JUSTICE 1 COMMITTEE

AGENDA
17th Meeting, 2002 (Session 1)
Tuesday 7th May 2002

The Committee will meet at 3.15pm in Committee Room 1.

1. Item in private: The Committee will consider whether to consider item 3 in private.

2. Prison Estates Review: Committee members will give an oral report of the Committee’s visits to HMP Barlinnie and HMP Edinburgh, and the Audit Committee’s consideration of Scottish Prison Service accounts.

3. Witness expenses: The Committee will consider whether to approve travelling expenses for witnesses.

Alison Taylor
Acting Clerk to the Committee, Tel 85195
The following papers are attached for this meeting:

**Agenda item 2**
- Report by Professor Bill Marshall (private paper) J1/02/17/1
- HMP Kilmarnock – Visiting Committee Annual Report 2001/2002 J1/02/17/2

**Agenda item 3**
- Note by the Clerk (private paper) J1/02/17/3

**Papers not circulated:**

Committee members may wish to note that the HM Inspectorate of Prisons for Scotland report on HM Prison Perth for 2002 is now available from the Committee Clerks at Room 3.11, Committee Chambers.

Committee members may wish to note that the Scottish Executive consultation document entitled ‘Proposal for a Directive on Environmental Liability with regard to the Prevention and Remedy of Environmental Damage’ is available from the Committee Clerks at Room 3.11, Committee Chambers or via the Scottish Executive web-site at (http://www.scotland.gov.uk/library5/environment/pdel-00.asp).
This is the third Annual Report of the Visiting Committee of HMP Kilmarnock. Our initial optimism for this project – the first private prison in Scotland – continues. The prison has become part of the community of west Scotland and perceptions of the prison within that community are due in no small measure to the efforts of the staff and management. The co-operation between all of those involved with the establishment works to the benefit of the prison population.

1. **THE COMMITTEE**

1.1 **Visiting Committee Membership**

- Sylvia Black, East Renfrewshire Council (non-elected)
- Robert Bryan, East Ayrshire Council (non-elected)
- Alex Burns, North Ayrshire Council (non-elected)
- Jack Carson, North Ayrshire Council (elected)
- Jim Collins, South Ayrshire Council (non-elected)
- Agnes Davies, South Ayrshire Council (elected)
- David Duncan (Vice-Chairman), South Ayrshire Council (elected)
- Jane Gorman, North Ayrshire Council (elected)
- George Herbert (Chairman), East Ayrshire Council (non-elected)
- Eric Jackson, East Ayrshire Council (elected)
- James Malloy, South Lanarkshire Council (elected)
- James Raymond, East Ayrshire Council (elected)
- Allan Steele, East Renfrewshire Council (elected)
- George Steven, North Ayrshire Council (non-elected)
- Jean Wilson, South Ayrshire Council (non-elected)

1.2 There are no vacancies on the committee for the first time since its inception.

Margaret Mooney (East Renfrewshire, non-elected) joined us in May 2001, but had to resign in the autumn through ill health. Alex Burns (North Ayrshire, non-elected) joined us in May 2001. Betty Cunningham (East Renfrewshire, elected) resigned in August 2001. East Renfrewshire appointed Allan Steele (elected) and Sylvia Black (non-elected) as replacement members and they attended their first meeting in November 2001.

2. **MEETINGS AND VISITS**

2.1 Quarterly meetings were held in May, August and November 2001 and February 2002. The training pattern was continued as in previous years, with invited speakers addressing the members at each meeting.

<table>
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<tr>
<th>Date</th>
<th>Speaker</th>
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<tr>
<td>May 2001</td>
<td>Ms Joan Aitken, Complaints Commissioner</td>
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<tr>
<td>August 2001</td>
<td>Dr Jamieson, Premier Prisons Ltd, Healthcare Centre</td>
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<tr>
<td>November 2001</td>
<td>Mr John Gerrie, SPS, &quot;The Role of the Controller&quot;</td>
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February 2002 Mr Laurence Kelman and Mr John McClure, Premier Prisons, Reclassification of Security Categories

2.2 The average attendance at the quarterly meetings was 62%. One member has attended no meetings in 2001-2002 and this issue has been raised with the appropriate local authority and an amicable resolution is awaited.

2.3 The rota visits were adequately covered, but continue to fall short of perfection.

2.4 There have been 20 prisoner complaints in the year to 31 March 2002. This is close to the average for the first two years. The majority of the complaints have been of a trivial nature and have been dealt with to the satisfaction of the complainers. The view of the committee is that the number of complaints is a true reflection of the culture of the establishment and sets a standard to aim for in the future.

2.5 The Director submits a written report prior to each quarterly meeting and takes questions from the members. Mr Ron Tasker has continued the pattern established by Mr John Bywalec, his predecessor. The attention and time devoted by the management to the interests of the committee is commended.

2.6 The prison continues to attract the interest of people throughout Scotland. Most visiting committees attached to SPS prisons have now visited HMP Kilmarnock and many have left suitably impressed.

On a number of occasions the Chairman has been invited by the Director to join him in meetings and discussions on issues affecting the prison. Notably the Chairman has met:-

- Representatives of the Parole Board
- The Managing Director of Premier Prisons Ltd
- The Butler Trust
- First Minister, Jack McConnell
- HRH Princess Anne and the Butler Trust
- Deputy Justice Minister, Dr Richard Simpson

Mrs Jean Wilson accompanied the Chairman at the Royal Visit.

2.7 The Chairman met with Mr Clive Fairweather, HMCIP in March 2002.

3. STAFFING

3.1 To state that anxiety was a key feeling in the prison in the early months of 1999 may be an understatement. Premier Prisons Ltd, with hindsight, showed great courage in employing from the local community, people with no previous prison experience. Some from those early days are now expressing their thoughts about apprehension in dealing with prisoners. Three years on, they have become confident practitioners and have maintained the early credo of the establishment to treat prisoners decently. The staff have been successful to the
extent that may prisoners do not want to be transferred from Kilmarnock (see 4.4.2).

3.2 The preceding paragraph leads neatly into the fact that stability could not be prescriptive. It had to build and grow into many systems and is now a significant aspect of the success of HMP Kilmarnock –

- The healthcare staff have stabilised and turnover has been mainly due to promotion.
- Staff turnover, in general, has dropped from over 30% in the first year to around 11% in the present year, and the downward trend shows signs of continuing to fall.
- Many staff have now been with the prison since it opened in 1999.
- A significant number have been promoted within the establishment or to the delention centre at Dungavel, South Lanarkshire.

3.3 Staff absences for 2001-2002 are around 10.5% and this compares favourably with other employers in the community, and with last year.

3.4 The Visiting Committee recognise that staffing is not normally the concern which should attract their attention, but the fact that all has been new, members have often given a sympathetic ear to young members of staff with concerns about their role. This has, on occasion, quite inadvertently enhanced relationships between staff, management and prisoners. The management have never discouraged committee involvement with the staff. It is our view that the committee should continue to "lend an ear" wherever possible.

4. Discipline and Control

4.1 The general atmosphere in the prison continues to be good. The Visiting Committee needs to be continually aware that new young remand prisoners may not be aware of our functions. The next innovative move is to persuade VC members to address induction meetings for new prisoners. It has been attempted and was successful.

4.2 There have been four deaths in custody in 2001-2002. There were two suicides and a death in the local hospital as a result of a suicide attempt. There was a cell death due to natural causes.

4.3 A prisoner on prisoner hostage situation took place in January 2002. The situation was successfully resolved after some hours. Serious issues such as those referred to in 4.2 and 4.3 have always been reported to the Chairman very quickly.

4.4 Two issues have provoked major concerns during the year.
4.4.1 HMCIP Clive Fairweather visited the prison twice in March 2001 as follow up visits to his main inspection in 2000. The presence of an ex-prisoner in his team provoked a degree of distress among the staff of the prison and the prisoners. The matter was resolved and is now in the past. The view of the VC is that the presence of ex-prisoners in the inspection team needs to be considered with care.

4.4.2 The number of prisoners continuing to self-harm prior to transfer to, particularly, HMP Lowmoss, but also to other YO establishments is alarming. If they do not self-harm they create an untenable state of indiscipline such as to place undue pressure on the orderly room. The committee accept without reservation the rules governing transfer of prisoners, but feel it their duty to highlight the issue. The Justice Minister has been previously informed of our concerns and the response from the Chief Executive was comprehensive and met with accord by the Visiting Committee. The VC responded, following discussions with the Director of HMP Kilmarnock, that significant "free" accommodation appeared to be available at HMP Lowmoss and perhaps a more proportional distribution of Kilmarnock prisoners might be achieved on arrival at HMP Lowmoss. Serious thought is now being given on this issue and we await developments. We appreciate that the problem is not going to go away until new and modern accommodation is available. This should not distract all of those involved from seeking to find a temporary solution to the problem.

4.5 Two members of the VC on a rota visit observed the response to a major incident – a cell fire in the remand wing, where the prisoner refused to leave his cell. The staff are to be commended for their reaction to the event and the professional manner in which they dealt with the incident. The wing staff were instantly supported by teams from the Health Centre and security. Any criticism that there are insufficient staff to initiate control are negated. The VC members were there within minutes and the wing was calm and controlled.

4.6 The dental practice. An issue arose whereby a (prisoner) patient was treated for an extraction and then claimed that his jaw had been broken by the dentist. This was in fact the "re-activation" of an injury sustained in a previous assault in another place.

The prisoner did not in fact inform the dentist of the prior incident before treatment commenced. The implications of this event seem important enough to draw the matter to your attention, particularly in this age of instant litigation, not always connected with Human Rights legislation.

The committee's view was that in order to pre-empt future incidents of this type, the dentist should post a large notice on the wall facing the chair in the following terms:–

"HAVE YOU TOLD THE DENTIST OF ANY FEATURES OF YOUR MOUTH WHICH MIGHT AFFECT YOUR TREATMENT?"

The prison management found this proposal acceptable and undertook to implement it.
4.7 Drug related issues.

4.7.1 Visits Hall. The number of detections by the dog unit, at reception, continues to progress in a positive manner. Visitors are becoming adept at circumventing the trap by concealing samples in ever more sterile wrappings. The number of detections within the hall is succeeding to the extent that in one week in early March there were 37 prisoners on closed visits. The number of prisoners entering the establishment with a dependency problem remains high (85%) and realistically all transfers of prohibited materials are impossible to prevent. Nevertheless, the staff in the area are to be commended for the vigilance.

4.7.2 Mandatory drug testing. The failure rate is running at 15%.

4.7.3 Cranstoun Programme. This continues to give cause for concern (para 4.3 previous annual report 2000-2001). The lack of progress on this front is regrettable and our concerns were expressed to HMCIP in March 2002. Similar sized establishments now have workers in place, both inside and outside the establishments. It would be a great benefit to HMP Kilmarnock if a start could be made to implement the appointment of an appropriate number of workers.

5. REGIMES AND WELFARE

5.1 Induction courses. The staff invited the Visiting Committee to participate in this area with a short talk on the role of the committee. It is anticipated that not all members of the committee will be willing to engage in this role, but that the idea should not be discouraged. Time will tell how successful this innovation will be.

5.2 The Health Centre has again experienced a number of upheavals in the course of the year. The national shortage of nurses does not help, but PPS nevertheless must strive to achieve a settled staff.

5.2.1 A child of 15 years had to be housed in the centre for a number of weeks as no suitable placement could be found for him in the country. This was largely due to the fact that no establishment would take him, rather than the lack of a place. The staff coped with what turned out to be a demanding situation, very well. The Visiting Committee monitored the period of his stay.

5.2.2 Partly overlapping 5.2.1 above, two youths had to be detained in the centre for two or three weeks and had to have their behaviour monitored closely.

5.2.3 It is the view of the committee that the Health Centre should not have to carry this sort of responsibility, except in very exceptional circumstances, and only for a day or two. Regardless of cost, a national location needs to be found for under-16s remanded by Sheriffs. This is likely to be an increasing problem rather than a diminishing one.

5.3 One of the deaths in custody occurred in the centre in distressing circumstances.

5.4 There was a major fire in the x-ray department and the room and equipment were badly damaged, requiring total replacement of the essential equipment.
The room had been empty and locked from late afternoon on the day of the incident and the results of all enquiries remain to be published.

The staff coped well with the disruption to their routine and re-painting of the smoke damaged areas was expeditiously undertaken over the following weekend.

5.5 Of all the areas in the prison the Health Centre staff seem to have to bear the brunt of the most serious criticism. As professionals, they are continually in a high state of readiness for every eventuality and, therefore, the slightest slip is accentuated. Staff changes increase the department's vulnerability and patience must be exercised before rushing to criticise. Many prisoners indicate to the committee that the service they receive from the Health Centre is acceptable. There will always be grievances where drug rehabilitation schemes are being undertaken. The area is regularly visited on rota visits.

5.6 The Rowan Alba Trust. The prison lost the appointee from this organisation through promotion. She was a valued member of the social work team and made excellent contacts within the wider community to the benefit of released prisoners.

6. GENERAL

6.1 The Chairman has attended Association meetings regularly and three members (including the Chairman) along with the Director attended the Association Annual Conference at Clydebank.

6.2 The funding issues for non-elected members of the Visiting Committee have been resolved in the course of the year, to the satisfaction of all parties.

6.3 For the record, the Chairman and Mrs Jean Wilson have acted as members of the temporary Visiting Committee at the Removal Centre at Dungavel, Lanarkshire. This temporary committee is in the course of being wound up.

George Herbert, Chairman