



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Public Audit Committee

Thursday 2 May 2024

Session 6



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Pàrlamaid na h-Alba

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PUBLIC AUDIT COMMITTEE

14th Meeting 2024, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Jamie Greene (West Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Catriona Dalrymple (Scottish Government)

Teresa Medhurst (Scottish Prison Service)

Gerry O'Donnell (Scottish Prison Service)

Allister Purdie (Scottish Prison Service)

Neil Rennick (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The James Clerk Maxwell Room (CR 4)

Scottish Parliament Public Audit Committee

Thursday 2 May 2024

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Richard Leonard): Good morning. I welcome everyone to the 14th meeting in 2024 of the Public Audit Committee. The first item on our agenda is to ask whether the committee agrees to take agenda items 3, 4 and 5 in private. Are we agreed?

Members *indicated agreement.*

Section 22 Report: “The 2022/23 audit of the Scottish Prison Service”

The Convener: The main item on our agenda is further consideration of “The 2022/23 audit of the Scottish Prison Service”, which is a section 22 report. Our witnesses are representing the Scottish Prison Service and the Government. I welcome from the Scottish Prison Service Teresa Medhurst, who is the chief executive; Gerry O’Donnell, who is the finance director; and Allister Purdie, who is the interim operations director.

I also welcome from the Scottish Government Neil Rennick, who is the director general for education and justice, and Catriona Dalrymple, who is the director of justice.

We have a number of questions to put to you this morning. Before we turn to those questions, I will invite Teresa Medhurst and Neil Rennick to make short opening statements, and I begin with the chief executive of the Scottish Prison Service.

Teresa Medhurst (Scottish Prison Service): Thank you very much and good morning, convener and members of the committee.

My colleagues and I are grateful for the opportunity to meet you today to discuss the Audit Scotland section 22 report on the Scottish Prison Service. I welcome the Auditor General’s comments and fully accept and appreciate the areas of concern that are highlighted—namely, the Scottish Courts and Tribunal Service custody-prisoner escort services contract, and the ever-increasing and complex prison population and its consequential impact on the prison estate.

The SPS operates the prisoner escort contract on behalf of our justice partners. I am pleased to see that the Auditor General recognises the actions we have taken through partnership collaboration to support improvements to GEOAmey’s service delivery across all the services that it provides.

I share the Auditor General’s concern about the rise in the prison population—in particular, the recent spike in prison numbers. As of Tuesday, our population was 8,246, which is extremely concerning because the population is now more complex than ever and is at its highest since the last population spike, which was in 2019. The range of competing and complex demands caused by our having a population that is now made up of a higher amount of serious organised crime gangs and people with increased social care needs and changing risk profiles has marginalised meaningful work and opportunities to build relationships within our prisons. Our national health service, education and third sector partners have also felt the impact

on their service delivery, as our focus has turned to ensuring that we keep people safe and that we meet their basic needs.

The rise in the prison population has, of course, a significant impact on our ageing estate. However, with the support of the Scottish Government, we continue to invest to ensure that it is in the best possible shape and is capable of meeting the demands that we face, as a prison service. I hope that today I can provide the committee with a greater understanding of our unique and complex operating environment, and provide additional context for the issues that have been raised in the Auditor General's report. Thank you.

The Convener: Thank you very much, indeed. I turn to the director general.

Neil Rennick (Scottish Government): As Teresa does, I welcome and agree with the Auditor General's report. The report reflects clearly the key pressures and challenges that face our prisons, and the drivers behind them. Those include what we have all agreed was the unacceptable performance in the previous operation of the prisoner transport contract. That has impacted on individual prisoners and on the wider justice system, including on victims and witnesses. I commend the SPS for the work that it has undertaken with the contractor and with other justice partners to recalibrate the contract with the aim of addressing those issues.

Secondly, the growth in Scotland's prison population is a matter of very serious concern. The drivers of the prison population are highly complex and reflect the combined impact of multiple decisions at all levels. Today, we have far fewer people being sent to prison—either sentenced or on remand—each year than was the case in the past. However, the people who are sent to prison are, in general, there for longer and, as Teresa said, they have more complex needs, which is placing unacceptable pressures on our prisons.

The impact of the pandemic has made it harder for us to predict how the population will change beyond the immediate few months. In the past few weeks alone, we have seen increases at or above the top-level predictions, despite there having been no obvious change within the justice system. There is no single solution to the pressures. Responding in both the immediate and longer terms requires continuing concerted effort across the justice system and beyond it.

For the people who are in prison, although the majority of the prison estate is modern, a high proportion of prisoners continue to be accommodated in buildings that were designed in the Victorian era. The contract for the new HMP Highland has recently been signed and we

anticipate a detailed design and price for construction of HMP Glasgow later this year. Both those projects have been subjected to delays and cost increases similar to those that have been experienced across many major capital projects and have been driven by supply issues, high inflation and changing market conditions.

Finally, convener, I want to commend the work of the staff within our prisons. That includes governors and prison officers, and NHS, social work, social care, education and other staff who are managing the challenges day to day. The Auditor General's report shines a helpful light on the issues that are facing our prisons, and I welcome the opportunity to discuss them further with the committee.

The Convener: Can you both confirm that I can take from your opening remarks that you accept the findings that are set out in the Auditor General's report?

Neil Rennick: Yes.

Teresa Medhurst: Yes.

The Convener: Thank you.

One of the issues that has come up in each of the evidence sessions that we have had is the threat of human rights litigation. You have just given us the latest figure for the prison population, which is, once again, an increase on the previous figure. When we heard from the Auditor General and Michael Oliphant from Audit Scotland on 1 February, they said that overcrowding was, in the words of the Auditor General, a "live risk" of litigation, and Michael Oliphant said that it was a "big risk". How would you characterise it?

Neil Rennick: I will go first. I confirm that the level of the prison population is a significant risk. It is recognised as a risk within both the Prison Service and the Scottish Government. Human rights is an issue that we constantly need to be watchful of within our prisons, and not just in relation to the population level, although the population level makes it harder for us to ensure that we meet the standards that we expect to meet. I agree that the population is a risk. I do not want to speculate about the level of that risk, but we agree that there are specific risks related to the prison population.

The Convener: I will bring in Teresa Medhurst in a minute. Are you taking legal advice on that?

Neil Rennick: I could not comment on that, and I do not want to speculate using hypotheticals about risk. We need to monitor constantly whether we are meeting human rights' standards in the operation of our prisons.

The Convener: You are the director general for justice in the Scottish Government. Why can you not tell us one way or the other?

Neil Rennick: I can confirm that we keep a constant vigilant watch on our human rights obligations.

The Convener: Are you taking legal advice as a contingency against the possibility of legal action being taken?

Neil Rennick: I do not wish to comment on whether or not there is any specific action. I am not aware of any specific legal action around those issues. Obviously, we would get legal advice on any legal action.

Teresa Medhurst: We operate a risk matrix across all our prisons. The risk matrix takes into account several factors, of which the prison population is only one.

The complexity that I highlighted in my opening statement also plays a significant role because it places significant pressure on services and our ability to deliver them.

The risk matrix also takes account of the staffing profile within establishments, as well as our ability to meet our legal obligations. That is kept under review on a dynamic basis, and is certainly updated weekly.

Prior to the beginning of April, we were sitting in a position where one establishment was indicating that it was at high risk, or red, status. We now have seven establishments indicating that they are at red status. That does not yet mean that we are not meeting our legal obligations, but a sustained period of such a high level of overpopulation will certainly get us there far more quickly than I had anticipated prior to April's spike.

The Convener: One of the other dimensions is in evidence that we took on 14 March from His Majesty's Inspectorate of Prisons in Scotland, when we were told—this language was used—that there were “human rights breaches”, and particular reference was made to prisoners not receiving access to medical treatment and hospital appointments, which is a denial of their human rights. Have you taken legal advice on that?

Neil Rennick: We are aware of the impact that the prisoner transport contract has had on a range of areas across the Prison Service. Priority work has been done to take action on that through recalibration of the contract, which, I am sure, the committee will want to discuss in more detail in trying to mitigate and manage down the risks.

The Convener: Okay, but—again—do you not see that as a risk regarding which you need to plan for the possibility of litigation being raised?

Neil Rennick: The priority has been to work with the Prison Service. As I said, I commend the work that it has done in trying to manage the risk down and to get the contract on a stable footing.

The Convener: As the Public Audit Committee we have taken evidence from the Auditor General, a member of staff from Audit Scotland and staff from HMIPS, who have all talked about human rights breaches and the risk that is posed.

Neil Rennick: I understand that. As I said at the beginning of the meeting, human rights is an issue on which we keep a constant watch in our prisons. That is not specific just to this issue; it goes across a wide range of issues. I do not want to suggest that we consider human rights only in this context. Human rights issues are factors that are of interest to us. The inspection process that we have within Scotland's prisons is human rights based in order to ensure that we constantly respond to the needs of the people who are in our care.

The Convener: I wonder whether you can clear something else up for me, which was in a statement that we received in evidence that we took when we had GEOAmev before us. When I asked him about exposure to human rights litigation, David Jones said:

“The human rights obligation sits with the state actor, not the private company.”—[*Official Report, Public Audit Committee*, 28 March 2024; c 37.]

Is that correct?

Neil Rennick: Ultimate responsibility for the contractors is contracted out to the provider by the SPS on behalf of Scottish ministers, but the ultimate responsibility for operation of our prisons rests with Scottish ministers.

The Convener: So, Scottish ministers could face prosecution, not GEOAmev or the chief executive of the SPS?

Neil Rennick: Ultimate responsibility for our prisons rests with the Scottish ministers.

The Convener: Right. Graham Simpson has some questions to put.

Graham Simpson (Central Scotland) (Con): I will follow up on some of that. The convener did not ask whether you are currently facing legal action; he asked whether you have taken legal advice about the possibility that action on the basis of human rights might come. That was his question.

Neil Rennick: I make it clear to the committee that our priority is to respond to the risks that are driving the pressures in our Prison Service. A range of actions are being taken to respond in relation to the GEOAmev contract and other issues that we face. In the same way as we constantly deal with such issues in the operation

of prisons in the prison estate, that is a constant part of our work to monitor the risks and pressures in our prisons.

Graham Simpson: Are you planning for the possibility—or not—of such action being taken?

Neil Rennick: We are constantly aware of litigation as a risk in the Prison Service and—more than that—of our obligations to meet the human rights of the people who are in our care. I want to ensure that we are doing that.

Graham Simpson: If you are aware of the risk of litigation, have you had a chat with your lawyers about what you might do if such litigation took place?

Neil Rennick: We do not tend to have hypothetical chats with our lawyers. We constantly monitor the situation.

Graham Simpson: So that is a no.

I was going to ask Teresa Medhurst a question, but she can respond to this point first.

09:15

Teresa Medhurst: It might be helpful if I came in. Our risk matrix was devised and developed in conjunction with our internal legal services team, which links into the Scottish Government, to ensure that the risk matrix is informed about where we are legally compliant and where there are potential risks. Our risk matrix is informed by the legal advice and support that is available to us.

Graham Simpson: I will stick with you. You said that seven prisons are at red status. What does red status mean?

Teresa Medhurst: That means that those prisons are signalling that acute and critical demands are being placed on them, but they are still managing and have not tipped over from red. If any factors changed—if demand increased or if there was degradation in the staff profile because of leavers or sick absence—conditions would deteriorate very quickly, and we would not be able to cope with the demands that are being placed on us.

Graham Simpson: Would you say—this is my phrase—that they are on the brink? Does the status get worse than red?

Teresa Medhurst: It does not get worse than red. The prisons are telling us that they are on the brink—yes.

Graham Simpson: They are on the brink.

Teresa Medhurst: Yes.

Graham Simpson: What would tip the prisons over? Would it be more prisoners? Have those prisons said, “We cannot take any more”?

Teresa Medhurst: As I said, there is a dynamic risk assessment that is based on several factors. One factor or several factors could tip a prison over. Absence levels could be higher than normal because staff feel under pressure as a result of the demands that are being placed on them, at the same time as establishments are getting an increase in admissions and have nowhere to place them, which particularly affects local establishments.

When prisons have high population levels, people who are in custody and our staff can cope for so long at periods of high demand and high pressure. The difference this time—even from 2019—is that the population is more complex. The demands across each establishment are being managed centrally by Ali Purdie and his team in headquarters to minimise the impact but, at any point, one factor or several factors could tip an establishment over the edge.

That can also happen in a slow and steady state. If the population stayed at 8,250 for the next two or three months, that could be sufficient to start tipping establishments over, because the conditions under which we are holding people are not conducive to rehabilitation or an acceptable regime.

Graham Simpson: Across the prison estate—including the seven prisons that are at red status—are you not really able to do your job properly?

Teresa Medhurst: We are managing to hold people as safely as we can, but not necessarily in the conditions that they should be held in. We are complying with our legislative obligations, but we cannot provide the full range of services that people could or should expect when coming into custody.

Graham Simpson: That is really serious. If a prison governor raises a red status, is action taken to alleviate things?

Teresa Medhurst: A couple of weeks ago, the decision was taken to bring population management—which is normally managed between establishments across the estate—into headquarters, because the number of spaces across the estate is so marginal. That takes the pressure off establishments and allows us to coordinate the escorting arrangements and the distribution in a fairer way across the whole estate.

When we recruit and bring in staff, we look at where the critical points are and ensure that new recruits are diverted to establishments that have the most acute need. Such decisions are being taken daily and weekly at headquarters and across the organisation.

Graham Simpson: Can you tell us what the seven prisons are?

Teresa Medhurst: I will ask Ali Purdie to do that, although I know them.

Allister Purdie (Scottish Prison Service): We are talking about large prisons—Barlinnie, Edinburgh, Glenochil, Grampian and Perth. I will come back to you on the other two establishments, because further assessments are going on at them.

Graham Simpson: There are another two.

Allister Purdie: I will provide information to the committee.

Teresa Medhurst: One is Glenochil.

Allister Purdie: I mentioned Glenochil.

Teresa Medhurst: Kilmarnock?

Allister Purdie: No.

Teresa Medhurst: Sorry—we will come back to you.

The Convener: If you need to, you can reply to any of these questions in writing afterwards. We would rather have accurate information than speculative information.

Teresa Medhurst: We will do that.

Allister Purdie: Two of the prisons have just changed, so I will write to you.

Graham Simpson: That is useful—thank you for your frankness.

I will ask about the GEOAmeY contract—whoever is most appropriate to answer can do so. You have seen the evidence that we have taken; GEOAmeY was honest about the problems that it has faced. At the start, did you have concerns about its ability to carry out the contract?

Teresa Medhurst: When we procure a new contractor, due diligence forms part of the arrangements for the procurement process, and due diligence was carried out on GEOAmeY. At the time when we let the contract, we were satisfied that GEOAmeY could provide the service that we required.

If you will bear with me, I will explain that a contract takes about three years for us to retender. The contract was awarded in 2018 and commenced in January 2019, so the preparation for the new contract took place in the three years that led up to that. When we moved into the pandemic in 2020, there were significant shifts and changes across service delivery for GEOAmeY, as well as other changes in the country that required us to recalibrate the contract, and that has subsequently happened.

Graham Simpson: So it takes three years from the start of the process to somebody starting work under the contract.

Teresa Medhurst: That is correct.

Graham Simpson: Where are we in terms of the next contract?

Teresa Medhurst: That work has started. We had a workshop last year with our partners and we intend to hold another workshop. Given the changes that are taking place across justice, a different shape of contract will be required. We have commenced that work, which will take us to the point at which the contract is re-let in 2027.

Graham Simpson: How will the next contract change? You said that it will have a different shape.

Teresa Medhurst: There have been changes. All our partners—Police Scotland, the Scottish Courts and Tribunals Service and the Crown—indicated in their submissions that changes are likely. Even in the past couple of years, as we have come out of the pandemic, the court recovery programme has shaped and changed how the contract is delivered. The same point applies to us—with the advent of more digital capacity and capability, the requirements of the contract are likely to be different. All those elements will be factored into the reshaped contract.

Graham Simpson: I do not want to hog the meeting, but I will just finally read a letter from Steve Farrell, the regional secretary of the Community trade union. I do not know whether you have seen the letter—have you seen it, by the way?

Teresa Medhurst: No, I have not seen the letter.

Graham Simpson: This is Mr Farrell's view. He says that

“the Scottish Escort Contract is a commercial contract that if all parties involved apply honesty and integrity, then it is a contract that was designed to fail”.

Was it a contract designed to fail?

Teresa Medhurst: Certainly, from my perspective, I would not support that statement. As I say, the contract was designed and developed and commenced at a time when we had not experienced the pandemic and the changes that that forced on us, right across the justice sector. To be fair, both to GEOAmeY, us and our justice partners, none of us could have anticipated what was to come and, therefore, anticipated that as part of the contractual arrangements.

Graham Simpson: Okay. I will leave it there, convener. Thank you.

The Convener: Could I pick up on that letter to the committee from Steve Farrell of Community? I would be interested in your response to one of the things that he says, which is, if I can paraphrase, that the prison service has been poaching GEOAme staff and it is therefore “perverse” for the SPS to call GEOAme to account for having too low staff numbers and so on. He says that the SPS monopolises the monitoring of the private estate. Do you have a response to that, Teresa?

Teresa Medhurst: Over many years, all parts of the justice sector have experienced what Mr Farrell has called poaching of staff but staff—

The Convener: Those were my words, not Mr Farrell’s, on this occasion. He might use them as well, but I used them this time.

Teresa Medhurst: Ah, okay. People do tend to try out different parts of the justice sector. We have at times experienced high attrition rates when Police Scotland recruit. Staff move around the justice sector into different roles and find an area that suits them best, but we find that people tend to orientate towards us, as they do to Police Scotland. However, I think that GEOAme is now finding that it is able to retain the staff that it has at higher levels than it did previously.

The Convener: Steve Farrell thinks that there should be an independent monitor of such commercial contracts. Do you have a response to that?

Teresa Medhurst: I am not sure what he means by an independent monitor.

The Convener: Not you, is what I think he means. You do not have to respond.

Going back to the procurement process, I am interested in what kind of support your sponsor division gives you. The Scottish Government has a whole procurement team. It has a lot of experience in placing contracts and doing due diligence around contracts, yet Wendy Sinclair-Gieben told us that the contract has not worked since its inception. What support are you getting from the sponsor division?

Teresa Medhurst: We have very good links and relationships with Scottish Government procurement colleagues and we seek advice and support from them as and when that is required. I think that the arrangement is a good one.

The Convener: I invite Colin Beattie to put some questions to you.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Neil, I think you said that you accept the Auditor General’s report. Do you also accept the statements made by His Majesty’s chief inspector of prisons for Scotland? On 14

March, she said that performance of the contract had “improved” but that it required significant

“effort from the justice partners and further input of cash and, given the history,”

that she had

“absolutely no confidence that it is sustainable.”—[*Official Report, Public Audit Committee*, 14 March 2024; c 18-19.]

Is she correct?

Neil Rennick: I agree with her comments about the improvement that has been seen in the contract since the recalibration work that was undertaken by the SPS with the support of justice partners. We are obviously keeping a close watch on that progress, including through the criminal justice board and direct engagement between Teresa Medhurst and the cabinet secretary.

The advice from the SPS and from other justice partners is that they are seeing the impact of GEOAme recruiting more staff and that that is helping performance. I agree that we need to continue to monitor that and to look at whether other factors impact that as we continue with the recalibration process. I would not agree, however, that the contract is bound not to succeed.

09:30

Colin Beattie: You disagree with HMIPS on that?

Neil Rennick: My recollection is that when GEOAme was before the committee, it was confident that the improvement would continue and that is our current position. Obviously, the contract has been impacted by changes in circumstances and the justice system is constantly changing so we need to keep a close monitor on the contract. At the moment, however, I am confident that progress has been made.

Colin Beattie: On 6 February, HMIPS wrote to SPS noting that this was

“not the first time that HMIPS has raised serious concerns about the prisoner transport provision since its inception, but despite being repeatedly reassured that steps are being taken to address the issue ... the situation is not improving and ... ‘access to health’ standards are being routinely breached.”

Is she correct?

Teresa Medhurst: I will come in on that point, if that is okay, Mr Beattie. The SPS has managed the prisoner escort contract for, I think, around about 20 years. We have had several iterations over a number of years. The last inception that GEOAme took on, as I said, was in 2018-19. At that stage there was no indication that the contract would fail or that the contractor would fail. I think that we have met unprecedented changes both in Scotland and within the justice sector that have

created the context within which the service certainly got to unacceptable levels.

However, we are now seeing a shift in service delivery. There are improvements across all areas that they perform in and, as I said, the staffing profile has improved considerably from where it was, even earlier in the year. We have in place monitoring arrangements on a monthly and a quarterly basis, as well as triannually, to ensure that both the performance levels and the recalibration of the contract continues to improve the standards and the performance that we seek. From when the contractual changes were made last October, we are seeing the improvements that we sought, but full improvement and a full service will probably take another few months to realise.

Colin Beattie: As of a couple of months ago, was HMIPS correct in her assessment that the situation was not improving?

Teresa Medhurst: At that point the staffing levels were improving. The pull through into services was much more difficult to see at that point, so I completely accept why she would say that. It is only probably in the last month or two that we are starting to see the real benefits of having those additional staff on the ground.

Gerry O'Donnell (Scottish Prison Service): We can provide evidence to the committee that, since the recalibration of the contract, there has been an upwards trend in the performance of the contract, in all areas.

Colin Beattie: The committee would be interested in that.

I will turn to something a little bit different: the impact of Covid-19, including financial and other support around that. What consultation took place between SPS and GEOAmeY prior to agreeing actions to address post-Covid issues, including the courts backlog, court delivery times and the timing of medical appointments?

Teresa Medhurst: We have regular meetings with GEOAmeY. That has continued since the start of the pandemic, when we provided it with financial support as court services were down and there was clearly not a lot of requirement for its services. From the very start of the pandemic to the current day, we have had regular engagement with GEOAmeY and will continue that for the remainder of the contract.

Colin Beattie: If you have been having continual consultations, up to and post-Covid, no surprises should have come down the line in terms of any deterioration in service, because the consultations presumably would have thrown that up.

Teresa Medhurst: The position with regard to those changes is twofold. First, the way that the

justice system recovered and responded to the pandemic meant that there were changes in how services were being delivered and there was a consequential impact on GEOAmeY. At the same time, there were changes in the workforce environment whereby workforce challenges, in terms of both recruitment and salaries, became far more acute. So, a number of different factors came together at the one time. In addition, this is a partnership contract that requires us to work closely with our colleagues in Police Scotland, COPFS and the Scottish Courts and Tribunals Service. We need to understand that it takes time to get agreement and understand exactly what changes are required at what time in order to best service and meet the demands that need to be met.

Colin Beattie: What consideration did the SPS and the Scottish Government give to GEOAmeY's ability to finance the increased cost of delivering the contract, before committing public funds?

Teresa Medhurst: It was very clear that we needed to ensure that the services that were being provided were much more visible to us. It is a private contract, which reports on its financial position in relation to not just the contract in Scotland, but that in England and Wales, so it was very difficult for us to see where our funding was going. However, the changes and the recalibration allow us to see that very directly, because it allows us to pay for the staff and, therefore, we are able to see much more clearly where the funding is being directed, because the pass through is for staff and for boots on the ground.

Colin Beattie: Why is the contract in Scotland conflated with the contract in England and Wales?

Teresa Medhurst: That is how GEOAmeY reports on its financial position.

Colin Beattie: Maybe internally, but surely, if it is dealing with the SPS it should be transparent to the Scottish side.

Teresa Medhurst: My understanding is that that is not a position that we are able to achieve.

Colin Beattie: Is that still the situation?

Gerry O'Donnell: Mr Beattie, we have no insight into GEOAmeY accounts. We know that, south of the border, the company has two other contracts that are profitable. In its annual accounts, the auditors referred to problems with the Scottish contract. The fact that the contract was loss making was known to us and that had been the situation with GEOAmeY—

Colin Beattie: Was that the first point at which you realised that there was a problem in terms of the profitability of the Scottish side?

Gerry O'Donnell: No. GEOAmeY had communicated that to us. Also, we were applying penalties—up to the end of 2023 those came to about £4 million. Teresa said earlier that it was a partnership contract, but it was also a commercial contract and initially we were wanting GEOAmeY to step up. We knew that there was an issue with recruitment, so we were looking for GEOAmeY to increase recruitment because we knew that that was the key driver to making the contract successful. We applied four or five improvement notices, so we were trying to make the contract work under the commercial arrangements, but it became clear that that was not going to be the case and that a change of action was required. Hence, we started discussions with GEOAmeY, which also came to the table looking at how it wanted to change the contract.

Colin Beattie: Our experience of talking to GEOAmeY is that it seemed fairly open. Was GEOAmeY open to you during these discussions?

Gerry O'Donnell: Yes.

Allister Purdie: Can I add some context from 2022 onwards—post-pandemic? We altered the contract on two or three occasions. The justice sector had asked GEOAmeY to pick up additional work in the police custody cells and with virtual court work, for example, and when we started to come out of the pandemic, we looked at the stretch that was on GEOAmeY. Some of the service credits that were in the contract were punitive and not helping the contractor, and we adjusted them on two or three occasions. That was to allow the contractor the flexibility to increase its headcount and to push forward its recruitment. We could see on the horizon that the economic situation was changing, and the company was haemorrhaging staff, predominantly to the retail trade.

As we could see the performance measures going down and the staff headcount coming down, we altered the contract on two occasions to try to give the company the headroom and finance to push forward its recruitment campaign. As the two issues aligned late in 2022 and into 2023, with both the performance and the headcount going down, we had to look at a different approach to supporting the contractor in partnership, in order to make the contract a success and help the courts, the victims and everybody who was being stalled because we could not produce people at the courts at the right time. That is the context from 2022 and 2023.

Colin Beattie: That is interesting. Obviously, public funds were being committed, so you must have carried out some due diligence on GEOAmeY at that point. How extensive was that due diligence?

Gerry O'Donnell: We obviously looked at the accounts and, yes, we raised the question: is it still a profitable company? My background is in industry. Sometimes you have contracts that are profitable, and sometimes they are not and you have to live with them. However, the contract had materially changed because of what happened during Covid and—

Colin Beattie: I will just interrupt. If the financials are tied up with England and Wales, did GEOAmeY bust the figures out for Scotland?

Gerry O'Donnell: No. We were given an indication of the losses that it was making, and we had to take it at face value. Those were the figures that were provided, and I could not do due diligence on any information other than the annual accounts.

Colin Beattie: I am just wondering, as there was public money going in, the extent to which due diligence was carried out and whether people were satisfied that the situation was as stated.

Gerry O'Donnell: Obviously, we were concerned about public money being used. At the same time, the SPS was incurring considerable costs because we were having to pick up the slack in hospital bed watches that were not being covered and the disruption that was felt across all our justice partners. We were aware that considerable costs were being incurred with the failures of the GEOAmeY performance.

One of our concerns was: could GEOAmeY set the contract aside and walk away? That would have been an even costlier position. I think that we have achieved a good situation in which the additional funds that we are putting in are going directly to the employees of GEOAmeY and not to the company as such. We have effectively given a 17 per cent pay award, which has allowed the company to compete against the retail sector. Since that happened, we have seen an increase in GEOAmeY staff numbers and subsequently the performance of the GEOAmeY contract.

Colin Beattie: I come back to sustainability, and whoever is appropriate can answer. The contract was recalibrated. What impact has that had on frontline services across justice partners, and is it sustainable? You are telling me that there have been improvements—

Teresa Medhurst: Yes.

Colin Beattie: What impact have they had?

09:45

Allister Purdie: I will pick that up. We now have a headcount in GEOAmeY of 610 staff. In November, before we calibrated, we had 545 staff, so we have made a significant improvement in

supporting the contractor to have the staff to deliver the service.

We have been monitoring since we changed the approach, so some statistical information might be helpful. In November, only 67 per cent of court arrivals were on time. The level has not moved up significantly, but it is 73.3 per cent, so we can see the movement up towards people arriving on time for the court services to start on time. Similarly, on court returns, 63 per cent returned on time in November and now 74.2 per cent of people return on time to be safely processed back into prison. Most significantly, in November, GEOAmev picked up 67 per cent of the total hospital appointments. That figure is now sitting at 84.1 per cent, which is a significant improvement.

The improvement has been consistent. GEOAmev picked up 100 per cent of the bed watches, which meant that we did not have to deploy our staff or our colleagues in Police Scotland to attend hospital. The performance statistics and monitoring have shown a significant improvement. Support for the police's video identification parade electronic recording—VIPER—appointments is up to 96.2 per cent from 76 per cent in November.

The headline numbers and the monitoring tell us that the staff headcount is coming up, the service provision is coming up, more courts run on time, and more courts run when they should with fewer cancellations. That is the here and now.

Teresa Medhurst: The other point is that justice partners agree with the approach. When we looked at the potential actions that we should take, all options were on the table. None were off the table. All justice partners agreed that the change was the preferred option for moving forward with the GEOAmev contract. All justice partners support the recalibration of the contract and the improvement in service delivery.

We have regular meetings both through the multiagency partnership, which is the group that oversees the contract delivery for all of the partners, but more importantly through the criminal justice board, which has all the senior leaders across justice. We monitor the performance and the service delivery, and if there were to be any changes, we would identify them in those meetings.

The Convener: Willie Coffey has some questions to put.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, everybody. Allister, the statistics that you read out are encouraging, but I want to put to you a point that David Jones, GEOAmev's managing director, made when he appeared before us. He talked about the increased obligation on GEOAmev. He said, for

example, that it had to deal with 44 per cent more solemn cases, 35 per cent more bed watches and 38 per cent higher costs, and that 60 per cent more people were involved in hospital appointments than was the case prior to the pandemic.

As I understand it, those increases in the numbers and in the demands that were placed on GEOAmev were never specified in the contract, but we still imposed penalties on GEOAmev for not meeting those increased obligations and higher targets. Was it fair to not specify increased targets and, at the same, to penalise the company for not meeting them?

Allister Purdie: In relation to changes in the contract, because GEOAmev was asked to expand its business in a way that had not initially been agreed in the contract, we reduced the service credits—the penalties—that we took off GEOAmev during 2022 and 2023. That was in recognition of the fact that we had asked it to stretch its business in a way that was not part of the initial contract.

However, some of those things are absolutely in the contract. For example, GEOAmev is contracted to pick up to 14 bed watches. Sometimes it might be nine, and sometimes it might be 23. That flexibility was required even before the pandemic. Flexibility was built into the contract so that, if the level went significantly above that consistently, we would pick that up with GEOAmev.

On the figures that Mr Jones mentioned, we looked at the expansion in the courts for the recovery programme and we removed some of the service credits—the penalties—that GEOAmev experienced, in recognition of the fact that the justice sector was asking it to do more under a contract that it had signed in 2019.

Willie Coffey: Why would penalties be enforced at all if such flexibility was built into the agreement?

Gerry O'Donnell: You are right to point out that the activity levels in the contract had changed, but, at the start, under the operating model of the contract, GEOAmev should have had around 670 staff. It is clear that it did not have anywhere near that number, which contributed a lot to the contract failings.

As Allister Purdie pointed out, from the outset, GEOAmev was not meeting its contractual commitment on bed watches, which was the reason for the penalties. Although we accept that the volumes had changed, there was a failing on the part of GEOAmev on the numbers that it was anticipated would be required at the outset under the contract.

Teresa Medhurst: I will finish off on that point. We have been concerned about GEOAmeys data capture. Although it has provided that data to you, we would not necessarily verify that data. We need to work with GEOAmeys on that, and we are continuing to do so.

Willie Coffey: In summary, there is a direct correlation between performance improvements and the number of staff who are available to implement those improvements. I needed to put that point to you, because Mr Jones made it to us.

I turn to the point that my colleague Graham Simpson asked about—the fact that seven prisons are at red status. Are they at red status because of the numbers? Are the numbers in a prison the main driver for that, or is it to do with conditions or capacity?

Teresa Medhurst: No. As I said, a range of factors are involved. The change in the complexity of our population is such that we have to take account of that. In addition, there has been a rise in serious organised crime gangs and localised gangs. For example, HMP Edinburgh can have 14 different local gangs that sit below the serious organised crime picture. There are different factions of gangs in each prison.

In addition, the existence of social care needs adds a degree of complexity. The number of prisoners who require support and social care has increased. Over the past two or three years, data and evidence have been published on the health condition of people who come into custody. As the Auditor General pointed out, they are from some of our most deprived areas, so it is not unexpected that they will have chronic health conditions, particularly in relation to drug and alcohol use and mental health. All those things add to the pressure on establishments that are already stretched in terms of numbers.

Since Covid, we have seen a significant shift in the remand population. Prior to Covid, the remand population sat at about 17 per cent of the overall total. That figure increased to 28 per cent. Last year, it dropped to 23 per cent, I think, but it tends to hover at around 25 or 26 per cent. We are obliged to keep prisoners who are on remand separate from convicted prisoners.

For example, last week HMP Edinburgh had 16 spaces for new admissions, 10 of which are in double cells and six of which are in single cells. Ten people could come into the prison tonight, eight of whom require single cells. They could be remand prisoners, but the spaces might not be in the remand hall. They might not be where there are non-offence protections, which relate mainly to sex offenders, whom we have to keep separate. Ten, 15 or 20 people could be told to move cells to create the right space for the people who are

coming in, in order to keep them safe. That complexity must be addressed. It is very transactional work, but it must be done.

Staff must undertake cell-sharing risk assessments for people who are to share cells to ensure that they can safely be held together. Nevertheless, as Wendy Sinclair-Gieben, the chief inspector of prisons, mentioned, we have to ask people to move, at short notice, into cells with other people they do not know, and they do not feel particularly safe, which creates another set of tensions and another set of difficulties for staff.

Willie Coffey: It sounds as though you need to take a range of actions to bring those seven prisons back from the brink—back from red status. Do you have the flexibility, the freedom of resource and so on to bring those prisons back from that red status?

Teresa Medhurst: I do not have those resources. Discussions are on-going with the Scottish Government, which Mr Rennick may wish to talk about. Discussions also take place at the criminal justice board. Because of the recent unexpected spike in numbers, we will reconvene much sooner—next week, I think—to hold a workshop to look at what can be done across the system to support the pressure that is on us at the moment. Clearly, it is in no one's interests for us to be in such a high-risk position.

Willie Coffey: I will ask Neil Rennick about that directly. What is the Scottish Government doing to address that and to pull those seven prisons back from red status? I am glad to hear that Kilmarnock prison is not one of them, by the way.

Neil Rennick: It is exactly as you said. A number of different actions need to be taken. No single action will resolve the issue. Throughout the recovery programme following Covid, it has always been managed on a cross-justice-system basis. We have always recognised that, as well as changes in how the courts were managed, the implications for prisoners and all parts of the justice system needed to be considered. Broadly, we were able to manage that balance once the recovery programme was introduced in late 2021 and throughout 2022.

During 2023, we started to see a significant upswing in the population. We can explain the background to that, but a range of actions have been taken in response to that. One is to ensure that a cross-justice-system approach is taken. During 2023, we formed the prison population leadership group, which involves the Crown, the courts, the police, the Parole Board for Scotland and others, to ensure that there is a shared understanding of the pressures and that all partners are prioritising their actions in a way that takes account of the pressures on prisons, for

example by ensuring that we prioritise remand cases and that access is available to alternatives.

We have also been supporting and working with Teresa Medhurst on the work that is being undertaken by the Prison Service to make the best use of the available capacity in prisons. Over the longer term, we have made good progress in reducing the number of young people in prison. That has created space in Polmont. Last week, Parliament passed the Children (Care and Justice) (Scotland) Bill, which will end children being sent to young offender institutions. We hope that that will create additional capacity in prisons in the near future.

In addition, a set of activities and actions has been put in place in relation to people coming into prison and people leaving prison. For example, we have invested additional resources in alternatives to remand, such as electronically monitored bail and supervised bail. We have put extra resources into alternative sentence options as well. The Bail and Release from Custody (Scotland) Act 2023 includes a range of measures to strengthen release arrangements to stop people coming back to prison. A range of actions are being taken. If it would be okay, I will bring in Catriona Dalrymple to say a bit more about that.

Catriona Dalrymple (Scottish Government): One of the priority actions in our community justice strategy is to support the use of robust alternatives to remand, because we recognise that remand is a big issue for the Prison Service at the moment in terms of the rate of increase.

I have two supporting statistics. We introduced electronic monitoring on bail in 2022, I think, as a result of the Management of Offenders (Scotland) Act 2019. As a result of that, on any one day, we have an average of about 400 people being electronically monitored on bail. We would hope that that would be a direct alternative to remand, although it is hard to see it as a direct alternative to remand, because we recognise that independent judicial decisions are made about whether to place somebody on remand or in the community.

We also provided targeted money for a supervised bail incentivisation scheme, whereby each local authority that had an individual on bail supervision was given an extra £1,600. Recent statistics show that we now have the highest number of individuals on bail supervision—up to 1,100 individuals were on bail supervision in 2022-23. We hope that that funding and that incentivisation scheme, which remain in place, will continue to have an impact.

10:00

Willie Coffey: Can I pin you down and ask, on behalf of the public, when you anticipate the seven prisons being pushed back from red status?

Neil Rennick: A challenge that we have faced through the pandemic is that the models that our analysts previously used to predict the future prison population could no longer be used, because they relied on previous trends that were no longer in place. We have asked our analysts to develop a microsimulation model that looks at actual cases going through the system and at what the flow into and out of prison might be from that in order to give us a much more detailed, short-term view of what might happen with the prison population over the next few months. We used that internally in the justice system during the first parts of the recovery and, since last year, we have published that information, most recently in February. That illustrates that there is significant uncertainty about the numbers, even in the short term. The February figures predicted a population somewhere between 7,500 and 8,450. Even over that relatively short six-month period, there is significant uncertainty, because it is so dependent on individual decisions. We have tracked close to the top of that range.

I do not want to give a definitive answer to your question. We are further expanding our efforts to try to respond to that. For example, in the current year, ministers agreed an additional £14 million to go into community justice services—roughly a 10 per cent increase—to try to increase the availability of alternatives. However, from experience, unless we have big events like the pandemic, it takes time to manage the pressures down. We are conscious of the impact on Teresa Medhurst and her colleagues.

Willie Coffey: Lastly, will the decision to stop incarcerating young people in young offenders institutions make a significant contribution to resolving that issue?

Catriona Dalrymple: At the moment, as of this week, seven children under 18 years old are in Polmont. Two have been sentenced and five are on remand. We have already had early discussions with our colleagues across the Government and the Crown Office and Procurator Fiscal Service, and I understand that discussions with secure providers about how quickly those individuals can be moved into secure care are already under way. I know that it is not all about spaces, because it is all about complexity, but I understand that that potentially creates another 70 spaces in Polmont. That work is under way and is being done as quickly as it can be. We have to make sure that the children's needs are assessed properly in consultation with secure care and the

Prison Service and that any transition is safe and in the best interests of the children.

The Convener: Thank you.

Following neatly on from that, the deputy convener has some questions to put to you. Jamie, over to you.

Jamie Greene (West Scotland) (Con): Thank you, and good morning to the panel. I will start with a supplementary to close the GEOAmeY line of questioning before I move on to my main lines of questioning—it is really in response to Willie Coffey’s questions about the penalties. I understand that, over the past couple of years, GEOAmeY has been fined around £4 million for breach of contract. Is that correct?

Gerry O’Donnell: To the end of 2022-23, yes.

Jamie Greene: Have there been further fines since then?

Gerry O’Donnell: There were further fines.

Jamie Greene: Can you indicate how much?

Gerry O’Donnell: I cannot give an exact figure, but it was over £1 million. I will provide you with the exact number.

Jamie Greene: There have been penalties of around £5 million. However, a recalibration of the contract seems to suggest that GEOAmeY is receiving £4 million over a number of years in payments additional to the original contracted value. Is that correct?

Gerry O’Donnell: The recalibration of the contract will mean a pass-through this year of approximately £2.1 million of additional money to GEOAmeY.

Jamie Greene: My question is obvious—what is the point of fining GEOAmeY if you simply hand the money back?

Gerry O’Donnell: At the moment, we are not fining it. Getting a level of service is key for the SPS and the justice partners. By providing additional funding, we have enabled GEOAmeY to pass that funding on to its employees and we now get levels of service that mean that GEOAmeY can operate without penalties or with minimal penalties. The evidence from David Jones is that it has gone from making a loss to making a marginal profit. We have shifted from penalising it to providing funding for it. The most important aspect is the impact on the prisoner population. We have been successful in getting the performance levels that we were always looking for.

Jamie Greene: You can see how it looks, though. We are talking about public money and a company that paid over £1 million in dividends to

shareholders. It has a stench of unfairness about it.

Gerry O’Donnell: Do mean in terms of GEOAmeY making a payment to its shareholders?

Jamie Greene: And receiving public money and being fined—simply being given more money in return for failure.

Gerry O’Donnell: I agree that it can look that way. There was a question earlier about due diligence. We were concerned about what would have happened if GEOAmeY had said, “This contract makes a loss for us,” and set it aside. We would then have been in a much more difficult position.

We have arrived at the right solution. As I said earlier, it was a commercial contract. We were trying to make it work under those terms and it all came down to who was investing in the people. Effectively, yes, we have invested in GEOAmeY staff to get the performance levels to this point.

Jamie Greene: In the scenario in which it walked away from the contract because it was making a loss, you would be left in quite a precarious position—how on earth would you manage prisoner transportation?

Gerry O’Donnell: I imagine that the transitional arrangements would have been significantly expensive. Again, what we have is the best solution.

Jamie Greene: I am sure that there are other providers out there that would have doubled their rates overnight in such a scenario.

I would like to come on to my main line of questions, which are about the wider prison estate and population. Some of those have been covered, but some important issues have been raised. Teresa Medhurst, I was particularly concerned by some of the language that was used earlier in the session. The phrase that the Scottish Prison Service used was “on the brink”—on the brink of what?

Teresa Medhurst: What we see when we are under extreme pressure—both with population numbers and with complexity—is that we lose legitimacy in our actions. The frustrations that people feel because they do not get access to services start to bubble over and tensions arise because more people are asked to share cells. Spontaneous violence increases. We may experience at some point higher levels of staff sick absence because of the pressures that they face with all the transactional work and the inability to do the rehabilitative support work that they enjoy. That breakdown in the operation of the establishments can develop slowly over time or it can happen quickly, depending on the

circumstances. That is why I used the language that I did.

Jamie Greene: It sounds to me that we are not getting to a point of danger—we are already in the danger zone. Seven prisons in Scotland are coded red, which I presume is quite serious. We have heard that you are reaching capacity and in some cases are over capacity in prisons. Overnight, this could bubble over into serious conditions for staff and prisoners. That sounds to me like the worst possible scenario. What could get worse in our prisons other than rioting and mass insurrection?

Teresa Medhurst: There is the potential for concerted indiscipline. There is the potential not just for individuals to protest through violence but for there to be concerted violence. All of that can happen.

In the SPS, we rely on—and have been able to rely on for a long time—positive relationships between our staff and those in our care, which I know the chief inspector has commented on. However, as the time for those relationships becomes much more marginalised, it becomes much more difficult to detect, first, when people are under duress and stress and, secondly, when there is the potential for concerted indiscipline by people in custody. Everybody becomes stretched. Everything becomes much more difficult, and tensions rise. It is palpable. You can feel it when you walk into a prison.

Last week, I was in HMP Edinburgh, which is sitting at red risk. Staff are coping and people are putting up with the conditions that they are in at the moment, but that could change quickly.

Jamie Greene: We should commend the work of the prison staff. Having been on other committees and have visited some of these places, I understand that. Still, we have moved a long way since even my last visit to Saughton.

What is the maximum capacity when we absolutely cannot take any more? What happens when we get to that point? What physically happens when you reach maximum capacity? What does the Prison Service do?

Teresa Medhurst: I am asked that all the time. What is the maximum capacity? We are shifting and changing. Ms Dalrymple referred earlier to capacity at Polmont that was for young people but one hall of which is now being repurposed for male adults. At the moment, we have 80 in there and we can take up to 138 until we get the children out of custody. Then we will be able to increase that to 210.

We also look at capitalising on other spaces across the estate, but it depends on staffing. We have a significant staff recruitment profile this year anyway. We are taking in around 2,000 recruits

this year, which is fairly significant, but we need staff. If we increase capacity anywhere, we need additional staff. At Polmont, we did not require additional staff, because the accommodation was already there. We are doing all that we can to repurpose and maximise the estate.

We gave a figure of around 8,450 or something like that but, to be honest with you, the state of our prisons at the moment is of significant concern. It is acute. Given that we have two public holidays in May, which tends to be when our population rises, I am concerned that we may achieve that 8,450 far sooner than any of us anticipated.

Jamie Greene: Wow—you are weeks away from hitting your absolute capacity. What happens when you hit that point? Do you say to the courts, “Please do not send us any more people. We cannot take them,” or do you say to ministers, “We have to start releasing prisoners”? Which of the two is preferable?

Teresa Medhurst: Meetings are on-going at the moment. The criminal justice board will have a workshop next week to look at elements of work that may have an impact or may make a difference. I am certainly discussing options that the Scottish Government may consider.

Jamie Greene: Mr Rennick, what are those options? What are ministers considering?

Neil Rennick: To reiterate the two points that you have made already, I visit prisons as well and have been hugely impressed by the work of our management and staff in our prisons. We absolutely recognise that this is a serious and concerning situation. The cabinet secretary has updated Parliament twice over the past few months about the pressures on the prison population. That was when our status was stable but concerning for a number of months through the end of last year and the beginning of this year. Over the past few weeks, a rapid spike has increased the pressures.

As Teresa Medhurst says, part of this is the work that the SPS was already doing on maximising capacity. Catriona Dalrymple has been engaging closely with the justice partners on the options that they can look at because, in reality, relatively small adjustments in how the justice system operates can make a big difference in both directions. A small number of decisions going a different way or an adjustment in the operation of the court programme or the prioritisation of remand cases can make a big difference in the direction we are heading in.

Clearly, we are aware that other jurisdictions have been looking at other models for dealing with this. For example, since October last year England and Wales has been running a scheme of releasing a number of prisoners early, initially up

to 18 days early and then more recently up to 65 days early. We are looking at a range of options that might be available. Our priority is to try to manage down using our existing levers. Anything more critical and immediate would be a decision for ministers. Any actions that required legislation would have to come to Parliament as well.

As I said, we are aware of what has been looked at in other countries and how those models operate. Certainly the last time the cabinet secretary updated Parliament, we had not got to that stage. If we did, the cabinet secretary would have to update Parliament again.

10:15

Jamie Greene: We are not far off that stage. We are hearing that we are one bad weekend away from reaching the critical point at which ministers would have to come to Parliament and ask for the power to release prisoners. Is that where we are at?

Neil Rennick: I do not want to say what specific option ministers might determine or what Parliament might approve but, yes, over the past month we have seen a significant spike, which has pushed up the level of pressure significantly.

Jamie Greene: Here is what I do not understand. In your opening statement, you said that we are sending fewer people to prison each year, but the prison population is rising—it is at its highest level in nearly five years.

The Parliament has made a number of legislative changes, some of which have been mentioned, such as the Management of Offenders (Scotland) Act 2019, and there is the presumption against short-term sentences, the changes in sentencing guidelines for under-25s and a massive shift in alternatives to custody. Whatever your views on those policies—for or against—some of which were rather controversial, we have made such changes already, and yet the prison population is going up.

Are the courts simply not following the guidelines and are sending too many people to prison, or does the nature and profile of those prisoners mean that we are sending the right number of people to prison, but the Scottish Government has simply not built the capacity to deal with that?

Neil Rennick: The Auditor General's report provided quite a good summary of the different factors that have impacted the prison population over time. Far fewer people are going to prison now for short sentences—over 4,000 fewer people a year are going in. Far fewer people are going into the prison population on remand, too. We have seen an increase in the proportion of people

who are convicted getting a community sentence rather than any other sentence. As Catriona Dalrymple said, we have seen good progress in the development of alternatives to bail. If you had asked me 10 years ago, all of those things—the number of people going into prison is down by over 4,000 and we have made big progress—are exactly what we would have hoped to achieve.

Over the same period, other factors have pushed in the other direction. Again, some of those have been the result of positive decisions that the Parliament has taken. I am really proud of the work that we were involved in on the domestic abuse legislation. I am proud of the work that our justice partners have done on responding to sexual offences and to serious and organised crime. We also changed the law around automatic early release a number of years ago, which has had an impact. We decided, in response to a tragic murder, to adjust the criteria around home detention curfew. A range of factors have pushed in the other direction but, underlying that is the fact that, although fewer people go into prison, when they go in they tend to be there for longer before they are released, and a higher proportion are in for longer sentences. That combination creates the dichotomy with the number of people going down and the overall population going up. Exactly as you say, that makes it much harder to manage.

We still have a relatively high remand population compared to other European countries, which suggests that there are opportunities to look at further expanding alternatives to remand. We still have a number of people going into prison for short-term sentences despite the presumption against them. Clearly, that is a decision for the judiciary. However, if we can ensure that the right alternatives are available, there is the potential to further reduce that number. Overall, along with England and Wales, Scotland has the highest prison population in western Europe; it is high by international standards, which suggests that other countries are able to operate with lower prison populations without building extra prisons.

Jamie Greene: Or, potentially, those other countries have less serious organised crime or sexual offences.

Neil Rennick: It is difficult to know with such comparisons. Certainly, having looked at the international evidence, part of it is that different countries take different approaches to sentencing and to dealing with particular offences such as sexual offences. That is a key factor in the difference between Scotland, England, Wales and other countries.

Regardless of that, we have to keep investing in our prison population to modernise the estate with HMP Highland and HMP Glasgow.

Jamie Greene: Both of which are delayed, of course.

I will wrap up my line of questioning here. Is that not part of the issue? We would not be hitting this crunch point, people would not be living in inhumane conditions, you would not be threatened with litigation, and we would not be sitting on the precipice of mass riots in our prisons if you had built the prison capacity in the first place. HMP Greenock was described by HMIP as needing to be “bulldozed”. Barlinnie was described as being at risk of “catastrophic failure”. The list goes on and on. At what point over the past decade did the Government realise that it should have built capacity and replaced those prisons way before we hit this crunch point?

Neil Rennick: Having visited HMP Greenock last month, I was really impressed by it. The chief inspector said it was one of the best-run prisons in Scotland, which was certainly my impression.

Jamie Greene: It was the best run, but she said it should be bulldozed. We have to reflect on that.

Neil Rennick: I certainly would not use that language around a local prison where local people are employed.

Jamie Greene: Those were her words.

Neil Rennick: I saw some of the work that was being undertaken to repair some of the roof issues within the prison. We constantly discuss with the SPS the prioritisation of the estate. We are clear that HMP Highland and HMP Glasgow are the priority prison projects that we need to proceed with.

Jamie Greene: My final question may be more fundamental. What is the point of prison? Is it simply to lock people up and keep them away from the wider populace or is it to make sure that, if and when they come out of prison, they do not reoffend and they come out better people than when they went in?

I am concerned by what we have heard this morning and over the past couple of months and years. We are simply not rehabilitating people in prison. We are chucking them in there, locking them up for 23-plus hours a day, potentially breaching their human rights and then, at the end of their sentence, putting them back into society and expecting them not to reoffend. We are, clearly, failing in this.

Neil Rennick: We recognise, ministers have stated clearly, and it is reflected in the justice vision agreed collaboratively with the justice partners that prison has a place. There is a role for prisons. For some people, prison is the only appropriate solution given the nature of their crimes or the level of risk that they present.

We also know that a large proportion of the people who go into prison, particularly those who are in short term, simply do not have the opportunity for rehabilitation and other work and that alternatives are a more effective way of dealing with them to ensure that they do not reoffend.

For those who are in longer term, having access to programmes and to progression is critical. The scale of the prison population at the moment makes that more difficult to deliver.

Jamie Greene: Do you feel that you are not able to properly rehabilitate people?

Teresa Medhurst: Staff and senior leaders continue to strive to deliver good services for people, but the numbers that they can provide those to and the time that they have to do so are diminishing. Therefore, the impact will lessen over time. However, we are still able to provide support in a range of areas and we still have strong community connections. It is about the amount of time as well as the number of people who can access those services. When the pressure goes on, those diminish, which makes it less likely that people will get access to those kinds of services or to the full range of services than they would expect under normal circumstances.

The Convener: Okay. Thank you very much. There is just one final question from me, which takes us back to the Scottish court custody and prison escorting service. Is a public sector model part of your consideration?

Teresa Medhurst: As part of the workshops that we have arranged with our partners, we are looking at all options. A public sector option will be part of our considerations because we need to see where we will get best value for money, given the significant change in the contract as we move forward.

The Convener: Can I take that as a yes?

Teresa Medhurst: It will be part of the considerations, yes.

The Convener: Thank you very much. On that note, I will draw this morning’s evidence session to a close. I thank Teresa Medhurst for her evidence this morning. I thank Gerry O’Donnell and Allister Purdie for the information that they have given us and that they are going to give us when they get a chance to put some things in writing to us. I also thank Neil Rennick and Catriona Dalrymple for their evidence to us this morning, which will, I am sure, inform the work that we are continuing to do.

As I said at the start, the report is a section 22 report into the Scottish Prison Service, which is a signal that the Auditor General has some real concerns about the operation not just of the GEOAmev contract but more widely about the way

the prison service is in terms of overcrowding, the estate and so on. As Jamie Greene finished on, that is important from the perspective of rehabilitation and the differences that imprisonment will make.

Thank you for your evidence this morning. I will now move the committee into private session.

10:27

Meeting continued in private until 11:37.

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The deadline for corrections to this edition is:

Wednesday 5 June 2024

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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