



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 24 May 2023

Session 6



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Pàrlamaid na h-Alba

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CRIMINAL JUSTICE COMMITTEE

16th Meeting 2023, 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:

Kirsty Anderson (Scottish Government)
Tom Arthur (Minister for Community Wealth and Public Finance)
George Burgess (Scottish Government)
George Dickson (Scottish Government)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 24 May 2023

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): A very good morning, and welcome to the Criminal Justice Committee's 16th meeting in 2023. There are no apologies.

Our first agenda item is a decision on taking business in private. Do we agree to take in private item 8, which is consideration of our draft annual report?

Members *indicated agreement.*

Economic Crime and Corporate Transparency Bill

10:00

The Convener: Our next item of business is consideration of the legislative consent memorandum on the Economic Crime and Corporate Transparency Bill. I am pleased to welcome the Minister for Community Wealth and Public Finance, Tom Arthur, and three of his Scottish Government officials: Mr George Burgess, director, agriculture and rural economy; Mr George Dickson, team leader, defence, security and detect and disrupt; and Ms Kirsty Anderson, solicitor, directorate for legal services. I refer members to paper 1.

Before we start our questioning, I want to make members aware of one point. Late yesterday afternoon, the Delegated Powers and Law Reform Committee published its report on the LCM—its 32nd report of 2023. The report, which was circulated to this committee's members as soon as it was published, makes a series of points that are mostly about the powers in the bill for a United Kingdom secretary of state to make regulations in devolved areas, with Scottish ministers' consent. The DPLR Committee wants the Scottish Parliament to have the opportunity to scrutinise Scottish ministers' consent decisions when such situations arise.

On that note, I invite the minister to make some opening remarks, after which we will move to questions.

The Minister for Community Wealth and Public Finance (Tom Arthur): I thank the committee for the opportunity to address members on the legislative consent memorandum on the UK Economic Crime and Corporate Transparency Bill. The Scottish Government corrected the memorandum by letter on 19 May to say that paragraph 115 should refer to amendment 77L instead of amendment 77B.

The bill is the second part of a UK-wide legislative package to prevent the abuse of UK corporate structures and to tackle economic crime. The Scottish Government fully supports the bill's policy intention, and the bill itself follows on from the Economic Crime (Transparency and Enforcement) Act 2022, which received royal assent on 15 March 2022.

The Scottish Government welcomes the constructive engagement that it has had with UK Government ministers and officials on aspects of the bill and subsequent UK Government amendments that impact on devolved areas. The legislative consent motion recommends giving

consent for the majority of the bill but withholding it from some provisions in the meantime, in the hope that issues can be resolved through engagement with the UK Government. Such an approach is recommended, because the provisions of amendment 77L, which would introduce proposed new schedule 6 to the 2022 act, and proposed new section 303Z42 of the Proceeds of Crime Act 2002, as inserted by schedule 7 to the bill, fall within the Scottish Parliament's legislative competence and provide for the power to make regulations without consent.

The Scottish Government remains acutely aware of the Scottish Parliament's consistent view on delegated powers that relate to devolved matters. There has been progress on that in the bill's provisions on the register of overseas entities and Scottish limited partnerships, and we continue to explore the issue with the UK Government.

The policy objective of the register of overseas entities is to tackle money laundering by shedding light on who benefits from that property. The register itself is UK-wide. The Scottish Government is committed to improving transparency of those who own and control land in Scotland; we fully supported UK-wide emergency legislation that was introduced following the invasion of Ukraine last year and which established the register, and the bill includes provision to address gaps and loopholes that have been identified since the register's introduction. Most of the amendments are technical and procedural, and a number are designed specifically as anti-avoidance measures to close loopholes that have been identified in relation to trusts. Those are exactly the kind of measures that we support to ensure that the register of overseas entities captures the most opaque of entities.

Elements of the register fall within the Scottish Parliament's legislative competence and therefore require consent. We fully support the policy and issues that the provisions address, but at this stage the draft legislative consent motion recommends withholding consent from one of the provisions that was introduced at the Lords Grand Committee by amendment 77L. That is because it contains the power for the secretary of state to make regulations without any requirement to seek the consent of Scottish ministers, and without any restrictions being placed around the use of that power.

Although limited partnerships, including Scottish limited partnerships, are used for a range of legitimate business purposes, they have also been exploited by criminals for illegitimate purposes such as money laundering. The changes made by the bill include the introduction of a power for the courts to wind up limited partnerships in the public interest when such a move is just and equitable.

For Scottish limited partnerships, such action by a court would come about following a petition by the secretary of state with the consent of Scottish ministers or following a petition by Scottish ministers. That is a welcome addition to the arsenal of weapons for tackling the abuse of limited partnerships.

There will be a regulation-making power that enables the secretary of state, with the consent of Scottish ministers, to make provisions governing the process of winding up Scottish limited partnerships in the public interest. The bill also includes provisions relating to the winding up of dissolved partnerships, notification requirements where there are concurrent proceedings and regulation-making powers to amend such notification requirements. The Scottish Government supports strengthening transparency requirements and action to tackle the abuse of limited partnerships, including Scottish limited partnerships, by expanding the winding-up provisions.

I now turn to the bill's justice-related provisions. They are principally intended to strengthen powers to tackle economic crime and illicit finance, policy goals that the Scottish Government shares. The bill amends the Solicitors (Scotland) Act 1980 to remove the existing statutory limit on financial penalties that can be imposed by the Scottish Solicitors Discipline Tribunal for disciplinary matters relating to economic crime offences as defined by the bill. That change provides for a greater deterrent against money laundering and economic crime in respect of legal services in Scotland, while also providing for parity with England and Wales.

The bill includes provisions to strengthen the Proceeds of Crime Act 2002—POCA—to tackle the unlawful use of crypto assets. It also aims to make it easier for relevant businesses to share customer information with each other for the purposes of preventing, investigating and detecting economic crime by disapplying civil liability for breaches of confidentiality when information is shared for that purpose. It also aims to reduce unnecessary reporting by business and includes new powers for law enforcement to obtain further information to tackle money laundering and terrorism financing. It provides law enforcement agencies with additional powers so that they can seize, freeze and, ultimately, recover crypto assets that are the proceeds of crime or which are associated with illicit activity. That includes money laundering, fraud, ransomware attacks or terrorist financing.

The bill updates the criminal confiscation and civil recovery regimes under parts 3 and 5 of the Proceeds of Crime Act 2002 to ensure that they can be used effectively in tackling serious

organised crime in relation to crypto assets and crypto asset-related items. Clause 167 of the bill introduces schedule 6, which amends POCA to make provision in connection with crypto assets and criminal confiscation orders following a criminal conviction in relation to persons who benefit from criminal conduct.

Clause 168 of the bill introduces proposed new schedule 7, which would amend POCA to create a new regime for the civil recovery of crypto assets and crypto asset-related items that have been obtained through unlawful conduct. Importantly, the provisions include the power to seize exempt property, with senior officer approval, if there are reasonable grounds to suspect that it includes crypto asset-related items such as laptops, wallet keys or codes that would assist law enforcement agencies in accessing the crypto assets. The initial detention period would be 48 hours, and that would be subject to further detention periods of 14 days at a time with court approval.

POCA is a UK-wide regime that relates to reserved and devolved matters. For example, powers on money laundering and drug trafficking are reserved to the UK Parliament, but the power on fraud matters is devolved. As the general approach of POCA is to keep a consistent regime across the UK jurisdictions, the Scottish Government believes that it is sensible for the proposed amendments to POCA to be made by the UK Parliament.

Separate from the POCA provisions, there is a new offence of failure to prevent fraud. The Scottish Government is keen for the new protections for victims to be realised in Scotland. Many of the relevant organisations operate across the whole of the UK, and the Scottish Government considers that the proposed UK legislation is proportionate.

I will conclude on that note, convener. I hope that the committee will support the legislative consent motion.

The Convener: Thank you very much, minister. A lot has been covered there. We will now move straight to the questioning, which I will open.

The extent and reach of the bill's provisions are welcome. It is good to see these much-needed changes to our legislative provision on preventing economic crime and protecting our corporate infrastructure, with particular reference to Scotland.

I want to pick up on a couple of the provisions. I think that I have got my head round the first of them, having spent a bit of time reading through the papers ahead of this meeting. It relates to the provision that will create new exemptions from the principal money-laundering offences, to reduce unnecessary reporting by businesses carrying out

transactions on behalf of their customers. I assume that that is possibly where the level of compliance is a little disproportionate.

I can bring you in first to respond, minister, and then I will come to my second question, if I may.

Tom Arthur: I am not sure whether George Burgess wants to come in on that.

The Convener: I am really just looking for a bit more of an explanation of what the provision means.

George Burgess (Scottish Government): Although money laundering is covered by the bill, it is a reserved area, so it is not covered by the legislative consent memorandum or the motion. We work with the UK Government in relation to money laundering, principally to ensure that any provisions work appropriately in Scots law, but the content of the provisions is reserved.

The Convener: It is reserved. Okay.

George Dickson (Scottish Government): I would add that, in our general discussions with the UK Government, we learned that its consultation with businesses was on the proposed reduction of the threshold for their reporting suspicious activity. That is where the aim comes in: it is to reduce the requirement for reporting where it is pretty clear that it is not actually needed.

The Convener: That is fine—that was my understanding.

You might want to respond in the same way to my other point, which is on the new powers for law enforcement agencies, allowing them to obtain information to tackle money laundering and the financing of terrorism. That would be quite a big new power for them, so I would like to hear some commentary on it. I wonder whether it would also incorporate international law enforcement agencies.

Tom Arthur: I will ask George Dickson to come in on that.

George Dickson: I assume that your question relates to crypto assets. The main powers for law enforcement agencies are to allow them to seize crypto-related items, which previously were not defined. On many occasions, they need to seize such items, which could include anything from a piece of paper with a password on it to a laptop. The aim is for them to be able to use those items to gain access to the crypto assets. That is the fundamental point of the provision.

10:15

The Convener: Thank you—that was helpful.

Pauline McNeill (Glasgow) (Lab): Good morning. I am trying to take this all in; I will ask a

few questions. I have always been a strong believer in devolution, so I am always concerned if the UK Government attempts to undermine devolution in any way or to act without the Scottish Government's consent. Will you say more about the UK Government's rationale in this case?

Tom Arthur: As I said in my opening remarks, the position reflects the fact that the bill covers a number of areas that involve reserved and devolved competencies. We also want to take a proportionate approach.

You will be well aware and fully cognisant of the Scottish Government's position on the UK Government's approach to a range of devolution issues, but we have had constructive engagement on the bill. Following engagement by officials and ministers, the UK Government brought forward amendments. The legislative consent motion does not propose consent to the entire bill, but we hope that further discussion will provide the opportunity to remedy our outstanding concerns. Scottish ministers will meet their UK counterparts to engage later this week.

I recognise that timescales are tight now, but a constructive approach has been taken to ensure that we respect the devolution settlement and recognise that, in a bill that is as complex, substantial and long as this, issues might arise as a result of discrepancies or inconsistencies with the principles that we want to be upheld. Through a constructive process of engagement with the UK Government, we have remedied a number of issues. I hope that we will be able to do that with the outstanding items.

George Burgess: The minister has covered the situation well. There is no great policy difference between the Administrations or any great constitutional battle. We are trying to get to a sensible and reasonable position. We have identified in the memorandum some cases where—strictly speaking—we could have taken more of a purist approach and said that we absolutely required consent but, in recognition of the circumstances in which powers are likely to be used, we have opted to say that consulting will be sufficient, given the shared policy goal of tackling serious crime.

Pauline McNeill: Thank you—that is helpful.

My next question is unrelated. The bill will remove the statutory fine limit and allow the Scottish Solicitors' Discipline Tribunal to set its own limits on financial penalties that are imposed for economic crime disciplinary matters. Traditionally, Parliament has set fines and fees for all sorts of disciplines—the Accountant in Bankruptcy comes to mind. It is right for Parliament to set some fines, because that is more

democratic and allows people to see clearly how fines have been set.

In principle, I am not in favour of organisations setting fine limits for crime. You can correct me if I am wrong, but I think that this measure is in the context of financial penalties for economic crime disciplinary matters. That is surely a matter for Parliament and not for an organisation.

I certainly do not want to go down such a road. I oppose some fees being set by professions and I can think of lots of examples in relation to that. I know about the Accountant in Bankruptcy because it sets extraordinarily high fees for individuals who are trying to recover from their indebtedness. It is more democratic to let Parliament decide. I ask about the provision in the bill because I am sure that there is a reason for it.

Tom Arthur: I recognise the point that you make. The bill will strengthen deterrence, as I said in my initial remarks. It will also create parity with the equivalent regime in England, and safeguards will be in place. George Burgess or Kirsty Anderson might want to add to that.

Kirsty Anderson (Scottish Government): The only thing that I will add is that the fine is unlimited in England and Wales, so the provision is just to make the approach consistent across the board.

George Burgess: The Regulation of Legal Services (Scotland) Bill, which is now before the Scottish Parliament, would give it a further opportunity to examine the issue if it wished to make any further adjustment to the provision. We recognise, though, that using the Economic Crime and Corporate Transparency Bill at Westminster will provide an early opportunity to close the quite significant gap between the law in England and that in Scotland.

Pauline McNeill: That all sounds perfectly reasonable, but why can the Scottish Parliament not just set an unlimited fine? The point that I am driving at is that the profession itself is going to set the fees for disciplinary matters. Are you saying that because English firms set their fines there is parity there?

Tom Arthur: As I said, the provision is about setting the fines, but it is also aimed at strengthening the measures that are in place to act as a deterrent for the behaviour that we are trying to reduce.

Pauline McNeill: I am fully supportive of that notion. My concern is about one micro-element: why would we not want the Scottish Parliament to set the fees? Why would you want the profession to set them? That is the bit that I do not understand. Is that where there is to be parity with England? I get the bit about unlimited fines, which makes absolute sense here.

George Burgess: I am not aware that any of the provision deals with fees; it is simply about fines, so that, where solicitors have facilitated economic crime, the disciplinary tribunal can give them rather more than a slap on the wrist.

Pauline McNeill: I apologise—I meant fines. We are talking about a statutory fine limit.

George Burgess: We would want to ensure that there is not any internal market within the UK such that it is easier to get a Scottish solicitor to—

Pauline McNeill: I do not know whether I am making myself clear enough. I will finish on this point. The note that I have clearly talks about a measure removing

“the statutory fine limit to allow the Scottish Solicitors Discipline Tribunal to set its own limits”.

It does not say that, in parity with England, it could set no limit; it says that it allows it

“to set its own limits”

on financial penalties. I would be grateful if that could be clarified at some point. Why would you want Scottish solicitors to set their own fines in relation to serious organised crime activity? I do not understand why the Scottish Parliament would not set those limits.

George Burgess: It might be better to deal with that in correspondence. I point out that we are referring not to Scottish solicitors setting the fines but to the discipline tribunal, which regulates the profession, doing so. Nevertheless, there is control through the Court of Session, to which there is an appeal route from the discipline tribunal. It is not that the fines are uncontrolled in any way.

Jamie Greene (West Scotland) (Con): I have completely forgotten what I was going to ask, but I will try to pick up the pieces and move on. I will have a second question that is linked to the one that Pauline McNeill has just asked.

My first question is on petitions to wind up limited partnerships. If I heard the minister correctly, I think that he said that the secretary of state can apply to a Scottish court with the consent or support of the Scottish ministers—I think that that was the language used—or that the Scottish ministers could raise a petition themselves. It therefore sounds as though there might be two avenues to petition the Scottish courts. What scenario planning has there been for any dispute resolution mechanism should the secretary of state intend to raise a petition but ministers disagree, or vice versa? I know that that is a minor technical point, and such a scenario might never happen, but I wonder what the process for dealing with it would be.

Tom Arthur: It is difficult to envisage such a scenario arising. There is no broad agreement on

the policy intent of the legislation, but there is a need to ensure that the processes for effecting that are consistent with the devolution settlement—hence the amendments that we requested on consult and consent mechanisms, to which the UK Government acceded.

George Burgess might want to comment on the thinking behind that.

George Burgess: Not in great detail, but I will simply say that this is the sort of thing on which we would expect there to be good liaison between law enforcement agencies and public bodies. It is going to come down to a case-by-case analysis of which body is best placed to take it forward. It might be that, in a particular case, the secretary of state, Companies House and other such bodies have been most closely involved, in which case, presumably, the secretary of the state, with the consent of Scottish ministers, would be the best way to deal with that. On the other hand, it might be that the civil recovery unit at the Crown Office had been leading on the case. Law enforcement agencies will work out between them the most convenient forum—the best way of dealing with it—to get the right effect.

Tom Arthur: I think that that is how it would operate in practice, but I am conscious that that role in statute for Scottish ministers allows for direct accountability back to the Parliament, which is a particular concern of the Parliament and something that we have sought to ensure. However, in practice, it will be as George Burgess outlined and, if such a scenario arose, there would be a great degree of co-operation and co-ordination anyway. The possibility of a dispute arising in such a context seems remote, but, of course, there would be that means of Scottish ministers being held to account by Parliament for their decisions on consent.

Jamie Greene: That is fair enough; thank you for that.

My second question follows Pauline McNeill’s line of questioning around Scottish solicitors and the regulation around that. Obviously, the Government has introduced other legislation—the Regulation of Legal Services (Scotland) Bill. What is the Scottish Government doing, given that Scotland and England and Wales have different legal and regulatory systems around the judiciary and legal services, to ensure that serious organised criminal gangs that work across borders do not see one particular environment as an easier place to do business than the other? That is a more general policy question.

Tom Arthur: As the committee will be aware, the UK Government undertook extensive consultation ahead of the introduction of this legislation, but there has been a lot of close

engagement between Scottish Government officials and UK Government officials, particularly in the Home Office. George Dickson or Kirsty Anderson might want to add something about the engagement with UK Government officials on that matter.

George Dickson: Yes, certainly. There has been an extensive conversation on all policy areas, of which there are quite a few. From our point of view, there has been close liaison to ensure that that works for Scotland.

Russell Findlay (West Scotland) (Con): Good morning. I share the convener's view that the bill is absolutely welcome. It has long been clear that Companies House can be abused by criminals and that it is not some abstract concept involving only overseas individuals or regimes; it matters here in Scotland. In fact, it is quite common to find multiple Companies House entries for individuals who are trying to hide their pasts or mask the true ownership of companies, and that includes individuals who are involved in high-end organised crimes, such as the drugs trade or VAT fraud. Therefore, it is all to be welcomed.

However, to be frank, the legislative consent motion has come to us as a committee at fairly short notice. It is highly complex. Even trying to read the report that we received last night was quite a challenge. I will try to bring it back to some simple questions. My opening question would be: given that the UK Government published this bill in September 2022, what has been the delay in getting the LCM to us?

Tom Arthur: I recognise the point that you make, Mr Findlay. We are having to operate to a challenging timetable, but, broadly, there are three elements. The first is just the complexity due to the nature of the bill itself—it is a very long bill. The second is the multilateral nature of engagement that has taken place with the Scottish Government at ministerial and official level. The third is that the bill has been subject to a significant number of amendments, up to and including the end of April. That has meant that it has been challenging to achieve clarity and to get to a position where we can consider the LCM, as we are doing today. Indeed, the LCM highlights specific areas where we are still seeking to reach the desired outcome with the UK Government.

10:30

I add that the situation that we are in reflects the fact we are dealing with a very complex piece of legislation that has been subject to a significant number of amendments. The bill does, of course, impinge on devolved competence, so the Scottish Parliament and the Scottish Government have had a role to play in that regard. The fact that we find

ourselves in this situation is a reflection of that complexity, the volume of amendments to the bill and the amount of engagement—constructive engagement—that has taken place.

I would accept that there are broader lessons that we can reflect on as regards the process between the UK Parliament and the Scottish Parliament and between the UK and Scottish Governments, but with a piece of legislation of such complexity, it is perhaps unavoidable that we will encounter such issues.

Russell Findlay: My next question is whether we have reached the end of the road with this process. If we do not agree to the LCM today, is there an option for us to put it on ice? Is there still room for negotiation between the Scottish Government and the UK Government?

Tom Arthur: We are continuing to engage with the UK Government on the outstanding issues that I highlighted earlier. Of course, the timetable for the bill will be determined at Westminster. That is the context in which we must operate.

George Burgess might want to comment more broadly on where we are with the process and the timetabling, and when the bill will reach its next stage in the Lords and the Commons.

George Burgess: As the minister said, there will be engagement—probably later this week—with UK ministers on the small number of outstanding points that remain. Our hope is that, if agreement is reached and the UK Government brings forward some further amendments to make the necessary adjustments, we would be able to lodge a supplementary legislative consent memorandum and indicate agreement to the whole bill.

However, the timescale is not in our hands. The Lords committee has completed its consideration, but I do not think that a date has been set for the Lords report. Given the number of amendments that have been made in the Lords, the bill will, of course, have to return to the Commons. There are still a number of amending stages to go, so we are not quite at the end of the road.

We hope that the approach that is being taken will mean that we are able to do this in two bites: today, in relation to the main legislative consent memorandum; and later, in relation to a much shorter and simpler supplementary memorandum. If we had come to the Parliament at a much earlier stage, we would probably have indicated that there was a much larger number of areas in which there were outstanding issues, which might have involved coming back round the course two or three or four—

Russell Findlay: This might be more of a procedural point for the clerks, but if the committee

does not support the legislative consent motion today, would it be competent or feasible for us to revisit it? Would we have time to do so?

The Convener: We will come on to that.

Collette Stevenson (East Kilbride) (SNP): Good morning. You touched on the fact that you have been in talks with the Home Office about the impact that the bill will have on devolved areas. I want to focus on whether any impact assessment has been done on the effect of the bill on the charitable sector and the Office of the Scottish Charity Regulator, which is a devolved area. It is widely known that the charitable sector and trusts have been widely used for money laundering. Could you comment on that?

Tom Arthur: You draw attention to the fact that, although there is the general reservation on business associations, beyond that, the bill strays into devolved competency, which is what has triggered the legislative consent process. George Dickson might want to add something to that.

George Dickson: There is not much that I can add. From the point of view of dealing with crypto assets, we did not consult the Charity Commission on that. I am not sure about the extent to which the UK Government consulted on that.

Collette Stevenson: I ask that question wearing two hats. As well as being a member of this committee, I am convener of the Social Justice and Social Security Committee, which is considering the Charities (Regulation and Administration) (Scotland) Bill, a significant focus of which is OSCR and the associated reporting aspects. The UK bill could have a knock-on effect in that regard.

George Dickson: Other policy officials that deal with trusts might have had engagement on that. We can check that out with them.

Tom Arthur: If there is a specific question, I am happy to follow up in correspondence to clarify that. The general broad engagement that took place in the preparation of this legislation was undertaken by the UK Government, as it is a UK Government bill, but you highlighted an area where a devolved competence comes into play—hence the LCM. As we have said previously, we generally try to have as much coherence with the regimes right across the UK, given that that is the best way to effect the desired outcome that we all share.

Collette Stevenson: Thank you.

The Convener: Do any other members wish to come in with any questions? No. On that note, I thank the minister and we will have a short pause to let the minister and his officials leave.

Our next item of business is consideration of any issues for the committee's final report on the LCM. I will open it up to members to come in with any issues that you wish to see included.

Jamie Greene: Does the report reflect that there is clearly positive dialogue between the two Governments, which is helpful in this scenario, given the subject matter? Clearly, there is some mopping up to do, which I do not have any particular view on; it is for the Governments to decide on that. It is clear that there has been some movement already, and some amendments have been proposed by the Scottish Government, which I think is fair and due process.

Russell Findlay made an important point. It was quite a meaty report that only appeared in our papers this week, it was followed up very late in the day yesterday with the DPLR Committee report and it is complex and technical in nature. I would request that we ask the Government to give us notice of complex LCMs, as far in advance as possible, to give members time to read what turned into "War and Peace" committee papers this week. That would be helpful and it might mean that we would spend less time in session discussing it.

The Convener: Thank you. Are there any other comments?

Russell Findlay: I pretty much repeat that, but I also want to understand what is expected of us today. What are our options? I am still not entirely clear.

The Convener: Stephen Imrie will probably articulate that better than me, so I will hand over to him to outline the next steps.

Stephen Imrie (Clerk): The question for the committee is really about where you stand and timing. At this stage, you are being asked whether you want to make a recommendation to Parliament on the issue of consent. Specifically, the Scottish Government has set out its views on the provisions, as they stand at this point. It is recommending consent to the provisions except in one area, in the way that the minister outlined.

This morning, you can decide whether you agree or disagree with that. Alternatively, you might decide that you are not in a position to make a recommendation at this point, given the short time that you have had to consider the matter.

Mr Burgess, though, said that he expected negotiations to be on-going and that a supplementary legislative consent memorandum would emerge at some point on those on-going negotiations. Therefore, an option might be for you to agree with the Government at this point but to await the supplementary LCM and then consider

that before making final conclusions on the matters that are still outstanding.

Fulton MacGregor (Coatbridge and Chryston) (SNP): My question is for Stephen Imrie—sorry, Stephen, it is almost like you are part of the panel.

You said that we could agree but wait. If we do that, would that mean that we were in effect consenting to what has been put before us today—which is where I would probably want to be—or would it mean that we were consenting to it with reservations?

Stephen Imrie: To be clear, the issue of consent is a matter for Parliament as a whole rather than this committee. The issue before you is what recommendation you want to make. An option that is available to you is to agree with the Government now—that is, agree to recommend to consent to the provisions that the Scottish Government is currently happy with—and then await the outcome of the negotiations that are ongoing before making your views clear on those provisions when you see the supplementary memorandum. You would be saying that you are with the Government at this point but that you are awaiting the outcomes of those negotiations before looking to see what the Government is saying about them.

I do not have information about when this will go before Parliament; that is a matter for the Parliamentary Bureau. I suspect that the Parliament will await the outcome of those ongoing negotiations rather than agreeing consent up to a certain point and then having to agree again in relation to what remains, but I do not know that for sure; we would have to wait to see what the Parliamentary Bureau recommended to Parliament. I hope that that is clear.

Russell Findlay: To come back to what Stephen Imrie suggested, it could be that there is nothing to worry about—there probably is nothing to worry about—but, given the complexity and the last-minute nature of the process, it would be nice if we could follow the suggestion to agree in principle but have the option to revisit the matter once the negotiations have concluded.

The Convener: Thanks. Those comments are helpful.

I think that we are all broadly supportive of the provisions in the bill and the spirit and content of the LCM. It appears that the UK Government and the Scottish Government have been engaging regularly and have almost reached agreement on the provisions as they impact on Scotland. I agree with the comments that have been made about the tight timescales. There is a lot for us to get our heads around and understand, and I thank our

witnesses for raising the issues—that is helpful in terms of what we include in our report.

I think that we are in agreement with the direction of travel and—at this moment in time—we agree that the Scottish Parliament should give its consent to the provisions in the bill as they are set out in the draft motion, but we should perhaps include reference to the fact that we understand that further amendments will be considered. Do members agree with that? Have I worded that correctly? Is that clear?

Stephen Imrie: We can circulate the text.

The Convener: Given that this is not the most straightforward LCM, I suggest that we move on with our agenda today, and circulate some more helpful wording so that we can be clear about where members are when it comes to our recommendation and next steps.

Fulton MacGregor: Before we move on, I want to put on record that, based on what I heard today from the minister, the answers to colleagues' questions, the information in our papers and Stephen Imrie's explanation, I would be quite happy to consent to what was asked of us today, although I am happy to follow the approach that the convener has suggested, if that will lead to a similar conclusion.

The Convener: I think that we are all on the same page; I just want to be absolutely clear about what our recommendation is, so we will come back to that at a later point.

Priorities in the Justice Sector and an Action Plan

10:45

The Convener: Our next agenda item concerns consideration of follow-up correspondence received as part of our regular review of the action plan and the priorities for reform of the justice sector in this session. I refer members to paper 2.

We have replies to our queries from the Scottish Government; the Scottish Prison Service; the Convention of Scottish Local Authorities; the Scottish Fire and Rescue Service; the criminal justice voluntary sector forum; and the Scottish Courts and Tribunals Service. I thank all those organisations for their comprehensive replies.

I will take each of the responses in turn and ask for members' observations. The first one is the Scottish Government response.

Russell Findlay: There is a lot in here, and I am sure that colleagues will cover parts that I do not. In respect of the assessment of the new HMP Stirling and the two new community custody units for women, during our visit to the prison yesterday, we were told that the University of Glasgow had just been awarded a contract to conduct that assessment work. It might be that the minister's response was written prior to that being known, but it might be worth exploring further what the terms of the process are, when it is likely to conclude and so on. I assume that it will not begin until July, as that is when HMP Stirling opens.

On the numbers of young people in secure accommodation, I cannot remember what we asked. If we only asked about numbers, then the information on page 5 of the response deals with it. However, I thought that we had perhaps asked more about the funding arrangements. From the evidence that we heard, when the provision to send young people into secure accommodation rather than prison comes into force, that will put a greater strain on bed numbers, which are limited. If I understand the situation correctly, the fact that others elsewhere in the UK are paying more for those beds might have an impact in relation to where the funding would come from to subsidise the policy in Scotland.

The Convener: My only response to that is that numbers can change day to day or week to week, so, if you are looking for that specific information, you should bear that in mind.

Russell Findlay: It is not so much the numbers, which are fluid; it is more to do with the inevitability of more Scottish spaces being required but less being paid for them. The providers have already

given evidence to the effect that that will have an impact on their viability.

The Convener: Okay, we can pick that up.

Jamie Greene: The response is dated 6 April, so it is six weeks out of date. I know that the committee has not been able to consider it until now because we have had a lot on in terms of legislation, but there might be things in it that have been updated since then, so I apologise to the cabinet secretary, if she is watching.

I have a query on the court backlog. We have spent a lot of time over the past year or so talking about clearing the backlog, but my understanding of the response is that "clearing the backlog" essentially means returning to what is an acceptable backlog rather than getting to a net clear scenario.

The response says that the aim is to return to the point where the number of cases across courts is approximately 20,000, which I presume is deemed an acceptable pre-Covid level of backlog. I want to query that. I guess what I am asking is whether the Government is therefore stating that a normal backlog would be 20,000 cases, and whether the ambition is to get to that level rather than to clear the backlog in any shape or form. All we are doing is clearing the delta between what was already a backlog before Covid and what it increased to over that period.

I just want to set expectations, because we talk quite openly about clearing backlogs, but I do not think that the public fully understand that the Government is not trying to clear the backlog but is trying simply to get back to what it thinks is an acceptable backlog of 20,000 cases in the system, which is still a lot. There were lengthy delays in the system before Covid, so I do not think that that is an acceptable response. We should be pushing for a slightly more ambitious approach from the SCTS and the Government.

I cannot pre-empt the outcome of what it will say, but I understand that an Audit Scotland report on this is due out imminently. That will give us an update on the situation since 6 April. One of the things that I am quite keen to see is where there has been improvement in the clearing of cases. We should look carefully, perhaps even as soon as in the next couple of weeks, at what that data shows us about the clearing of solemn and summary cases, and the cases that are still deemed to be difficult to clear quickly.

I suspect, although I have not seen the report, that it will tell us that the most serious cases, including those of serious violence, murder and sexual crime, are still taking a considerable period of time. I will be looking to see what the updated expectation is for clearing those cases. That was my first point.

I will jump ahead to a point that Russell Findlay raised on the number of young people being held in adult institutions. The cabinet secretary's response on 6 April said that there were eight under-18-year-olds held in a young offenders institute, but a couple of paragraphs down, it states that there is occupancy in secure accommodation. The statistics are helpful, but the wider question is, why are there under-18-year-olds, seven of whom are on remand, in YOIs, when there are places in secure accommodation?

I may be misreading the information that we have been given, but that does not add up if there are spaces in the independent secure accommodation network or elsewhere across the network. Why does the Government not want those under-18-year-olds to be in those places? I know that it changes on a daily basis, but there seems to be a pattern there that needs to be addressed.

The next page, which is page 6 of our papers, is on misuse of drugs and the work on the drug treatment and testing orders. The Government talks about the review and the final report on areas for consideration, and it says:

"We expect to report to be published in spring 2023."

I wonder whether that report has been published since the letter was produced. Perhaps we have missed it or it is due shortly. My worry is that spring 2023 in the language of Government could be as late as the last week of June, which is technically when summer starts, which leaves us no time to look at the report as a committee between now and September. I would be keen to get off-the-record knowledge of when that might be published and, if we could look at it before summer recess, that would be very helpful.

The next point that I want to raise is on deaths in custody, which are dealt with on page 7 of the paper. The Scottish Government said that it has

"no intention to create an online centralised system where delivery of the recommendations can be tracked".

There is a short response from the Government on that, but it is clearly sticking to that position. The problem that we have with that is that the families of those who have sadly lost their life in custody are looking for much more than one paragraph of a review, with respect to Ms Imery.

There cannot be lessons learned if there is no centralised system. There is a centralised system to track committee recommendations and any progress made on them, but it seems to me that, every time there is a fatal accident inquiry or an investigation into a death in custody, many of the same recommendations are made, time after time and year after year. We are quite good at tracking the Government's progress on whether it is doing what it has said that it would do, but the

Government's response will be disappointing for the families who are asking for the Government to do more and for lessons to be learned. I am hoping that the Government will expand on more of the work that it is doing in order to give some comfort to those families.

Lastly, I will address legal aid reform and the legal aid reform bill. The Government has said that it is

"committed to reforming the current system of legal aid"

and that it will do so

"within this Parliamentary Session."

In my conversations with solicitors, they have said that they cannot wait until 2026 for that reform. There are some temporary measures that are in place on fees, but that position is not sustainable and it does not provide any long-term comfort to people who are in the legal profession. I am hoping that the cabinet secretary could elaborate on what "this Parliamentary session" means from a timetabling point of view, given how busy the Parliament and our committee are already—assuming that the legal aid bill will be discussed by this committee. I am hoping that the bill will be introduced sooner, rather than later, in the parliamentary session so that we can do it justice and give stakeholders adequate opportunities to get involved in the process.

Pauline McNeill: I have three points. First, I wholly agree with Jamie Greene. I think that what matters is getting the delay to be listed as a number of weeks or days. The Criminal Procedure (Scotland) Act 1995 is clear that someone should not be detained for more than 110 days in some cases or more than 140 days in other cases. Anything above that is contrary to the 1995 act. There has been a drop in the number of such cases, so it looks as though the delays are reducing. However, the committee needs to see what that looks like: how many weeks, on average, would a person have to wait for a rape case or a sexual offence case, for example, to get to court?

My second point relates to what Russell Findlay said about our visit yesterday. I will not say too much until I have read my notes and considered them in some detail, but my overall impression, as with previous visits, was that the facility was extremely impressive. However, I am concerned about two things, which the committee should drill down on. In my view, following the Angiolini report, the model could be undermined by the number of places within the Stirling estate being 100. It has been reported that there will be 80 places, but we were clearly told yesterday that there will be 100—I wrote that down. We know that two units are to be assessed, but the report recommended five. As a result, as we discussed yesterday, some women

will be in male jails, albeit in women's wings. I totally accept that there is a geographical dimension to this in relation to, for example, Grampian—I will say no more about that because it is beyond my knowledge. However, I am concerned that the model will be undermined if only a percentage of women end up being in the part of the estate that has been designed to change the way that we treat women offenders. The committee should come back to that.

Thirdly, I will make a similar point to the one that Jamie Greene made about deaths in custody. The Government's response does not mention one of the primary recommendations, which is for families to have unfettered access to information following a death in custody. That is important, because FAs take so long. Many families have complained that they did not get immediate access to information so that they could know what happened and ask questions. That recommendation is important for families. I suggest that we follow up the issue with Gillian Imery, the chair of the action group, and ask what conversations she is having. I am particularly interested in that. For completeness, I should say that, when the matter has been discussed in the Parliament, I have asked the cabinet secretary to explain how that unfettered access would cut across any police investigation; as has been said, it is not all that it is set out to be, and it could be problematic. However, it is important for families that that recommendation be followed through.

11:00

The Convener: Before I bring in Katy Clark, I will pick up on the points that Jamie Greene and Pauline McNeill have made about the backlog. I do not know—and I probably should know—whether “backlog” means just the number of open cases in the court system at any one time or whether that is the wrong interpretation. There might be some merit in our clarifying that. If it means just the open cases, I imagine that work has been done around the figure of 20,000 being an acceptable court workload, but I am happy for us to check and confirm that.

On Jamie Greene's points about YOIs, the number of young people who are in YOIs will be due to the decisions of the courts. The Children (Care and Justice) (Scotland) Bill has not yet been enacted, so perhaps there is still a bit of a lag in that number starting to change.

I am happy to check on the progress of the DTTO report, which Jamie Greene flagged.

On Pauline McNeill's comments following our visit yesterday, we had a helpful discussion with the SPS about the models. There was reference to an evaluation process that will be introduced for

CCUs, as Russell Findlay mentioned. My understanding was that that would incorporate a wider focus. I could be wrong about that, so I am happy to track that.

I am also happy to follow up with Gill Imery on the points about deaths in custody.

Katy Clark (West Scotland) (Lab): When officials gave evidence, they said clearly that, currently, no 16 or 17-year-olds could legally be moved into secure units, because of the disposal of the court. However, it would be helpful to ask the Scottish Government for confirmation that that remains the case and for a commitment that it will continue to be the case that 16 and 17-year-olds will be held in secure units wherever possible. If, for whatever reason, that is not possible, the committee should be advised through the Government's writing to alert us to the fact that there has been a change.

I have a further point, which is about data and women in custody. The committee has discussed such issues many times and has expressed concern on numerous occasions, both publicly and in our private sessions, about the lack of data that is available to us and the difficulty in carrying out our scrutiny work when we do not have an understanding of the profile and the nature of the people who are being incarcerated in this country.

The Scottish Government's intention seems to be to reduce the number of women in custody, but, in reality, that number is increasing, and there seems to be concern that it will continue to increase. It would therefore be helpful to get more information from the Scottish Government about the profile of the women who are held in custody and the reasons why there might have been an increase. There might be a range of reasons for that. I do not want to speculate in this meeting as to what those might be, but we need an explanation from the Scottish Government.

It is far from clear whether the Bail and Release from Custody (Scotland) Bill will make any difference to the number of women who are remanded. We were told yesterday that the current figure for women on remand in the prison estate is 37 per cent. That is high, and it is very unclear whether the bill will make any difference to that. It would be useful to find out whether the Scottish Government believes that the bill will make any difference to the number of women who are held on remand and why it remains the case that so many women are being held in the prison estate.

We know that the new custody units have, at maximum, been at only 53 per cent capacity, which tells us that, at other times, they have been less than half full. The committee should write to express concern about that. I fully understand that

the issue has now been raised and that the Scottish Prison Service is considering it, but those custody units have been open since August.

Committee members were very impressed by what we saw when we visited the units—there has clearly been massive investment, financially and in other ways, in those facilities, so it is important that they are a success. We should express our concern in the strongest terms about the fact that they have not been used to their full capacity and call for urgent action in that regard.

We know that people are put in custody not just because of the legislative framework but because of the lack of alternatives to custody. In relation to the alternatives to remand reference group, we need a great deal more detail about what the Scottish Government is doing to ensure that there are genuine and robust alternatives to custody. We know, for example, that people who are given community service orders are often not required to carry out the measures that are set out in their sentence.

We need a shift in resources into alternatives to custody if the Scottish Government is to be successful in enabling the courts to dispose of cases in other ways. When we look at the budgets, we see that the money for that is not being provided. The direction of travel is the wrong one: the amount of money that has been provided for alternatives to custody is going down instead of up. We should express in the strongest terms the need for the Scottish Government to shift resources now if it is to have any success with its stated strategy.

The Convener: A lot was covered there. You are right to say that there are opportunities and challenges. I note your point about data collection, which will be relevant to our work on the Victims, Witnesses, and Justice Reform (Scotland) Bill.

I note your extensive comments about the women's prison estate. I think that there is a role for the committee in the matter, and I will look to take that work forward either as part of our work programme or as an additional piece of work.

I am conscious of the time, as we still have a number of pieces of correspondence to work through, but I will bring in Rona Mackay.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I will be quick. I agree with a lot, if not all, of what Katy Clark said. First, regarding women going to the custody units, I have heard that there might be an issue relating to eligibility criteria. It would be useful to ask whether eligibility has been set too high and whether the criteria are realistic. We should definitely chase that up, as well as Katy Clark's points about remand, data and so on.

Secondly, we have talked about young people being put in YOIs instead of secure care when there is capacity in the latter. I understand that point, and it would be useful to find out why that is happening. The situation might change when the new legislation is passed, but that really should not be happening now anyway.

Lastly, a thread runs through many of the responses, in that there are references to reviews and reports being published in spring. It might be helpful for us to have a wee table of stuff—I do not want to put more work on the clerks; the Scottish Parliament information centre might be able to produce it—so that we know what is coming, what is late and what is expected, because there are so many reviews and reports out there.

The Convener: That is helpful. I flag that, yesterday, we covered the evaluation of the CCUs that will be coming forward. I am sure that that is of interest to you.

I note your point about YOIs, and your suggestion about our being prepared for what is coming down the line is helpful.

I do not want to curtail debate, but we have five more letters to consider and a lot to get through this morning. If there are specific points that members want to follow up, or if they want to remark on the other pieces of correspondence, I will bring them in.

Russell Findlay: I will be quick. I have some specific questions about in-cell telephones, which are referred to in the letter dated 26 April. The letter says that the relevant work in all establishments should be completed by the end of April, which was last month. It would be useful to know whether that happened.

The context is also important. We know that more than £4 million was spent on providing mobile phones initially during Covid, but we also know that that was abused on more than 7,000 different occasions by more than 4,000 prisoners. Those phones were also used in the commission of some serious crimes.

My questions are about the cost of in-cell telephony. Will it replace the mobile phones or will the two types of phone run in tandem? I think that it is safe to assume that it will replace the mobile phones, but the letter does not state that. If it is the latter, how much will it cost to run both schemes? Crucially, given the problems with the mobile phones that we were told would not happen but did happen, what measures is the SPS taking to ensure that the in-cell telephony will not be abused in the same way?

The Convener: That is noted. Thank you.

Katy Clark: My points, which are about data, relate to the letter from the Scottish Prison Service

dated 26 April. The terms of the letter are general but they relate to areas in which the SPS has data.

When Teresa Medhurst appeared before us, she said that the SPS could provide the committee with more data. We cannot wait for the Victims, Witnesses, and Justice Reform (Scotland) Bill to get more data so that we can do the job that we have been tasked with. I suggest that we write to ask Teresa Medhurst if she could look at what data the SPS could share with the committee, because she made it clear that further data was available and, from talking to people in the system, my understanding is that there is a great deal more data that we have not seen that could easily be shared with us. We should write with that specific request.

The Convener: Thank you, Katy. We can have a wider discussion about that under agenda item 6.

Collette Stevenson wants to come in.

Collette Stevenson: My point is about purposeful activity. The letter from the SPS says that it is

“currently undertaking a post covid recovery activity review.”

I would be keen to follow that up and find out exactly what the SPS is doing.

The other thing that I picked up on is that purposeful activity includes work placements outside prison. That would relate to the open prison. It was mentioned earlier that we are only using 50 per cent of the open estate’s capacity. I am keen for that to be monitored and to find out whether that figure has increased and, if not, why it is still not at full capacity.

The Convener: I am aware that that has been a gradual trend in the open prison estate’s capacity, so I would be happy to follow that up and ask for some more information.

Does any member want to make any further points on any of the correspondence?

Jamie Greene: I will try to rattle through the letters. On the SPS letter that we have just discussed, I have the same question as Russell Findlay on in-cell telephony.

My second point is about purposeful activity. There seems to be a bit of confusion around what the reality of that is versus what the law says. The letter gives the impression that purposeful activity is available to all prisoners. That point was reiterated during last week’s scrutiny of the Bail and Release from Custody (Scotland) Bill, when the cabinet secretary said—I am just checking the *Official Report*:

“Prison rules do not exclude remand prisoners from work or purposeful activity, and the Prison Service will, where

possible, offer access to work and educational opportunities to those on remand.”—[*Official Report, Criminal Justice Committee*, 17 May 2023; c 57.]

I wonder what the reality is on the ground versus what it says in the letter and what we were told. If nothing else, there seems to be a perception that remand prisoners participate in much less purposeful activity, including education, counselling, training and work. I appreciate that, when it comes to forcing someone to work, there is a difference between someone who has been sentenced and someone who is on remand, but we need more clarity around that because the situation is a bit unclear. The perception and the reality seem to be two different worlds.

11:15

We cannot look at the correspondence without noting the letter from COSLA, in conjunction with community justice partners. It is quite detailed and a lot of work and time have obviously gone into it. The letter is quite stark and makes clear something that we already know through budget analysis, which is that almost every aspect of the justice sector received more money in the 2023-24 budget than in the 2022-23 one, with the exception of criminal justice social work, which had a flat cash settlement despite pre-budget scrutiny that warned of the consequences of that.

The letter goes into great detail, which I will not go into, about what the consequences might be. In effect, we are talking about a substantial real-terms cut, year on year, in the criminal justice social work budget. The letter makes it clear that that cut makes it incredibly difficult for COSLA and its council partners to deliver the Scottish Government’s national strategy for community justice and that it widens

“the existing ‘implementation gap’ between national policies/legislation and local delivery”.

I know that that sounds like technical jargon, but it is a really important point. It is all very well having a national ambition, but if the people on the ground who are tasked with implementing that are saying that they cannot do it with what they have been given, there is an issue. I would like the Government to respond in detail to this specific letter from COSLA and local criminal justice social work. It is the kind of letter that the Government ought to reply to, and its response should also come to us. The conversation is not just about money: the letter goes into workload and the issue of people retiring.

My last point is about the letter from the Scottish Fire and Rescue Service, which was short and sweet. I note that the deputy assistant chief officer writes that

“50 per cent of all operational staff ... have voluntarily completed the training”

on overdose awareness. It is not quite clear from the letter how many operational staff actually participate in the scheme or carry pouches of naloxone to administer. There must be some difference between the number who have done the training and the number who actively hold the product. The letter just says that

“there has been limited progress”,

but 50 per cent does not sound like limited progress. There is clearly a difference between the number doing the training and the number carrying the product, and it would have been helpful if the fire service had been more explicit about that.

I feel slightly nervous about language that says that a delivery plan will be in place once

“broader agreement to deploy is confirmed”.

Agreement with whom? I presume that that means front-line workers or their union representatives, but it is a bit unclear and I can only read between the lines. It would be very helpful if the fire service could keep us up to date.

The Convener: You covered quite a bit there. You are right to say that the correspondence that we received from COSLA was comprehensive and helpful, and I would be happy for us to share it with the Government. We can, of course, monitor progress at the Scottish Fire and Rescue Service in relation to its roll-out of naloxone. Thank you for those points.

Russell Findlay: Are we finishing up, or can we refer to the other letters?

The Convener: If you have specific action points in relation to any other correspondence, please flag those so that we can note them and take them away.

Russell Findlay: I will be selective. The letter from the Scottish Courts and Tribunals Service says:

“SCTS successfully achieved customer service excellence”.

I have no idea what that is, so it would be good to know. We have asked the SCTS about its complaints process and been told how wonderful it all is, but there is no data about the number of complaints, whether that number is going up or down, or how complaints are resolved. That might be interesting to know.

I have a few other points about the letters from COSLA and the SFRS, but I will leave those for now.

The Convener: That concludes our scrutiny of correspondence on the action plan.

Subordinate Legislation

Discontinuance of Cornton Vale Prison (Scotland) Order 2023 (SSI 2023/132)

11:19

The Convener: Agenda item 5 is consideration of a negative instrument, the Discontinuance of Cornton Vale Prison (Scotland) Order 2023 (SSI 2023/132). I refer members to paper 3.

Before we discuss the instrument, I thank Teresa Medhurst and her team at the Scottish Prison Service for a really interesting and informative visit to the new national women’s prison at HMP YOI Stirling earlier this week. It was good to visit the prison before it opens and learn a bit more about how it will differ from the previous facility at Cornton Vale, particularly around the more trauma-informed and person-centred environment that the women will be in when the prison opens.

The purpose of the instrument before us today is to formally discontinue the prison of Cornton Vale on 6 June 2023, which is the day that the order comes into force. The discontinuance order is the formal legal act that is required to reflect the fact that a prison has ceased to operate. Do members have any recommendations that they wish to make in relation to the instrument, which will otherwise come into force?

Russell Findlay: I would quickly like to put on record my appreciation for yesterday’s trip to the prison and to thank the official who answered so many questions. It was fascinating. Seeing the new building alongside the old one showed the contrast quite well. It is also worth putting on record our appreciation for the staff. There is a board up in the new prison that shows that some members of staff have more than 40 years of service, with others having 20 or 30.

It is also worth noting that, over the years, many women took their own lives at Cornton Vale.

Jamie Greene: I apologise for being unable to make the visit. I wonder whether the SPS would be willing to host members of the committee who were unable to make that visit. It would be very interesting to get a proper tour of the prison, perhaps once it is operational. I know that that would make it slightly more difficult, but there is certainly a willingness among members to go back or to attend for the first time.

Obviously, the SSI is a legal instrument, which means that the site can be used only for a prison building. Has the Government indicated what its plans are for the old building or the wider site? That question might have been answered

yesterday—it probably was, as I imagine that someone will have asked it.

The Convener: I think that it was, but I have forgotten what the answer was. I will bring in Stephen Imrie, who will remember.

Jamie Greene: If it is no longer being used as a prison, what will happen? Will it just be demolished and remain Government property?

Stephen Imrie: As we saw yesterday, the buildings on, I would say, about three quarters of the site have all been knocked down and replaced by the new HMP YOI Stirling. There are a couple of buildings that remain of the old Cornton Vale, but it was indicated yesterday that those, too, will be removed over the next year and replaced by new parts of HMP YOI Stirling. Essentially, on what used to be the site, and on the same footprint, all the previous buildings relating to Cornton Vale are to be demolished and replaced by new buildings for HMP YOI Stirling.

Jamie Greene: I am sure that that will become clear when I get to visit. Thank you for that.

The Convener: We can certainly follow up on your request for a visit. I think that it would be very worth while for members.

Pauline McNeill: As other members have said, it was an excellent visit. John Docherty, who has hosted us twice now, answered thousands of questions, so I found it really informative.

For completeness—I mentioned this earlier—we were clearly told that there were 100 places, and I wanted to note for the record that the note that we have says that it is

“a new national prison for 80 women”,

so there is a disparity of 20 somewhere along the line.

The Convener: We will pick that up.

Fulton MacGregor: Like others, I will take the opportunity to put something on the record. This is quite a historic moment, which will possibly—I certainly hope that it will—mark a real change in the culture of how we deal with women’s custody and justice in Scotland.

For anyone who has had any involvement in the criminal justice system, either as a user of services or through working in that sector, Cornton Vale is synonymous with Scottish justice and is therefore almost a household name. As Russell Findlay alluded to, over the years, it has not always had the best reputation, but that is nothing to do with the staff who work there. I want to put on record my thanks to the staff.

What we are seeing now is a real change in how we approach women in the criminal justice system, which can only be welcomed. Given the

institution’s status in Scottish society, I thought that it was important that I put on record my acknowledgement of that change and my thanks to all the staff who have worked there over the years in what must have been some very difficult circumstances.

The Convener: Thank you, Fulton. I, too, give my grateful thanks to the Scottish Prison Service and its staff for their commitment over the years at Cornton Vale. We certainly look forward to hearing about progress as the new facility opens.

That concludes our business in public this morning. We now move into private session.

11:26

Meeting continued in private until 12:27.

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