given the prominence that the police, the fire service, the courts and the prison service generally have. The committee does not, perhaps, spend enough time on community justice and social work delivery at a local authority level, so I will ask some questions about that.

Unsurprisingly, we received warnings in the evidence, particularly from the Convention of Scottish Local Authorities, Community Justice Scotland and Social Work Scotland, about the real-terms budget forecast for those organisations and the effect that it would have on their ability to deliver adequate, robust and fair community justice services. To be frank, those services would be put at risk.

What could be done to ensure that local authorities and people in the voluntary or paid justice sector are able to carry out their functions, given the tight forecast?

Keith Brown: I do not want to go back to the previous back-and-forward about budgets, but we need to acknowledge that we are in a different budget environment from last year.

Last year, in that different context, we awarded an additional £15 million for the reasons that you mentioned. We are aware that courts across the country do not all have the same level of confidence in community disposals. That additional £15 million, which was in addition to, I think, £119 million of continuing funding, was intended to effect change so that the courts would have confidence, wherever they were in Scotland, that a community disposal would be effective and properly monitored.

That gives our intention—our direction of travel—but you are right to say that we are now looking at a different budget environment and we have to consider it against other options. The Bail and Release from Custody (Scotland) Bill is a fundamental part of our approach. It will not work if

we do not have proper community justice disposals.

That is our intention. We have budget pressures to consider as we go forward, and we hear what the sector said. We have had discussions with it. A new national plan for community justice, which seeks to do what we intend, has just come out as well.

The additional moneys that we provided in the current year were provided sensitively such that the local authorities that had been well served by their community justice infrastructure were not punished by money just going to authorities that had not, because that would be like punishing success. We managed to provide money to authorities that really need to invest more and to produce more money for other authorities.

That is the intention, but the matter will have to be decided as a priority in the budget process.

Jamie Greene: If the political direction of travel is to send fewer people to prison and offer alternatives, that policy will rely on the adequacy of those alternatives and on there being not just public faith but judicial faith and confidence in them. We have heard from sheriffs and judges who do not trust that those sentences will be carried out or delivered properly. Therefore, that leaves them with little alternative but to send people to prison. We cannot simply divert people from prison if there is nothing to divert them to; otherwise, we will absolutely lose public confidence in the service. Are you mindful of that as well?

Keith Brown: I am very mindful and do not deny the logic of that. Also, there is a need for more information on electronic monitoring and other aspects to be provided to the judiciary, because there is not always the level of awareness that there should be. I am not saying that that is the judiciary's fault, and it is not for me—by any means—to educate the judiciary, but that is a need for more awareness of what is possible. However, you are right that, at the root of it, the judiciary must have confidence that that is a legitimate disposal. It will not be a political direction not to send people to prison, because, of course, that will be for the judiciary, but I do not dispute the logic that the member draws out. That is our direction of travel and what we believe in, and it underpins the ideas behind some of the legislation that we are taking through. The issue is how we continue to do that with the available resources.

Jamie Greene: Thank you.

Russell Findlay: Cabinet secretary, your Government has written what is effectively a blank cheque to cover the cost of the Rangers malicious prosecution scandal. We have been told that the

amount has now reached £51 million, which, incidentally, is double the amount that it would cost to give every police officer in Scotland a body-worn camera. Can you give us any idea as to what the total amount might be in the end? Who do you think is responsible for that? Will there be any consequences for that absolutely shocking state of affairs?

Keith Brown: I do not think that I have anything to add to the previous responses that the First Minister gave, except to reiterate the point that the cost of that will not fall directly on the justice portfolio but will be borne across the whole of Government. I cannot tell you what the ultimate cost will be, because it depends on factors that are outwith my control and, obviously, pre-dates my time in office. I do not know whether my colleagues who were in post when that became a live issue have anything to add, but I cannot add to what the First Minister said previously.

Russell Findlay: Do you think that people would be surprised that £51 million has been paid out through incompetence or wrongdoing but no one has been held to account?

Keith Brown: I think that you know about the processes for accountability that are in train, and I have nothing to add to that.

The Convener: Pauline McNeill, I think that you wanted to come in on that.

Pauline McNeill: I did not know that this issue was going to be raised, but it has been. Cabinet secretary, I appreciate that, at the moment, effectively, no one can say anything about the case because it is a live issue, so I will not press you on that.

However, Russell Findlay is right about accountability. A Lord Advocate took a decision some years ago that has massively impacted on the credibility of the Crown Office, not to mention the huge sums of money that are involved. When everything has been settled, what scope do you have as cabinet secretary to satisfy yourself that there will be accountability? I hope that you agree that, at least, somebody has to hold the Crown Office to account for that decision. A former Lord Advocate took that decision, and I do not think that that can be allowed just to dwindle out once the court case is finished. Surely, that cannot be allowed to happen again.

Keith Brown: I understand the point that Pauline McNeill is making, but she also started her comments by saying that she knows that I cannot comment on some of those things. Whatever else it was, the decision was taken by an independent Crown Office, so she knows the constraints around what I can say, but she also knows the process for accountability that is in train for that. If there is a subsequent inquiry, that will also be

independent. That is the reason why I am not able to say more at this stage.

Pauline McNeill: Therefore, the inquiry will hold the Crown Office to account over those decisions.

Keith Brown: If there is a public inquiry, some people would term that as a process of accountability.

Pauline McNeill: You said “if”, but I want to be clear. Is there going to be an inquiry?

Keith Brown: That has been established in the First Minister’s responses in the chamber on a number of occasions.

The Convener: Before I bring things to a close, I will go back to the emergency budget review, and I have a quick question in relation to the UK-wide emergency services mobile communication programme. Obviously, the most recent update from the review was that the Scottish Government will cut £14.2 million from a

“projected saving on the Scottish Government contribution towards”

the programme. Can you expand a little on what is being reduced and what impact that might have on Police Scotland and Scottish Fire and Rescue? Will the roll-out of the new radio systems for police officers be affected?

11:00

Keith Brown: After I have made a couple of comments, I will ask Donald McGillivray to come in. This project is a bit like high-speed rail—it has been going on for many years. As I said, I was involved in a joint police board on the roll-out of Airwave, which was complicated. I have many concerns over this project, which I have registered with the UK Government, and the Welsh Government has also registered concerns. The budget changes over time, and the spend does not match the profile as we would expect. That is the basic underlying situation, but Don is very heavily involved in that, which I am sure he enjoys.

Donald McGillivray: The change in the emergency budget review is very simple. The UK Government Home Office gives us projections at the start of the year as to how much our share of the spending on the UK programme will be for that year. It updates those projections at various points through the year, and it updated those projections for Scotland to reduce our contribution this year by around £10 million. We have also agreed with the Home Office to switch some capital to revenue, which represents the balance that was announced in the emergency budget review. It is largely about the pace of progress and spend on the UK programme and what that means for our share of the contribution to the bills that the programme pays.

The Convener: Thank you. Is there any indication around timescales? I do not want to stray off budget, but that obviously correlates with budget, as you have just said.

Donald McGillivray: The programme regularly updates its programme deployment dates. I will check the latest deployment date for Scotland and confirm that.

As the cabinet secretary said, one of our key concerns is that the deployment date for the system has changed on a regular basis and has been significantly delayed over a number of years. We—and the cabinet secretary—are looking for the programme to commit to dates that it can stick to and keep to, so that the police and other emergency services can have faith and trust that those dates will actually be delivered. That is the dialogue that goes on between us and the programme on a very regular basis.

The Convener: Can we take it from that that, although there are a lot of questions, ultimately, the roll-out would not be affected?

Donald McGillivray: The programme has not changed its deployment dates. However, I am afraid that the history of the project tells us that that does not mean that the dates will not be subject to review at some point in the future.

The Convener: Thank you very much indeed.

I will bring this evidence session to a close. I thank the cabinet secretary and his officials for attending this morning. As usual, if members have any follow-up questions, we will pick those up in writing. We will have a short suspension to allow for a change of officials.

11:03

Meeting suspended.

11:09

On resuming—

Subordinate Legislation

International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2022 [Draft]

The Convener: Our next item of business is consideration of an affirmative Scottish statutory instrument. I refer members to paper 3.

I welcome back Keith Brown, Cabinet Secretary for Justice and Veterans. I also welcome his officials: Walter Drummond-Murray, head of civil courts, inquiries, private and international law and central authority at the Scottish Government; and Emma Thomson from the Scottish Government legal directorate.

I invite the cabinet secretary to make a short statement on the SSI.

Keith Brown: I have chopped some of the commentary that I was going to make because you have had a long morning and the SSI is not dissimilar to ones that the committee or its predecessors have considered in the past.

The draft International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2022 confers various legal immunities and privileges on the Inter-American Investment Corporation—IIC—and on persons associated with that organisation so far as that is within the devolved competence of the Parliament.

The order is limited to the issue of privileges and immunities. By way of background, I mention that the IIC is the main private sector arm of the Inter-American Development Bank Group—IDB—which lends to Governments and the IIC. The UK has opted to join the IIC, and the conferral of immunities and privileges to the IIC is required to ensure that the UK can fully comply with its obligations under article 7 of the IIC's founding agreement. Joining the IIC offers the opportunity to be part of an important organisation in the Latin America and Caribbean region, which will support economic growth and leverage further private sector resources for development financing.

To assist the committee, I will say a little about the nature of the privileges and immunities involved. The conferral of legal capacity and privileges and immunities is necessary to ensure that the IIC can function as an international organisation in the UK. The order grants the IIC immunity from suit and legal process, inviolability of archives and premises and exemption from taxation. It also grants personal privileges to the IIC's officers and employees: immunity from legal process with respect to official acts and exemption

from income tax. The income tax exemption does not apply to British citizens.

The privileges and immunities conferred by the draft order are granted primarily on the basis of strict functional need. They are no greater in extent than those that are required to enable the IIC to function effectively.

So that the privileges and immunities are conferred in accordance with the agreement, the UK Government has introduced a statutory instrument through affirmative procedure, with the expectation that it will come into force late this year or early next year. The UK Government also laid its SI in Parliament on 11 October.

I welcome the opportunity to hear members' views on the order and I commend it to the committee.

Jamie Greene: I apologise because I was not on the committee when this sort of matter arose in the past, so I am new to the subject. I have a simple question: is the cabinet secretary aware of whether the organisation concerned has any employees or offices, or undertakes any activities, in Scotland? The reason why I ask relates to the point about income tax. If an employee of the organisation was ordinarily resident in Scotland, would they pay the taxation that was appropriate south of the border or the local, devolved income tax, which might differ?

Keith Brown: My understanding is that the tax liabilities are termed a reserved UK income tax. I am not sure whether that applies personally to the employees. There is no current plan to have employees based in this country; they will be visiting employees. As I understand it, the IIC has no offices in Scotland or the UK.

To check that I have those facts right, I ask my officials whether they want to comment.

Walter Drummond-Murray (Scottish Government): I will take the second point. In this case, the order is largely theoretical, because it is not expected that the IIC will have activities in Scotland.

Perhaps Emma Thomson can confirm the taxation point.

Emma Thomson (Scottish Government): IIC employees are exempt from devolved taxation in Scotland but, as Walter Drummond-Murray said, it is a theoretical point at the moment, because there is unlikely to be a base in Scotland. The employees will be visiting.

Jamie Greene: Thank you. I just wanted to check.

The Convener: As there are no other questions from members, we move straight to consideration

of the motion. I invite the cabinet secretary to move motion S6M-06291.

Motion moved,

That the Criminal Justice Committee recommends that the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2022 [draft] be approved.—
[Keith Brown.]

Motion agreed to.

The Convener: I thank the cabinet secretary and his officials for attending. That concludes our consideration of the SSI. We will suspend the meeting briefly to allow for a change of witnesses.

11:15

Meeting suspended.

11:16

On resuming—

National Care Service (Scotland) Bill: Stage 1

The Convener: Our next item of business is to take evidence as part of our scrutiny of the National Care Service (Scotland) Bill, specifically on the provisions that relate to criminal justice social work and community justice. I refer members to papers 4 and 5.

We have apologies from Claire Wilson, who is, unfortunately, unable to join us. I welcome Lynsey Smith, chair of the justice standing committee, Social Work Scotland, and joining us online we have Anil Gupta, chief officer, communities, Convention of Scottish Local Authorities; and Kate Ramsden, national executive member, Unison Scotland.

We would like to ask the witnesses a number of questions. Given that two members are joining online, I ask members to indicate who they would like to direct their questions to, and I ask the witnesses who are joining us online to indicate accordingly in the chat function if they would like to come in.

We move straight to questions, and I will start with a general opening question. I will come to Lynsey Smith first and then bring in Kate Ramsden and Anil Gupta. What are your general views on the possibility of criminal justice social work being included in the planned national care service? How might that affect criminal justice social work and the services that are currently provided, and how do you see those changing?

Lynsey Smith (Social Work Scotland): Hello, everyone. That feels like quite an abstract question, because the detail is not in front of us. If we work on some assumptions, there is potential for services to improve. Some things need to be looked at, but we need further evidence to make those calls.

We work on the assumption that justice social work would move from 32 local authorities to one joint point of accountability rather than the multiple arrangements that are in place at the moment. We have identified that that structure has been cumbersome in the past. There is an assumption that streamlining it and having one point of contact, with one set of governance arrangements, would lower some of the barriers to developing and scaling up improvements and services. There is also an assumption that, if justice social work were to be included in the NCS, we would be doing so alongside our colleagues, which is ultimately a positive thing, as there is strength in the profession remaining together for the good of

the profession itself and for the benefit of those people in Scotland who use social work services.

The committee will be well aware that people who are involved in the justice system will often have multiple and complex needs. Social workers work across adult services, addictions and children and families to co-ordinate services around that person. One of the proposals for the NCS that seems to be taking shape is the creation of a national social work agency. If we make some assumptions about that, the impact of the agency could be positive for dealing with some issues around recruitment and training for staff. It often feels as if we are a national profession without a national structure, which impacts on our ability to workforce plan. There are some positives, but there are also some concerns or negative aspects at this point.

Kate Ramsden (Unison Scotland): From a Unison perspective, it would be fair to say that we are deeply concerned about the bill and the impact that it will have on social work—both criminal justice social work and social work more widely. The trouble for us is that there is no detail about what social work would look like if the proposals went ahead. The bill, if passed, will leave it open to ministers in making secondary legislation, and it will leave our social work and social care members hostages to fortune as to what their service will look like, who their employer will be and how services will be managed and funded.

We are concerned that that impedes proper scrutiny and risks weakening parliamentary democracy. There are promises in the bill that the Government will consult before transfer, but that consultation is entirely non-binding on the Government, which can completely ignore it, as the Government has done with the many criticisms that have been voiced about the bill, not just by us but by other agencies, too.

We think that things have been done the wrong way round. We fully believe that the Government should have started off by engaging with all the people involved—social workers, social work clients and communities—and by building a national care service from the bottom up. The bill creates massive uncertainty for our social work members in criminal justice, because they have no idea what the arrangements will look like as things move forward. The social work service is already in crisis, so the upheaval and uncertainty can only make matters worse.

I think that it was Social Work Scotland that said that one in four of our social work students who graduate will not last more than six years in the job. We know from our own surveys that more and more social workers are looking to take early retirement, and we think that that will only make things worse. We would ask you to put pressure

on the Scottish Government to go back to the drawing board, to look at the proposals again and to co-design properly.

Anil Gupta (Convention of Scottish Local Authorities): Much of what my colleagues have just said is broadly supported by COSLA, as the representative body of Scottish local government. Perhaps it is worth saying that justice social work and community justice face huge challenges at the moment. The investment in the costs of delivering the services is extremely problematic. For instance, the flat cash settlement is likely to result in a cut of around 7 per cent in that area of activity. Given the theoretical nature of what has been presented to us, the issues with the finance of the sector are not covered in any way.

We have been through considerable changes in the past few years. In 2005, we saw the creation of community justice authorities. In 2015, the legislation was passed that convened community justice partnerships and Community Justice Scotland. If the bill is to go ahead, we will see another significant change within a shortish period, but we are looking for a degree of stability and innovation in community justice as well as looking to get into the real detail about what it costs for the service to be delivered properly.

The bill does not cover in any satisfactory way the multi-agency work for which local government is responsible in community justice and where that would end up. We will still have matters around housing, employability, education and skills to bring to the table, but we will probably not have the services that help to complete the picture should they be taken out of local government.

The lack of definition means that we have an unclear proposition and it is difficult to do the work. In the papers that you have, the Scottish Government has listed the research work that it is considering, which is about how best to examine what would be appropriate for justice social work in the future. Unfortunately, we do not know enough about what the proposition is to be able to do that work properly. The work is probably being done the wrong way round. We should consider the strengths and weaknesses of the current systems and what is needed to make them deliver in the future and then, perhaps, discuss where they are positioned and what is needed.

Clearly, there is no opposition whatever to the idea of developing standards across the country, but being able to deliver on standards requires an element of local diversity to meet the local circumstances. Without that, you might end up hobbling the system not only because disruption and elements of planning blight could be introduced in the policy area but because you would also probably dampen the innovation that already exists.

Our other obvious concern is one that the Unison witness referenced about parliamentary scrutiny. Pushing the important issues, including the finances and the detail, into secondary legislation would not give you a huge amount of opportunity to question what is presented to you in the longer term. Although we have perfectly good relationships with the Scottish Government over community and criminal justice, it feels undemocratic to leave to a minister the decisions on how to go forward on what are shared competences at the moment.

The Convener: Thank you, Anil.

You all mentioned that there is a big piece of work to be done on co-design and understanding what the proposal will look like. The proposed plan is for there to be a consultation on criminal justice social work. What would you like that consultation process to focus on? What would you like to come out of it around priorities for how criminal justice social work continues to deliver the best possible service?

11:30

Lynsey Smith: We welcome the opportunity to have that type of conversation. From a Social Work Scotland point of view, if I can speak for the members of the committee, there is a recognition that the status quo cannot continue and that we welcome the opportunity to review justice social work's position, its current model and what might be improved.

There is an appetite for change and reform. I absolutely take on board the points that have been made by colleagues about having a weary staff group and the fact that there is a question about whether this scale of change is appropriate at this time, given what folk have been through and have been dealing with.

I hope that the research would set out the strengths and weaknesses of the current system. We want to work out what the benefits might be to justice social work being included in the NCS in relation to leadership. We have touched on the fact that structures in themselves will not achieve the change that we are looking for; there is a collective that needs to be looked at, and leadership and professional development lead into those kinds of opportunities for the staff group as a whole. Unison touched on pay and conditions, and most important is the outcome for service users.

The Feeley review did not consider justice social work, which was the right thing to do. It listened to people who use services, and their voices were really prominent in the report, but there were no justice voices in there. Part of the research needs to include those voices.

Kate Ramsden: We consulted our members across social work on the National Care Service (Scotland) Bill. There is real unhappiness that they were not consulted before the bill was introduced. There is a sense that there has been no opportunity to look at the role of social work and the important role of criminal justice social work, or to look at the professional values that underpin that role. All that needs to be looked at, but it should not be looked at after the bill has been passed; it should be looked at before the bill goes through Parliament, because if we do not do that, we can have no confidence that those voices and the voices of service users will be listened to and heard.

Even issues such as pensions have not been considered. We have a group of social work members who do not know what will happen to their pensions if the proposals go ahead. A lot of work still needs to be done that has not been done, and it needs to be done before the bill is passed, so that we can have confidence that all that will be taken account of in the bill.

I will add a small point on funding. There is absolutely nothing in the bill that addresses the current underfunding of social work, including criminal justice social work. In fact, it is sorely lacking in financial information, and what information is there has been roundly rubbished by a number of people who have responded to the bill and by the Parliament's Finance and Public Administration Committee, which has been very critical about the lack of detail. Again, those things need to be looked at and addressed before the bill is passed, in our opinion and that of many others, because if they are not, we will be left as hostages to fortune.

Anil Gupta: One response could be that the consultation might be about the wrong subject at this time. We really need to have a broad discussion about the future of community and criminal justice. At this stage, the issue of structural change is probably not the most important matter. Instead, we need to discuss longer-term investment and the lack of confidence that we are regularly told that sentencers have in community disposals, and what needs to be done to improve the situation.

Certainly, local government is very keen to address issues around workforce, finances, experimentation and learning from elsewhere. Those will probably be touched on in the consultation in any case, but we need to look more at what is required in order to achieve sustainable change, rather than to hobble ourselves with a complete change in structures at the moment.

The other thing that would probably be important for us is how we interpret the consultation. As far as we were concerned, the

last one was done simply as a numerical exercise about the number of views and which way those went on different subjects, with little weighting being attached to the views of the people who were responsible for leading, working in and financing the areas of work. The consultation needs to be a bit more sophisticated, so that the voices of local elected members are given their due weighting, as representatives of local communities, rather than being counted only as ordinary, simple participants who are representing individual views.

The Convener: Thank you. I open the questioning to members, starting with Fulton MacGregor.

Fulton MacGregor: Good morning. For the purposes of this particular evidence session, I refer members to my entry in the register of members' interests—I am registered as a social worker with the Scottish Social Services Council.

The issue of integration in some form or other is nothing new, as committee members and witnesses know. It is probably fair to say that the workforce as a whole would not be overly happy about it, but that is beside the point of whether it is a good thing or a bad thing.

I agree with the comments that have been made so far—I think that we need more information. I can probably guarantee that this is not the Government's intention but, in a bill of this size, it feels a bit like the issue has been added on in a "We'll deal with that later" way, which is not a great place to be, because we do not have enough information.

What more can be done at this and future stages of the consultation to make sure that people who work in the sector and use the services can have their say on what the positives and the negatives might be? In your respective organisations, how can you make sure that you get that information out to the people who work in the sector, so that we can get that feedback and see how we can move forward collaboratively?

As Lynsey Smith pointed out, there probably are advantages to the inclusion of justice social work. We do not want to fragment the social work workforce if other aspects of social work are moving over, and there is also a lot of health overlap. However, the same argument could be made that, if we were to take the responsibility out of local authorities and lose the link with, for example, housing, which is also very important, it would almost be a case of taking with one hand and losing with another. The joined-up working needs to work anyway, regardless of where justice social work is situated, whether that is with local authorities or with the new national care service.

How do we get the workforce to be involved and engaged in the process?

Lynsey Smith: It is difficult. As well as my role within Social Work Scotland, I am head of service for justice social work at Glasgow City Council. We have been engaging with staff on that topic, which has been tough, because we do not have the detail. Again, I am repeating the point, but what is proposed feels quite abstract at the moment. When we ask staff to think through the pros and cons, it is difficult for them to do so, because they do not have a lot of detail.

We would want to consult the staff on the ground and to hear from people who have lived and living experience in the justice system, and that takes time. With regard to what we are trying to achieve in relation to the research, we do not have a lot of time to play with in order to properly consult service users, staff and key stakeholders, such as the third sector. Anil Gupta touched on the issue of the wider community. Therefore, if you are asking what would make this a really meaningful piece of work, proper consultation with the key stakeholders, including staff, would be key to that.

Fulton MacGregor: Thank you.

I turn to Kate Ramsden and Anil Gupta. On the basis of what has been said, what could the committee ask of the Government in that regard? Would it be helpful for the Government to provide more information on what is proposed or are you, as organisations, happy for it to be more of an abstract concept just now and to have a full consultation at a later date? Does the justice social work aspect need to be taken out of the bill and dealt with completely separately? Those are devil's advocate questions, but I want to put them out there.

Kate Ramsden: The Scottish Government has a really good model for consultation. It carried out the independent care review that resulted in the Promise. That review took a bit of time to speak to every stakeholder, including the people who use the service, in order to come up with the kind of changes that were needed. That is what is needed for social work—the process needs to be pulled right back and we need to get the views of everybody about what is good about criminal justice social work and other social work, what works well, what does not work so well and what needs to be changed.

You are absolutely right that there is no such thing as a seamless service—the issue is how we manage the seams—and there are so many important local relationships that would be lost if justice social work was taken out of communities. So much local knowledge would be lost. That knowledge is not just about how social workers

best provide the service to service users; it is also about public protection.

All those things need to be taken into account and we need to allow social workers to talk about the purpose of their profession, the values that they want to work with and how best they can be supported to do that in a way that genuinely offers the people they work with the opportunity for change. That is in everybody's best interests. At the moment, we have the worst of all possible worlds, because we do not know enough, yet if the bill goes through, people know that there will be change but do not know what the change will look like. It needs to be pulled right back to allow all stakeholders to be properly engaged from the bottom up in what the service should look like, how it should be delivered and managed, and where the funding for that will come from. Funding is a key issue that is not being addressed at all.

Fulton MacGregor: I will ask about one of the points that Kate Ramsden made, and perhaps Anil Gupta could refer to it when he responds to the question.

Kate, you said that folk will know that change is coming if the bill is passed, but is that the case? Is that the feeling that people have? My understanding is that the bill simply allows the Scottish Government to consult, with the possibility of change. Therefore, does some work need to be done with the workforce and people who use the services to say that change is only a possibility? You were quite definite in saying that folk believe that, once the bill is passed, change will come, rather than that change is a possibility.

Kate Ramsden: I think that that is absolutely right. People are really anxious about it, because it would put all the power in the hands of the Scottish ministers. Although they say that they will consult, and I think that they believe that they will consult, what they do with that consultation is in the lap of the gods. I do not think that anybody among our members looks at the bill and believes that change will not happen. However, they feel that they do not know what that change will look like or how they can engage with it.

That is why we are saying strongly, "Withdraw the bill. Start again." The Government needs to do proper consultation—particularly around social work's involvement, because there has not been any kind of consultation process with social work services—so that we can find out what is the best way to deliver the services in order to meet the aspirations of our members, the Scottish Government and service users.

11:45

Anil Gupta: We need to recognise that the consultation is going to happen after the research

has been done. One thing that we have been pushing for is a strengths, weaknesses, opportunities and threats approach to the situation that we will be looking at in a few years' time, once the changes have been formally and properly proposed. At the moment, it is a bit of a moving target, but it feels to me that three options should be placed before people to deliberate over.

The first option is, in effect, not too different from what we currently have, with the community criminal justice arrangements that are in place. The second option would completely integrate justice social work and would provide clarity about where the responsibility for leading community justice lies. The third option would probably be somewhere in between the first two options.

Those are really important issues. COSLA spent around two years in consultations over community engagement in order to deliver a significant element of legislation. We are not putting in as much effort in this area, which has to carry with it the approval—or, at least, the consent to develop further—of the major stakeholders and partners who are currently there. At the moment, we are far away from that and we need to be pretty inclusive along the lines that the Unison representative, Kate Ramsden, mentioned.

Rather than just having a blank piece of paper, I am keen for a workshop approach to be adopted and facilitated. It should involve not only elected members but communities that face the front end of the disruption that is caused by criminal activities and offending, so that they, too, have an active role, rather than the consultation taking place in a theoretical ether, which is very difficult to engage with at the moment.

Katy Clark: It has come through clearly from all the witnesses that you feel that there is a lack of detail in the proposals. Obviously, the bill is an enabling piece of legislation, so there is not a huge amount of detail in it in general, but it gives ministers significant powers to create a new way of providing a service. It has been said that the inclusion of the sectors that we are discussing is overreach, given that they were not included in the Feeley report. Do you agree with that assessment?

Lynsey Smith: From a Social Work Scotland point of view, yes—that was what we said as part of our consultation response. We firmly believe that, alongside our colleagues in children and families services, justice social work should have been afforded the same consultation opportunity that was given elsewhere. I would use the word “afterthought”. If you are starting to think about how the proposals are landing with staff and what the temperature is among social work offices, that is certainly the strength of feeling that is out there.

Katy Clark: I have another question for Lynsey Smith. In your contribution, you said that your view was that the status quo could not continue. Our understanding of how the national care service will work is that, unlike the national health service, it will not actually provide a service or employ any staff. A lot of us who campaigned for a national care service were campaigning for a body that would provide a service, which would employ staff directly and provide a high quality of service. Our understanding of how the national care service will work is that it will commission services and, effectively, put out tenders.

I will ask COSLA about this in a minute, but I have been told by people in local government that it is unlikely that many councils will participate in the process, because of their own financial situations. When you say that the status quo cannot continue, what are your reasons for saying that? Is the top reason the funding?

Lynsey Smith: If we put the funding to the side—

Katy Clark: But is that the top problem at the moment—a lack of funding or resource?

Lynsey Smith: From my perspective, it is consistency in service delivery, although that is probably on an equal footing to resourcing and funding. Consistency in service delivery is key, however. The 32 local authorities currently operate with variances across the service, and there is very good reason for that. We are dealing with some justice social work offices that are trying to offer a service across islands, for instance. There will absolutely be variances in what service provision looks like across the country.

From a leadership point of view and a Social Work Scotland point of view, we are very much aligned to the justice vision for Scotland. We would align ourselves with a lot of the principles around prevention and early help for those who are on the periphery of the justice system but who are trying to exit from it.

I will give you an example. We have rolled out electronic monitoring of bail across the country. That has been quite difficult to facilitate, because we have very much acted as a single point of contact within justice social work, working with the 32 local authorities to introduce the change. As a chair, I do not have authority over local authority decisions, but we have used various methods of leadership to try and get local authorities to a place where they are able to introduce it.

Naively, we might assume that, if we had one central point of contact that could potentially deliver and set the direction in a clearer way, that might offer something, but that is where my main frustration lies.

Katy Clark: That is helpful.

I ask COSLA to comment on what is being said about consistency. What does COSLA view as the major challenges? Are they resources and funding, or are there other issues? To what extent are there discussions in councils about how to proceed if the proposals, as we understand they are likely to operate, go ahead? What does that mean for the future of local government involvement in such services?

Anil Gupta: There is quite a lot of detail in those multiple questions; I am not sure that I am in a position to answer them all.

I will try to deal with the first point, about consistency. Councils are certainly keen to ensure consistency in outcomes—not necessarily in services per se. As Lynsey Smith has already said, that depends on geography, to some extent, when it comes to how to meet the various challenges of providing services locally. Our view is that managing the local challenges is best done locally. We will find some difficulties in cookie-cutting services and applying them in local areas. We contend that the principle of keeping things as local as possible is not just about efficiency and the best way of dealing with things; it is also about community ownership of the issues and ensuring that accountability is maintained.

That is one point. Linked to that—as you have already highlighted—the lack of resources across the piece happens to be an issue. Partly because we are told this by chief social workers, we are more than aware that there are difficulties with workforce recruitment and retention. I am not at all clear that those difficulties would necessarily disappear once there is a national arrangement. It is equally possible to argue that having a single employer—if that is the way that things are going to go, although it is all very theoretical—would create the possibility of moving people around significantly, changing their terms and conditions, so that holes could be plugged across the country. However, that might itself act as a disincentive to people to work in the area.

Please excuse me, but I do not know the answers about commissioning or where local authorities would wish to go. Part of the reason for that is that we have not had firm enough proposals to consult with those who lead on community justice and criminal justice in local government. The last meeting that we had to discuss some of the basic issues was facilitated back in November 2021. We have been taken a little bit by surprise by the last-minute insertion of social work overall into the consultation documents, and particularly community justice and criminal justice.

I know that elected members are interested in engaging. As a representative body, we would

obviously wish to bring members together, and that is one of the reasons why I was talking about workshops being an important way of getting to the sort of detail that you are talking about on allied services and multi-agency crime prevention community justice approaches, which should be brought to the table and chewed over properly.

Within this broad area, we have highlighted housing and employability as remaining with local government, but we also have significant powers with the award of contracts to ensure that they are inclusive and that they help to recruit people who are in danger of reoffending. We also have welfare benefits roles and access to resources—and there is the education area on top of that. There are complexities here.

Going back to the principles, we are actively involved in the national strategy for community justice: we want to see it delivered, and we want to concentrate on what people are trying to do by way of a change, so we can start to deal with the original observations from the McLeish commission that we overimprison people, rather than concentrate on structural reform.

Katy Clark: I appreciate that you are speaking for COSLA and that, because we do not have any detail, it is very difficult for you to respond. If the model was a commissioning model and if responsibility was taken away from local government, such that local authorities would have to enter into a tendering exercise, could there be a risk that local government, or at least some councils, might not get involved in that?

Anil Gupta: I do not know—

The Convener: I gently ask witnesses to keep their answers as succinct as possible. That will allow us to ask as many questions as we can.

Anil Gupta: We would need to ask. On employability, I am aware that, when councils were able to put in tenders for the delivery of services, some chose not to, while some were successful. The diversity will be there. We would need to consult.

Katy Clark: Reflecting on the comments made by other witnesses, what does Unison feel are the major problems in this sector at the moment?

Kate Ramsden: The major problems in the sector that our members are telling us about involve a lack of funding. There is no doubt about that. Workers are talking about having to work huge amounts of overtime just to deliver a service, which never gets repaid. It is not like that everywhere, but there are real, major pressures on the system.

Morale is very low. As I have already touched on, it is very difficult to recruit and—more importantly—to retain social work staff. That is the

kind of issue that we think needs to be addressed before we try anything else.

In relation to what you are saying about the potential for the bill, there is no doubt that it paves the way for extensive outsourcing and privatisation—it enables that to go ahead. If that happens, criminal justice social workers, and other social workers for that matter, could have a change of employer every three years, when services are tendered for. Although there are already huge pressures on the system, creating that additional uncertainty and upheaval is not helpful at all for the people who are trying to deliver the service now.

I want to touch on the fact that social work was invited late to this party. It has made our members feel very demoralised and devalued that they were suddenly popped into the process without any discussion about what they actually do, which leaves them feeling that that is not properly recognised. The lack of detail is really concerning, but the bill's potential for leaving services open to privatisation and outsourcing is even more worrying.

12:00

Katy Clark: I appreciate your points about tendering, and Unison has a huge amount of experience of outsourcing and tendering processes that have not been positive with regard to terms and conditions.

Lynsey Smith made a point about consistency of service. Do you have any thoughts on whether there is an inconsistent service across Scotland? Is that a major concern? If so, how that might be addressed?

Kate Ramsden: There is a lot of talk about there being a postcode lottery, but actually, because services are currently able to meet local need, that will create differences. Anil Gupta said that the differences are in the input rather than the output. Obviously, we would want to look at that area as part of the consultation, but, as I have said many times and as I will say again, that consultation should happen before the bill is passed. We need a clean sheet. Therefore, although that obviously needs to be looked at, we should not throw babies out with the bath water, because meeting local need is essential to social work—that is what we are about.

Jamie Greene: Good afternoon to our guests. This was not going to be the question that I was going to ask, but, after listening to that last exchange, I think that it should be.

Given that local authorities have statutory duties to perform these functions, in another model where a centralised nationalised service provides

that service either directly by employing people—and becomes an employer of choice—or through some form of tendering, outsourcing or even direct awarding to preferred suppliers through a national contract or otherwise, it sounds as though the end scenario might be some form of privatisation of services that are currently delivered by the public sector. That sounds great if you are just about to buy shares in a private company that profits from that type of service, but not so great for those who currently work in it. My first question, therefore, is whether that is a genuine risk or just a perceived one. Secondly, what representations will you be making next to the Scottish Government, given all the concerns that you have voiced today and previously? I will start with Unison and then ask COSLA and Social Work Scotland to respond briefly.

Kate Ramsden: As a social worker as well as a Unison representative who works in children and families services and in children's rights, I think that you have just raised a very good question about how statutory duties and responsibilities will be managed under a new system. I have to tell you that it is yet another thing that we just do not know, and it is another thing that is creating quite a lot of stress and anxiety for our members, because we do not know how it will be managed. We do not even know how our pensions will be managed, if we are taken out of local government. There are so many unknowns, and that is just another one. My colleagues might be able to say a bit more about that.

As for representation, Unison engages with the Scottish Government at every opportunity to make the points that we have made here today on behalf of our members, because we see this as such a fundamental change and such a threat to social work. It is a threat, because it is being implemented without the ground work having been done and without proper engagement with stakeholders, as I have said before. Therefore, we will continue to make those arguments, and I hope that the committee will do so, too.

Does that answer your question?

Jamie Greene: It certainly does—it was a very honest answer. Anil, do you have any comments?

Anil Gupta: I have an observation more than anything else. A commissioning approach locks in all of your current service provision, including your strengths and weaknesses, whereas if you manage something locally, you can be much more responsive to what is going on. To my mind, commissioning solidifies things; it prevents you from revisiting your contracts until they come up for retendering, and it creates a degree of stasis in the whole system at a point when we are trying to make fairly significant changes to services and public attitudes.

Another question that will come up is who will represent the workers and deal with the issues that they face in delivering these policies. You will get the trade unions' side, but we in local government also work with the Scottish Government and the UK Government on matters such as the violent sex offenders register, access to information, data sharing and so forth. From where I stand at the moment, I find it difficult to understand how all those significant service matters would work in practice.

The other bit that still needs elucidation is the notion of the national social work agency. We do not necessarily oppose something that tries to develop training, standards, registration and the like but, because of the lack of detail in the bill, we just cannot see how it all fits in.

Lynsey Smith: Taking the convener's cue, I will not say too much, but we are continually raising these issues with the Scottish Government. It has set up a group and is procuring research at the moment, and we will be part of the panel that will assure the research and evidence as it comes through; Anil Gupta is part of that group, too, as are a number of justice stakeholders. All the issues that we have raised today continue to be raised with the Scottish Government.

Jamie Greene: My direct question to you, though, is: does this feel like we are using a sledgehammer to crack a nut? You have talked about weaknesses and strengths in the system, but would it not be better to address those weaknesses directly and get to the roots of some of the problems that social work and criminal justice social work face before introducing into the process a new tier of management that will inevitably take work from local authorities and then just give it back to them? It just seems like an unnecessary and cumbersome step in the process.

Lynsey Smith: There is a huge argument to be made for working with the system, the structure and the set of governance arrangements that are in place now. As the research and evidence come in and evolve, we will probably be better placed to decide whether that is the preferred option instead of justice being included in the national care service.

Jamie Greene: Finally, I have what you might call a simple A, B or C question. Would it be your preference to pause the bill in its entirety in order to go back and perform that much-needed consultation that you spoke of; scrap it completely because you think that the whole idea is completely bonkers; or remove the criminal justice elements from the bill and let the rest of it proceed? I guess that all those options are open to Government.

Kate Ramsden: Unison supports a national care service, but we have a very clear idea of what that should be. It should be about social care, providing status and better pay for social care workers through sectoral bargaining and so on. I do not think that the bill does any of the things that we want it to do. Unison's preference would be to withdraw the bill, start from scratch and build on the good work that is already being done on fair work, which we are very involved with and are very positive about, and on social care. We should start from scratch on our engagement with our social work members and other stakeholders. I cannot remember which option that was, but that is Unison's position.

Jamie Greene: I think that it falls somewhere between A and B. Thank you very much for that. Does COSLA have a view?

Anil Gupta: We would be in favour of a fairly radical return to what Feeley was talking about rather than this slightly less coherent approach, which pulls significant elements of social work into it. We are in favour of some of the Feeley recommendations overall, but I do not think that we would go much further than that.

How the Scottish Government wishes to respond to the evidence sessions that have taken place is up to it, but it would help us if we knew more about its positions by the end of stage 1. We would probably then be in a better position to say whether we are for this or agin it. At the moment, it is all too theoretical to be able to say either way.

Lynsey Smith: I agree—what we have just now is a framework bill. We would argue that the co-design needs to happen first, so it can inform any future legislative process. As a result, we would not be in favour of the bill continuing at the moment.

Jamie Greene: Thank you. That was very helpful.

The Convener: I call Russell Findlay.

Russell Findlay: Good afternoon to you all. From what we have heard today, it sounds as though the Scottish Government has not asked some pretty big questions, has sometimes asked the wrong questions and has provided answers that can best be described as questionable to other questions.

I find it perplexing that justice social work was not properly consulted on this. Given the fundamental and pretty serious concerns that you have all articulated in response to Jamie Greene's questions, we are pretty clear about what you want to happen.

I just want to take a step back. Do we know why the Scottish Government chose not to listen to those who know best? Do you have confidence,

given what you have said today, that it will do so now?

Lynsey Smith: I have confidence in the process that has now been put in place. We are being meaningfully engaged on the research and we have helped shape the proposal that has been procured by setting the questions that we want answered. However, we are at the start of the process; I could probably answer that question with more confidence six or 12 months hence. Certainly, we cannot get away from the points that were made earlier: this just feels like an afterthought.

We can absolutely see what happened with the Feeley review and the thinking behind that, and it is right that we consider social work in its totality, including children and families social work and justice social work. We are where we are; we have felt engaged up to a point. We have challenged what has happened, we have questioned why we were not included and we have made it very clear that we feel as though this is an afterthought.

I will leave it at that.

Anil Gupta: We think that the evidential base is not perfect. Going back to the points that were made earlier about the consultation, I will just say that what Lynsey Smith said is absolutely true. We think that the research that we are participating in is helpful and useful, but it is the wrong time to be doing it. It should have happened the other way round; this work should have been contemporaneous with the Feeley review and the work going on around the Promise, and then the restructuring issues would have followed. It should not have happened this way round.

Kate Ramsden: Obviously I cannot speak for the Scottish Government, so I do not know why this was done this way. I suspect that, as Lynsey Smith says, social work was suddenly included at the last minute. I do not know whether you have had the opportunity to look at the responses that have been made to the bill, but I think that the Scottish Government has to start listening now, because all the issues that we have raised about the bill today have already been raised by many of the respondents.

I really think that the Government has done things back to front. It needs to pull the proposals back and do things the right way round, with proper consultation now—with social workers, service users and communities at the centre of things. It should hold the bill until that has been done, because it might well look completely different after that.

12:15

Russell Findlay: That was very helpful. Thank you.

The Convener: I call Rona Mackay.

Rona Mackay: We have heard some very valid points from all of our witnesses today. The one thing that we would probably agree on is that there is a consensus for change and that everybody agrees that there are huge issues with the current system.

It is a mistake to think that the Government is not listening to your concerns—I think that it is. From what you are saying, the issue is one of timing. I get that, but I do not think that there is any value in trying to backtrack; we just are where we are now. I do not think that there is any possibility of the bill being rushed through and your concerns being ignored. We should always bear in mind that the bill itself is a framework bill to allow the Government to start the process of change. The co-design part of it is where you come in. That said, I get your point about timing, and I am not disputing it.

You have answered questions on a lot of things. My question now is: if more consultation and engagement were offered to you at this stage, would that allay some of your concerns? Would it allay some of the concerns of your members, Kate and Lynsey, and those of COSLA? It is a matter of being realistic, given the point that we are at.

Lynsey Smith: Yes, it would allay concerns, because more consultation and engagement would give folk time to start thinking through the implications, both positive and negative, and the opportunities. It would offer a degree of comfort, and folk would feel that their voices were being heard and that they were part of a process. The answer to your question, therefore, is yes.

Kate Ramsden: I am not sure that it would offer our members any comfort at all. The trouble with an enabling bill is that it is totally in the hands of ministers to determine what they do next. Consultation and co-design are good words, but there is no obligation on Scottish ministers to take them into account or to listen to and act on concerns. They will be able to do whatever they think is best for them. That is my problem if the bill goes through: we will not have enough of a say on how it will look, or ministers will not need to give us enough of a say. At the end of the day, Scottish ministers will have all the power over what happens.

Obviously Unison will want to engage, but we would prefer to do so without the bill going through, because we would then feel that the consultation was genuine, that the Government was genuinely listening to our voices and that all

of that would be included in the final outcome, just as the independent care review took all of that into account.

Rona Mackay: I am just struggling to understand why it would be in the Government's interests to do its own thing and not listen to you. I do not think that that is what is intended. It does not make sense that the Government would not take into account what you are saying. I come back to the issue of timing, which is something that we cannot really do anything about just now.

Anyway, thank you. You have made good points.

Kate Ramsden: The Government could pause the bill. Even if it did not withdraw it, it could pause it. That is what people are calling for, but the Government is not listening to them and that does not give us a lot of confidence that it will listen to other things.

Anil Gupta: We are not sceptical about the willingness of those in the Scottish Government to listen to our concerns about criminal justice and community justice, and the research work and the consultation that will follow will, we hope, provide useful material for us. However, the Scottish Government and local government have shared competency in this area and the bill does not acknowledge that. Instead, it leaves it to ministers to decide where justice will go. The best that we have been able to get—which is still useful—is for the research findings to be presented jointly to the Scottish Government and local government.

However, the real issue for the committee is whether you will be satisfied with the degree of scrutiny that will be available to you, should the bill as framed be passed, given that there will be only secondary legislation and no financial memorandum. The committee's commitment to, and interest in, improving and transforming community justice is, I assume, the same as ours. However, a major factor in that will not be subject to the degree of scrutiny that the committee would probably wish for.

Rona Mackay: For what it is worth, I think that your idea of holding workshops is a good one.

Collette Stevenson: I asked earlier whether the Minister for Mental Wellbeing and Social Care could give evidence to the committee so that we could scrutinise him on the review of adult social care. I know that he has attended other committees, but the committee could scrutinise him on this particular area of criminal justice social work and community justice. Given what you have told us today, what key questions should the committee ask of the minister? That question is for Lynsey Smith first.

Lynsey Smith: It is a good question, but again, it is difficult to answer, because it feels as though it is something abstract. I would ask the minister about his vision for the delivery of justice services and what opportunities he sees in an NCS structure that do not currently exist in local authorities. We cannot get away from the finance and resource issues that we face, so I want him to consider what opportunities he might see in relation to the resourcing and funding of justice social work in a national care service. Those are the two big areas that I would ask him about.

Anil Gupta: I am not very au fait with the area of mental health, but COSLA would reflect some of the other questions that have been raised, such as whether it is best to spend resources on restructuring or on services.

The Convener: Do you want to bring Kate Ramsden in, too, Collette?

Collette Stevenson: Yes. I am sorry—she had disappeared from the screen and I was not sure whether she was still there.

The Convener: Kate, did you want to come in briefly?

Kate Ramsden: Yes. I agree with what was suggested in the question. We know that mental health is a big issue and that lack of mental health services is endemic across the country. Therefore, again, we would probably want to ask whether it would be better to put resources into front-line services and developing them instead of putting money into what will potentially be a huge restructuring process. In that respect, I echo the comments of the other two witnesses.

The Convener: We have run slightly over time. However, Fulton MacGregor wants to come in very briefly, and I must ask for succinct responses.

Fulton MacGregor: I hope that I can help you out with that, convener, because instead of seeking a response to a particular question, I want to make a point on the back of my colleague Collette Stevenson's question.

I chair the Parliament's cross-party group on social work. About a month ago, the minister Kevin Stewart was in front of us for what was, I have to say, a very good session on the national care service, and he took a range of questions from people across the social work sector who were excited or were anxious about the proposals. It is up to you, convener, but if it would be helpful, I can make the minutes of that meeting available—they are available anyway—to committee members and witnesses today.

The Convener: Thanks very much, Fulton. We would welcome the opportunity to hear more about what was discussed.

I must bring the evidence session to a close, because we are running over time. I thank all our witnesses for joining us today. We will summarise the views that have been shared this morning and send them in a letter to the Health, Social Care and Sport Committee, which is the lead committee for the bill.

Our next meeting is on Wednesday 7 December, when we will hear from the Cabinet Secretary for Justice and Veterans on the UK Government's Northern Ireland Troubles (Legacy and Reconciliation) Bill.

As previously agreed, we will now move into private session.

12:25

Meeting continued in private until 13:05.

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