JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE

JOINT MEETING

AGENDA

Justice 1 Committee
16th Meeting, 2002 (Session 1)
Justice 2 Committee
17th Meeting, 2002 (Session 1)

Tuesday 7 May 2002

The Committees will meet at 1.30 pm in Committee Room 1, Committee Chambers, George IV Bridge, Edinburgh.

1. **Budget process 2003-04 (in private):** The Committees will consider lines of questioning for item 3.

2. **Item in private:** The Committees will consider whether to consider item 4 in private and consider the draft Stage 1 report in private on 14 May.

3. **Budget process 2003-04:** The Committees will take oral evidence on Stage 1 of the budget process 2003-04 from—

   Jim Wallace QC MSP, Deputy First Minister and Minister for Justice.

4. **Budget process 2003-04:** The Committees will consider their approach to the Stage 1 report.

Alison Taylor, Tel 85195
Gillian Baxendine, Tel 85054
Clerks to the Committees
The following papers are attached for this meeting:

Items 2 and 3
Adviser note – summary of Justice Department written evidence (PRIVATE) J1/02/16/1
Adviser note on suggested questions for the Minister (PRIVATE) J1/02/16/2
J2/02/17/1
J2/02/17/2

Item 3
4th Response from the Justice Department J1/02/16/3
J2/02/17/3

Additional information from the Association of Directors of Social Work J1/02/16/4
J2/02/17/4

Paper not circulated:

“The Scottish Budget 2003-04” - the Annual Expenditure Report of the Scottish Executive was published on 2 April – available from Document Supply Centre or online at http://www.scotland.gov.uk/library5/finance/aesed-00.asp – copies have been sent to MSPs directly.

Previously circulated - the Adviser’s paper J1/02/12/1 and J2/02/12/1 are available on the Justice 1 and 2 Committees web page under 12th meeting papers.
JUSTICE 1 COMMITTEE
16th Meeting 2002 (Session 1)

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Budget Process 2003-04
4th Response from the Justice Department
STAGE 1 OF THE BUDGET PROCESS 2003-04

I am now able to provide you with the information on SPS promised in my letter of 29 April.

HMP Kilmarnock

The cost of operating individual prisons is not detailed in the Budget. However, the estimated cost of HMP Kilmarnock in 2003-04 is approximately £13m.

SPS Assets

The annex provides details of the SPS Fixed Assets as at 31 March 2001 – as published in the SPS Annual Report and Accounts 2001-02.

The Scottish Prison Service’s accounting policies are published in full in the accounts. In brief, the policy in respect of tangible fixed assets is to perform a full revaluation of the estate every 5 years in accordance with FRS15. In addition, a rolling programme of supplementary revaluations is conducted, allowing each property to be revalued at least once between quinquennial reviews. Valuations are normally conducted by the Valuation Office Agency, in accordance with the Appraisal and Valuation Manual of the Royal Institution of Chartered Surveyors. The last quinquennial valuation was conducted as at 31 August 2000.
These independent valuations are used to both value the property and to calculate depreciation. Provision for depreciation is made to write off the costs of fixed assets on a straight-line basis over the expected lives of the assets concerned. The expected useful lives, which have been calculated in accordance with FRS15, vary by type of asset eg buildings do not exceed 80 years, fixed plant and equipment does not exceed 40 years.

**Impairment**

Ruth Ritchie’s note of 27 March explained that additional budget cover has been transferred to SPS from a central budget. These charges have not yet arisen and will only be required in the event that any of the existing assets of SPS is either sold or revalued (including terminating use) and an impairment cost incurred as a result of such action.

**Running Cost**

Running costs increase by £12m between 2002-03 (£178m) and 2003-04 (£190m). This additional funding will have to cover the projected increase in the prisoner population - latest figures indicate that the average prisoner population in 2003-04 will be 6,500 (ie some 200 more than projected for 2002-03) rising to 6,700 the following year.

**Key Performance Indicators**

a) **Missed targets:** In 2000-01, SPS achieved 7 out of 9 KPI targets set by Ministers. The custody targets were fully met, and indeed performance was significantly better than the targets. The significant fall in the number of serious assaults by prisoners on other prisoners bettered the target, as well as being the lowest for 5 years. The target for serious assaults on staff was met. The significant shortfall in delivery of prisoner programmes was disappointing, as was the fact that SPS exceeded the target for the number of injuries reportable to the Health & Safety Executive. The average cost per prisoner place was actually slightly below that of the prior year, and substantially below target.

Neither of the missed KPI targets were due to lack of resources. In the case of prisoner programmes, a target number of programmes were to be delivered. In recent years, this has helped to drive an increase in the numbers of opportunities made available to prisoners. In parallel with this expansion, SPS has introduced an accreditation process to ensure that the programmes are subject to independent quality assurance. The success in delivering programmes has been such that several establishments found it difficult to continue to identify the same high numbers of prisoners who required the programmes being offered. In order to address this effectively, the emphasis of the target in 2001-02 was changed from quantity to a mixture of quantity and quality. The revised target set a figure for the number of programmes to be delivered and also required a certain percentage to be fully accredited. This new approach focuses more on quality of service.

In the case of injuries reportable to the Health and Safety Executive, this KPI was introduced in 2000-01 and sought to measure general health and safety in the prisons and covered accidents involving prisoners, staff and visitors. In parallel, all staff and managers were trained on health and safety matters (including reporting). As a result, better reporting of incidents took place during this period compared with prior years. As the target was based on historical levels of reportable injuries, with hindsight, the 2001-02 target appears to have been set at an unrealistic level, and the lesson appears to be that the performance is driven by reporting, rather than actual safety. Nevertheless, SPS continues to invest in health and safety training across all levels of the organisation.

b) **Average Cost per Prisoner Place:** The cost per prisoner place target for 2001-02 (£32,600) was set at £3,100 more than the 2000-01 target of £29,500. However, the 2001-02 target also included an
associated target to generate a £12.5m revenue saving to be directed into capital investment. Achieving this target saving reduces the cost per prisoner place by some £2k. The remaining £1k difference is attributable to the additional costs associated with higher prisoner population and the extra funding made available via SR2000 for drug reduction initiatives for prisoners both within prison and post release.

c) **Average Cost per Prisoner**: Restating the target on an average cost per prisoner (rather than prisoner place), the figures for 2000-01 and 2001-02 are £31.0k and £32.7k respectively – based on an average prisoner population of 5,883 in 2000-01 and 6,138 (provisional) in 2001-02.

d) **HMP Kilmarnock KPI Statistics**: HMP Kilmarnock was included in seven of the nine targets set in 2000-01: Escapes (x3), assaults (x2), access to night sanitation, cost per prisoner place, but was not included in the prisoner programme or reportable injuries targets. The KPI targets set for 2002-3 all include HMP Kilmarnock.
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Dear Fiona

I trust the following clarifies the issues raised at the Justice Committee –

- Number of children awaiting Secure Accommodation placements.

  On the 29 April 2002, 13 children were awaiting placement in secure accommodation in Scotland. (One Council still to respond, but unlikely to affect the overall total). This does not simply translate into a need to have 13 new places. What is required is a range of residential placements with the capacity to provide varying levels of security depending on the particular needs of the child. The current provision of secure accommodation is inflexible.

- Scottish Prison Service – the provision of Prison Social Work Services and the link to throughcare services.

  At present Prison Social Work Services are paid for by the SPS. Local Authorities have traditionally provided and managed these services. In order to satisfy their Auditors about Best Value the SPS have piloted a tendering system which resulted in Local Authorities continuing to provide these services in the pilot areas. The Justice Committee may be aware of the difficulties this process caused to the Social Work Service in Saughton Prison in Edinburgh and the loss of a service for a short time to prisoners. The process of tendering has market tested the current arrangement and indicated that they are Best Value. Savings can therefore be achieved by not repeating the process. More importantly the opportunity exists to cease the paper chase of money within the Justice Department’s budget, by re-allocating the money for Prison Social Work from the prison’s budget head to the Criminal Justice Social Work budget head, thereby effectively providing a comprehensive throughcare service for prisoners and their families.

- Time Out Centre

  The money set aside for women offenders is a result of the discussions that have arisen from the Ministerial Task Force Report and the outcome of the Working Group’s deliberations. The Working Group continues to meet and is overseeing this development. Members from the Executive are involved.
This is primarily a Glasgow service at this stage. There is some recognition that some women travel into Glasgow from outlining areas and become involved in prostitution. It has been agreed that at some stage some thought may have to be given as to how their needs are addressed, but they are not at a stage to address that.

There has been some commitment to capital at this stage and funding has been available in this financial year to develop the commissioning process. There have been no revenue figures established as yet so presumably 600k is a guestimate. This will not be the only source of income, but will be matched by funding from transitional housing benefit and other funding resources.

Therefore in terms of the proposal this is a service for Glasgow only. Further work clearly needs to be done on ongoing revenue commitments. If the figure includes funding for the development of services outwith Glasgow, then it will not meet need (recognising that outwith Glasgow the problem is of a much-reduced scale although referrals on the number of women are increasing). Even if this were to be a national resource it would only meet the needs of a very few women outside Glasgow. The rest would need flexible locally based resources.

Question by Lord James Douglas Hamilton on availability of Community Service and Supervised Attendance Orders and adequacy of resources –

Community Service and Supervised Attendance Orders have generally been available on request to courts across Scotland in recent years. Some Councils anticipate difficulties in meeting demand during the current financial year, particularly if demand increases across the range of criminal justice social work services provided. Peaks and troughs in levels of demand can be met by careful management of the resources available, provided that increases in demand do not occur across all services at the same time. Where there is an increase in demand across all services, this creates considerable pressure, with resource allocation taking up to 2 years to catch up with levels of demand. Some Councils currently find themselves in this position. A number of Councils report that the profile of offenders who are being dealt with on Community Service is increasingly complex, with there being a growing prevalence of drug problems. This has implications for the levels of supervision required and the resultant cost of the service, which is not taken into account in current funding mechanisms. A further area of pressure for Community Service schemes is the difficulty that can be experienced in meeting non-recurring capital costs associated with workshop facilities, purchase of vehicles and larger items of equipment. These non-recurring capital costs require to be met by individual Councils are not normally covered by existing funding mechanisms.

Question re Open Prisons/Facilities for Women Offenders

We believe that there is a lack of open facilities for women prisoners at the present time, which raises equality issues in relation to their male counterparts. We would also advocate that there needs to be a range of services tailored to the needs of women offenders and available across Scotland as alternatives to imprisonment. The location of services is a particularly important issue for many women offenders whose personal and
family circumstances are such that they do not find it easy to travel long distances to access services. Whilst the development of specialist facilities in Glasgow is very welcome, the needs of women outwith the Glasgow area also requires attention and resourcing.

- Young Offenders –

The majority of children in secure accommodation are placed there under the Children’s Hearing system and are paid for by Local Authorities through the monies they receive for children’s services. A very small number of children are placed in secure accommodation by the Court system usually for very serious offences and they are paid for by the Justice Department budget.

- Children’s Panel Order for Secure Accommodation –

Local Authorities are expected to give effect to Supervision Orders as soon as practical and if are unable to do so inform the Reporter to the Children’s Panel who will arrange for a review. However, this does not apply to an authorisation by a Children’s Panel for the use of secure care. The situation is however complex and therefore I attach a practice note which sets out the current situation.

COLIN D MACKENZIE
Convener
ADSW Criminal Justice Standing Committee

CDM/JL
May 2002
PLACEMENT OF YOUNG PEOPLE IN SECURE ACCOMMODATION

Introduction

There are three main ways by which a child or young person can be placed in secure accommodation:

Under Section 72 of the Children (Scotland) Act 1995 with the agreement of the Chief Social Work Officer and the Chief Executive of the Secure Unit in the circumstances where an emergency move for the child is required and the child or young person meets the specified criteria for admission. In these circumstances the Reporter must arrange for a Children’s Hearing to be called within 7 days of his transfer.

Under 70 of the Children (Scotland) Act 1995 where the child or young person is subject to a supervision requirement made by a Children’s Panel and where a Children’s Hearing has authorised the placing of a child there following the agreement of the Chief Social Work Officer and Chief Executive of the receiving secure establishment.

By decision of a Court under the Criminal Procedure (Scotland) Act 1995.

Your enquiry related to the second of these:

Children and Young People subject to a Compulsory Supervision Order under Section 70 of the Children (Scotland) Act 1995

Where it is assessed that a child or young person meets the criteria and it would be in their interests to be placed in secure accommodation the agreement of the Chief Social Work Officer and the Chief Executive of the receiving secure unit is required. A Children’s Hearing which should consider this matter as the child is subject to a supervision order “..... have no power to require that the child be kept in secure accommodation: rather they simply authorise the placing of the child there.” (Norrie Children (Scotland) Act 1995 Greens Annotated Acts)

Implementing Supervision Requirements

This falls into two parts:

Where a Children’s Hearing is satisfied with an application made under the above circumstances they may specify a place of residence which names an establishment which has a secure wing. In doing so the Children’s Hearing is not authorising the use of secure accommodation it is specifying the place in which the young person will stay. The use of the secure unit is through agreement of the Chief Social Work
Officer and the Chief Executive of that unit. It is required under Section 71 of the Children (Scotland) Act 1995 that the Local Authority will give effect to the Supervision Requirement and all its specifications. Where it is not possible for a Local Authority to give effect to this requirement then they must advise the Reporter to the Children’s Panel who will call a Hearing to review the case. It should be noted here that there is no specified period under the 1995 Act for the Local Authority to give effect to the Supervision Order but it is expected that this would be done immediately and where within a reasonable period of time (not specified) it was clear that the Order could not be effected then the Reporter should be advised at once. Again the Reporter to the Children’s Panel is not given a specified time in which to call a review Children’s Hearing but they would clearly give consideration to the needs of the case. Normally a Children’s Hearing would not specify a place of residence naming an establishment with a secure unit unless a place was available at the time of the Hearing.

In the second instance of the same circumstances where an application is made for a review Children’s Hearing of a supervision requirement asking the Children’s Hearing to authorise the placing of a child in secure accommodation but no specific place is available then the Children’s Hearing may agree to authorise where the Chief Social Work Officer and the Chief Executive of a subsequent secure unit agree and a child meets the criteria. The Chief Social Work Officer would then be at liberty to action the secure order at any time thereafter up to the time of the next Children’s Panel review as it is an authorisation by the Children’s Hearing and not a supervision requirement however it would be required that when and if a secure accommodation placement became available the child or young person would have to **meet the criteria at that time** before the Chief Social Work Officer and the Chief Executive of the unit could come to the conclusion that it was appropriate to action the Secure Order. Once the Order was actioned the subsequent requirements for review etc would come into place. It is also worth noting that where a Secure Order has been granted but not actioned then a parent or relevant person can ask the Reporter to the Children’s Panel for a review of the child’s case within 6 weeks of the authorisation of the Secure Order.

**Issues**

1. In the circumstances where the Chief Social Work Officer following assessment agrees that a child or young person meets the criteria for secure accommodation and that it is in their interests to be so placed but no secure placement is available then the Local Authority is in a position of extreme difficulty with regard to safeguarding the child or young person and others. Given that the Local Authority deems the child to meet the secure criteria and cannot provide placement then it follows that any alternative placement that it is forced to provide in the interim will not meet the needs of the child, may be outwith the statement of objectives of any residential establishment available, not meet the registration and inspection requirements in any particular establishment and may breach health and safety requirements. (The same may be true of a foster placement) In these circumstances how are a young person’s needs to be met? If there is an **absolute requirement** for a Local Authority to meet the needs of a young person in these circumstances then the implication may be that Local Authorities will have to commission and
maintain such level of places to meet all eventualities. The other alternative would be to return the child home to await an appropriate placement. In some circumstances this may be seen also as a breach of duty of care.

2 Under Section 32 (b) of the Children (Scotland) Act 1995 the person responsible for a residential establishment has the power to request the Local Authority to remove any child or young person placed with them and the Local Authority must comply. This power also applies to the person in charge of secure accommodation where a child is placed under a supervision requirement. This can occur even if the child continues to be assessed to meet the criteria for admission to secure care and may be at risk or may be placing others at risk. Again in these circumstances it may be that the Local Authority is unable to provide any alternative secure placement in which case the difficulties and issues noted above would again apply.

However if a child or young person is placed in a secure establishment under Section 51 (1)(a)(i) of the Criminal Procedure (Scotland) Act 1995 “The responsible Local Authority has no discretion to move the child out of secure accommodation ……” and the person in charge of secure accommodation would have to apply to the Court for any variation to this Court Order.

The likely outcome of a combination of all of these above issues is that given the lack of secure accommodation, the unwillingness of many persons in charge of secure accommodation to hold on to difficult young children that it may be that a young person will only have their needs met when either; a) they further injure or damage themselves, or b) commit further offences and are either a) detained on a mental health order, or b) remanded following a Court appearance that their needs for security will finally be met. Given that in the second of these alternatives where a Court has made an order that the young person is very likely to be held remanded in custody in an adult prison until such secure accommodation becomes available, these outcomes would appear to go against the spirit of the Children (Scotland) Act 1995 by not effectively intervening in a young person’s life to prevent either them damaging themselves or others or attempting to intervene to prevent further occurrences.

CB.AG
07 May 2002