The Committee will meet at 1.45pm in Committee Room 3.

1. **Prison Estates Review (in private):** The Committee will consider lines of questioning for witnesses.

2. **Items in private:** The Committee will consider whether to discuss the remit of its inquiry into alternatives to custody, its forward planning for the Title Conditions (Scotland) Bill and its draft report for the Prison Estates Review in private at future meetings.

3. **Joint meeting:** The Committee will consider whether to meet jointly with the Justice 2 Committee to take evidence on progress to date and future plans of the Minister for Justice, and to take evidence from Clive Fairweather, Her Majesty’s Chief Inspector of Prisons for Scotland on his annual report.

4. **Prison Estates Review:** Committee members will give an oral report of the Committee’s visit to HMP Glenochil and the Audit Committee’s consideration of Scottish Prison Service accounts.

5. **Subordinate Legislation:** Dr Richard Simpson (Deputy Minister for Justice) to move—

   S1M-3177 Dr Richard Simpson: The Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002 (Draft)—That
the Justice 1 Committee recommends that the draft Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002 be approved,

S1M-3178 Dr Richard Simpson: The Advice and Assistance (Financial Conditions) (Scotland) (No.2) Regulations 2002 (Draft)—That the Justice 1 Committee recommends that the draft Advice and Assistance (Financial Conditions) (Scotland) (No.2) Regulations 2002 be approved, and

S1M-3179 Dr Richard Simpson: The Civil Legal Aid (Financial Conditions) (Scotland) (No.2) Regulations 2002 (Draft)—That the Justice 1 Committee recommends that the draft Civil Legal Aid (Financial Conditions) (Scotland) (No.2) Regulations 2002 be approved.

6. **Prison Estates Review:** The Committee will take evidence from—

   Peter McKinlay, former Director of Scottish Prison Service, and

   Luke de Lord, Senior Manager and Peter Cutler, Partner in Project Finance, Grant Thornton.

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

**Agenda items 1 and 6**
Note by the Clerk (private paper) J1/02/25/1
Final report of Justice 1 Committee’s visit to HMP Glenochil J1/02/25/2
Report by Peter McKinlay, former Director of Scottish Prison Service in response to the Prison Estates Review (Justice 1 Committee members only) J1/02/25/3
Report by Grant Thornton in response to the Prison Estates Review (Justice 1 Committee members only) J1/02/25/4
Correspondence regarding the Prison Estates Review (Justice 1 Committee members only) J1/02/25/5
Response by SACRO to the Prison Estates Review J1/02/25/6
Correspondence from the Scottish Prison Service to the Chief Inspector for Prisons in Scotland regarding prison inspections J1/02/25/7
Note by the Clerk (private paper) J1/02/25/8
Report by Aberdeenshire Council in response to the Prison Estates Review (Justice 1 Committee members only) J1/02/25/9

**Agenda item 5**
Note by the Clerk J1/02/25/10
Note by the Clerk J1/02/25/11
Note by the Clerk J1/02/25/12
Justice 1 Committee

Visit to HMP & YOI Glenochil

Note by the Clerk

Background

1. Members of the Justice 1 Committee visited HMP & YOI Glenochil on Monday 13 May. Members in attendance were: Donald Gorrie, Michael Matheson and Maureen Macmillan. This note provides a factual account of the visit.

Meeting with the Governor and Deputy Governor

2. On arriving at the prison, the members held a discussion with Kate Donegan, Governor, and Sue Brookes, Deputy Governor. The Governor explained that the prison has a young offenders institution for young offenders requiring medium to low supervision (former category “C”). She explained that the conditions in the young offenders institution are unsatisfactory. There is no electrical power in cell. There is also no access to night or integral sanitation. These facilities are to be demolished and replaced by a new houseblock.

3. The Governor told members that there are a number of programmes available for the young offenders and that these concentrate more on education and physical activities than on work in the work sheds. Programmes include basic communication skills and drug awareness. The education centre at the prison has gained a national UK award for its work. The education centre recently held an adult learners week to encourage more prisoners to take up the educational opportunities available.

4. One member pointed out the comments made by the Chief Inspector of Prisons in his intermediate inspection of HMYOI Glenochil in September 2001 that the priority for delivery of programmes and activities to address offending at Glenochil has mainly been directed towards adult prisoners. The Governor responded that a lot of work has been done in this area and that the young offenders are now out of their cells taking part in activities for most of the day.

5. Another member asked about healthcare and drugs testing which was also a concern of the Chief Inspector in his latest intermediate inspection of the prison (March 2002). The Governor explained that there have been staffing difficulties at the middle manager level in the health centre, but that the prison has recently employed a new doctor who is very dedicated. She went on to explain that prisoners are a difficult population to work with, but that the prison has not had any problems in recruiting and retaining nursing staff. The Governor told members that the mandatory drug testing figures at the prison are comparatively better than in other prisons.
6. A member asked whether there was land available within the prison site to build on. The Governor explained that the prison is built on a former coal mine and that the football pitch has a mine running under it. It is therefore not possible easily to build any new buildings on that part of the site without incurring construction problems and high costs. The Governor told members that the work sheds are in good order, but that there are plans to ultimately demolish the old house blocks and to replace them with new house blocks and facilities as part of the prison’s 10 year development plan. All of the adult halls bar one (“Bravo” hall) have been fully refurbished. It has not been possible to refurbish this hall as there are no facilities available to decant the 120 prisoners currently in that hall. The Governor told members that the segregation unit is old and too close to the fence. There is a need to build a new segregation unit in the middle of the Glenochil complex. The Governor explained that the only visiting facility in the YOI is within the high security area, and that visitors have to cross the sterile area to get to it. Generally, the visiting facilities are inadequate. New facilities have been built for staff.

7. Two-thirds of the YOI has been closed down as the number of young offenders had recently dropped. The Governor said that she would prefer the young offenders to be transferred to HMYOI Polmont, and for the YOI at Glenochil to be demolished.

Meeting with Staff

8. Members of the Committee had a meeting with a group of staff from HMP and YOI Glenochil. One member of staff referred to an advertisement in the Kilmarnock Standard for staff for HMP Kilmarnock. He said that the wages offered were very low. He asked about the proposals to build three new private prisons, and how these prisons will be staffed. One member explained that the Committee was canvassing views on these proposals, and that others had expressed concerns to the Committee about staffing levels and pay and conditions in private prisons.

9. Another member of staff questioned whether the financial review of the prison estate carried out by PricewaterhouseCoopers (PwC) was independent. Members explained that the Committee intended to question PwC and the Chief Executive of the SPS on the figures in the estates review.

10. A member of staff referred to the predictions about prisoner numbers contained within the estates review. He pointed out that prisoner numbers had fallen dramatically in Finland, and questioned why this cannot be achieved in Scotland. Members told the staff group that the Committee had taken evidence from APEX Scotland, SACRO and the Scottish Consortium on Crime and Criminal Justice. These witnesses had told the Committee that with more investment in community sentencing, the prisoner numbers could be reduced, particularly short-term prisoners.

11. A member of the staff group expressed concern about what would happen to the public sector prisons if there is an obligation to fill three private prisons over 25 years. He said that staff in the public sector are working hard to tackle
recidivism, but that the benefits of that work may not be seen within the next ten years. He went on to say that the public sector prisons have invested in courses and are improving training for prisoners. He said that the SPS prisons are not profit making, but that private prisons will be. He feared that they may not invest in courses to address offending behaviour to the extent that SPS prisons do.

12. One member asked about aftercare. Staff explained that very few prisoners leave HMP Glenochil to go back into the community as they go to other prisons in preparation for release. They said that sometimes prisoners are recalled when released on license for relatively minor breaches and that this is costly for the SPS.

13. Another member asked how well the new shift patterns were working. A member of staff said that the shift patterns at HMP Glenochil are the envy of Scotland. They would not accept longer shifts. He also said that there are still problems with covering for sick leave and summer holidays, so the staff are constantly stretched. Staff said that escorting prisoners to court takes valuable resources away from the core work of the prison. Staff members said that a private escort system would eradicate this problem. However, the private escort agencies are thought to treat the prisoners “like cattle”, and the private escort officers do not build up a rapport with the prisoners as the SPS prison officers do. It was also thought that private escort officers might not be as skilled as SPS prison officers in detecting whether elicit substances have been handed over to the prisoner whilst in court. SPS officers are trained to detect observe such situations. Staff said that it is difficult to plan ahead for court appearances, as it is not known until the last minute which prisoners are to attend which court. It was thought that advanced notification of court appearances would be useful.

14. Staff spoke about the proposal in the Estates Review that HMP Glenochil could become the new location for a prison for sex offenders if HMP Peterhead were to close. Staff said that they were not very happy about this proposal and that they do not want to work exclusively with sex offenders. However, they are interested in securing the long-term future of the prison. There was concern that staff would come down to the prison from HMP Peterhead, and that the staff currently at HMP Glenochil might be displaced. There was also concern about training, as it was said that very few officers at HMP Glenochil were trained to work with sex offenders. It was felt that it would be possible to train the staff to deal with these prisoners, but there is currently a gap in levels of expertise. It was felt that it is better to have an entire prison dedicated to sex offenders, rather than a “prison within a prison”. Staff felt that it would not be well received locally due to a lack of knowledge.

Tour of Young Offenders Institution

15. The members went on a tour of the young offenders institution. There are two wings currently in operation “A” wing and part of “C” wing. “C” wing is used for induction for young offenders when they arrive from HMYOI Polmont. Induction includes a course on drugs awareness. After their induction, the young offenders are integrated into the mainstream regime in “A” wing. There were 73 young offenders in the YOI on 13 May. There are 9 members of staff on duty per shift.
and 1 supervisor. Programmes available for young offenders include cognitive skills as well as preparation for release (courses about benefits, housing grants, etc). The young offenders have portapotties in their cells which are emptied 1 to 2 times per week. An officer told members that this is quite resource intensive for the staff and an extremely unpleasant task.

16. There is no power in cell in the YOI. The facilities were described as not being fit for purpose. The facility was built in 1956. The young offenders eat together in a dining hall. During the day they take part in programmes (such as education; cognitive skills; drug and alcohol awareness), physical training and work (such as gardening and cleaning). It is not possible to engage in most industries due to the low numbers in the YOI. Sometimes they take part in physical training up to three times per day. In the evening they take part in recreational activities.

17. Educational opportunities are said to be quite wide ranging and include basic literacy; creative drawing and writing; computer studies and guitar lessons. The young offenders are put into small classes (7 to 8 prisoners per class).

Staff training area

18. Members visited the staff training area. The Governor told members that there are training opportunities for new recruits and ongoing training for existing staff. She told members that there has been a retention problem amongst operational staff. A prison officer told members that this is because there are not sufficient promotional and career development opportunities as the SPS has downsized. A member of staff told members that he believed that if three new private prisons are built there will be even less opportunity for promotion. He said that a career in the police is more appealing to many prison officers as the starting salary for new police officers is £17,600.

Meeting with local Prison Officers Association Representatives (POAS)

19. Members met with representatives from the local POAS branch. The POAS representatives (“reps”) told members that they have been following proceedings in the Parliament in relation to the Prison Estates Review. They said that staff in the SPS are intimidated and not able to speak frankly. They said that an email was sent to all staff reminding them of their status as civil servants, and that they should be neutral in relation to the estates review. The reps said that when they were fighting for their jobs they should be able to give their views. They said that the Governors have been “tied into” the estates review, and that if they disagree with what is suggested, they will be removed from their posts. They told members that the Governors Committee, the main trade union for Governors, had resigned due to difficulties in being unable to express their views.

20. The reps gave members a copy of a memo from Tony Cameron stating that a member of staff has been appointed to take forward the estates review. This was viewed with some suspicion, as it seemed to imply that decisions had already been made about the outcomes of the review.
21. The reps accepted that there is a need for new prisons to be built. However, they described the plan to build three new private prisons as “frightening”. There was a fear that if a third of the estate was run by private companies, the existing public sector prisons would be at risk given that it would be more likely that the public sector prisons would close if prisoner numbers were to decrease.

22. The reps criticised the PwC report as not being independent. They told members that PwC sponsored a major private prisons conference in Dublin in 2001 and that they would stand to gain if the recommendations of the report were implemented. They said that the figures do not add up and that the exercise did not compare like-for-like. They said that any modern prison would be easier to run than an old public sector prison. They said that if safety standards were still met but it was necessary to lose posts, they would accept that. They said that staff are prepared to be flexible, but that the management should also be flexible. They referred to the unofficial strike (which took place last year) related to new attendance patterns. They said that in that case, the management were not flexible regarding how the new patterns were to be implemented.

23. The reps told members that the Chief Executive of the SPS treats staff as a commodity. They said that he supports private prisons because if a riot happens during the night in a public prison, he needs to get up and answer questions. If it happens in a private prison, he can hand the matter over to a press officer, and fine the private prison. They said that the SPS Board complies with whatever Tony Cameron recommends, and that they should be fighting for the SPS.

24. With regard to the proposed closure of HMP Peterhead, the reps said that there is a fear that the professionalism and enthusiasm of the staff at the prison will be lost if the prison is closed and the sex offenders moved elsewhere. They said that the sex offenders are cosseted at HMP Glenochil and that the prison has to come to a standstill whenever there is any movement of the sex offenders. They acknowledged that HMP Glenochil had been earmarked as the new prison for sex offenders if HMP Peterhead were to close. They said that it would be necessary to have the total infrastructure in place to ensure that this worked. They said that staff at HMP Glenochil do not want to work with sex offenders, and that if it were to happen, a reasonable transition period would be required for staff to become accustomed to working with this type of prisoner group.

25. One member asked which option outlined in the estates review was the preferred option. They said that they preferred the private build/public operate option, with control of salaries, staffing, programmes for prisoners, etc being retained within the public sector.

**Tour of facilities for adult prisoners**

**Employability**

26. Members went on a tour of the “employability” facilities where they witnessed an induction class which was in progress. This course sets out the basic rules of the prison, standards and obligations, etc. These courses are delivered by the Hall staff. Other courses include health and safety and drug awareness. Prisoners
are able to obtain certificates for completing these courses, and these can be used once the prisoner is liberated. The timetable for classes is devised to maximise the opportunities available to prisoners.

27. The room in which these classes were taking place was makeshift and the noise levels were high from the work shed next door. The member of staff told members about plans to refurbish this venue.

Sentence management

28. Members visited the team which deals with sentence management. Sentence management was centralised in the prison three months before the visit. There is a file on each prisoner kept at a central location. After arriving at the prison, the prisoner is assessed to identify his needs, including literacy. Eighteen months later he is reassessed by the sentence management group to identify his future needs. The opportunities available to prisoners range from basic education to open university. Incentives to prisoners to engage in such activities include the prospect of early release; better wages and better job progression. Sentence management is accredited at HMP Glenochil and 22 members of staff are currently trained to deliver it.

Learning centre

29. Members visited the prison’s learning centre. The manager of the learning centre talked to members about the work of the centre. She told members that the majority of classes are run by Lauder College and that the centre receives 130-140 prisoners per week. Each prisoner has their own individual timetable of work. The induction process was said to be very important, and this is fed into the sentence management process. She said that there is a high take-up rate among the prisoners for classes and that they never turn any prisoners away. She said that there are three basic categories of need:

- one of their priorities is basic adult education. There is not a huge need for this, but some of the prisoners have been school refusers;
- some prisoners have received a basic education, but need to acquire additional skills. She said that there is a wide range of opportunities available to these prisoners (IT; art therapy; languages; Scottish history; yoga; guitar; etc) and that the majority of the courses on offer are accredited. There are award ceremonies two or three times per month when families, etc can come along and watch the prisoner receive his certificate. The manager of the centre said that sometimes this is the first time that the prisoner has achieved anything in his life.
- some prisoners have been well educated before they arrive at the prison. These prisoners participate in distance learning and Open University courses.

30. A member asked whether sex offenders are able to access these educational facilities. The centre manager said that the sex offenders and protected prisoners sometimes receive packages of work from the learning centre in their cells.
Work sheds

31. Members went on a tour of the work sheds at the prison. The prisoners in the work shed were engaged in making boats out of fibreglass. These boats are made to order for one main customer who is based in the south of England. The prison produces about 30 boats per month. They make their own moulds and can design and modify boats according to the wishes of the customer.

Prisoner programmes

32. Members visited an area which had been purpose built and opened this year. It contained three classrooms in which programmes were delivered to help prisoners to address their offending behaviour. Courses are delivered in problem solving; anger management and drug prevention. Prisoners can gain certificates in these areas. The prison officer told members about plans to develop a course on violence management as the anger management course does not address this.

Alpha 1 Hall

33. The members visited Alpha 1 hall which houses sex offenders who have refused to take part in the STOP 2000 programme at HMP Peterhead. These prisoners are interviewed every six months by staff from HMP Peterhead to assess whether they are ready to move up to Peterhead. There are three lifers in Alpha 1 hall, and the age range of prisoners is 23 – 73 years old. There are no programmes available for sex offenders at HMP Glenochil. These prisoners are in denial and are unwilling or unable to address their offending behaviour. A prison officer in the Hall told members that this is a difficult group to manage as their movement in the prison is restricted (i.e. there is a need for them to be segregated from other prisoners). There are, however, no control problems for these prisoners.

Meeting with prisoners

34. Members met a group of prisoners. One prisoner said that he had friends at HMP Kilmarnock. He said that prison officers at HMP Glenochil have to treat all prisoners in the same way, whereas in a private prison the officers can “turn a blind eye” to bullying, etc. He said that prisoners are viewed as commodities in private prisons. Another prisoner said that he had been at HMP Kilmarnock, and that there are only two officers to a Hall of 64 prisoners. He said that it was difficult to find a prison officer as they were always busy. He said that the wages are high at HMP Kilmarnock, but that it was like a warehouse and that there are limited opportunities for rehabilitation.

35. One prisoner said that he had been at HMP Glenochil for 10 years. He said that he could have learned two full trades in that time, but that for the first seven years of his sentence he was “left to his own devices”. There was no induction when
he arrived at the prison. He complained that there are only two vocational training sheds which you can work in if you are a “B” category prisoner, and that you have to be a “C” category prisoner to participate in the other vocational training opportunities. This is because some of these activities take place outside. He said that there should be more trust in the prisoners.

36. Another prisoner questioned the purpose of prison: “is it to keep prisoners off the streets or is it for rehabilitation?” He said that the focus of prisons should be rehabilitation and that more resources should be allocated to it, as opposed to building new prisons.

37. One prisoner said that it is good to get into the habit of working from 8 am to 5 pm, but that there should be more opportunities for education in the evenings for prisoners who work all day. Another prisoner criticised the fact that prisoners do not gain certificates for their work in the work sheds.

38. One prisoner had just had his tariff set at 15 years. That means that he will serve 12 years at HMP Glenochil. He complained about the lack of progression opportunities. He also warned that it is not good for “new lifers” to live next door to lifers who have already served 10 years and who have made progress in their rehabilitation. The prisoners said that there should be more open prisons, and said that the previous regime at HMP Dungavel had been very successful.

Summary of visit with the Governor and Deputy Governor

39. Before leaving the prison, members discussed various issues arising from their visit with the Governor and Deputy Governor. Members thanked them for a very constructive visit.
The Operational Case for Retention of Peterhead Prison as the Main Prison for the Management of Long Term (4+ years) Adult Male Sex Offenders (LTAMSOs)

Prepared by:
Peter McKinlay
May 2002
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The Operational Case for Retention of Peterhead Prison as the Main Prison for the Management of Long Term (4+ years) Adult Male Sex Offenders (LTAMSOs)

1. Introduction

1.1 I was asked by Aberdeenshire Council to produce a review report of the offender rehabilitation/prisoner welfare aspects of the case for retaining a sex offenders prison in Peterhead, probably on a new build accommodated within the existing prison estate. I was asked to produce a draft Report by May 1st with a view to its incorporation, in final form, in a composite Report dealing also with the Financial and Economic aspects of the Prison Estates Review by 15th May. I began work on the 9th of April.

1.2 I am grateful for the co-operation I received from members of the S.P.S. in Peterhead and elsewhere and for the Chief Executive of the SPS’s readiness to have his colleagues supply me with any information I sought. I also appreciate views expressed to me by a number of informed observers. All comments were received by me in confidence and I take full responsibility for everything contained in this Report.

1.3. I have read a number of relevant documents and publications. A list is at Annex 1.
1.4. Given my remit, it is encouraging to note that the Executive has stated, in relation to the Estates Review, that nothing has been ruled in or out; that no decisions have been taken on it or the Executive's Consultation Paper; and that they are open to persuasion on any of the proposals in the Consultation Paper.

1.5. I have constructed this Report in Sections, dealing in turn with the issues of the Buildings at Peterhead; the geographical location of the Prison; the options for re-locating the work of Peterhead elsewhere; and the effect of closure on staff and prisoners and their families. I conclude with a proposal for building upon the acknowledged success of the régimes at Peterhead – at Peterhead.

2. Buildings

2.1 The Review concludes that the buildings at Peterhead are "at the end of their useful life". They are sub-standard; are showing their age; there are problems with water ingress; maintenance is expensive; and operationally the layout of the prison is wasteful of manpower. There is no electric power in cells and no proper night sanitation so that slopping out or portable chemical toilets were the only current options.

2.2 No hard evidence, for example a building survey, is contained in the Review to support this conclusion. This is surprising, since the Review has taken some 2 years and 4 months to complete. If such a survey...
has, in fact been done, it is equally surprising that it is not referred to.
My understanding is that the last proper survey of the buildings was
carried out in 1979.

2.3 However, in a SPS Discussion Paper "Assessment and Control: The
Management of Violent and Disruptive Prisoners", published in October
1988, it states (Chapter 7, para. 7.5, "Peterhead Prison has withstood
attempts at destruction, and restored accommodation to use, far more
rapidly than seems likely with equivalent, modern accommodation.
The robustness of the physical fabric and the range of options
Peterhead can afford when used at reduced capacity, need to be
carefully re-assessed in the light of recent incidents at other
establishments where the physical fabric is more vulnerable and takes
much longer to repair once damaged". The other establishments in
mind at that time included the relatively modern Shotts and Glenochil.
It appears that the fabric of Peterhead has deteriorated alarmingly in
the last 14 years – which may not be surprising given the Prison was
built in 1858. But some evidence to this effect is surely required.

2.4 As recently as 1988-99 proposals for refurbishment of the Gatehouse
and some ancillary accommodation were about to be implemented
when they were postponed to await the outcome of the Review. I
believe the investment involved was not insubstantial and it is hard
to believe that this should have been contemplated when the fabric of the Prison was
in such woeful condition.
2.5 The only option for development within the existing perimeter which was costed was for a 350 place Accommodation Block. Consideration of a new prison on-site of 350, 500 and 700 places was done on an operational basis only. It is given short shrift. A new, mixed-prisoner type 700 place prison is clearly a non-starter. But the operational case for a 250 or 500-place sex offender prison on-site is given no in-depth consideration and is not costed at all. A scenario similar to that recommended in the Review for Barlinnie (a mix of new build, demolition and refurbishment) is not explored in this report. A case seems to exist for building a new 500-place Accommodation Block which could house all LTAMSOs; and up grade/re-locate the ancillary accommodation of workshops, classrooms, Gatehouse etc. This could greatly improve the operational efficiency of the prison and the existing Accommodation halls could continue to be used during the construction phase, thus reducing disruption. There appears to be an abundance of space within the perimeter to allow such a scenario to be developed until it is the "Buildings" argument for closure is at best "not proven" and at worst simply does not stand up.

3. Geographical Location

3.1 The case against Peterhead as a location for LTAMSOs in the Review is strong on assertion and weak on evidence. 85% of prisoners are from areas of Scotland out with the North East and the Highlands and Islands. Some Prisoners do not receive visits from family because of the nature of their offences. Maintenance of family links is stated to be
"a major problem for this offender group" because of the distance and awkwardness of the journey for those families who do visit. It appears that, of the prisoners who do not receive visits, distance is cited by 24% as the principal reason. (It follows, of course, that for 76% distance is not the principal reason!)

3.2 All of these arguments fall in the light of a Survey of Prisoners' Attitudes carried out on 19 April this year by the prisoners themselves. A copy of the Survey results is attached at Annex 2. A survey form was issued to each prisoner (290 in total). 237 forms were returned on 19 April: an 81.7% return.

3.3 The key factors emerging from this Survey are that 90% of prisoners want to stay in Peterhead. Their reasons for this vary, but it is significant that they chose and weighted in importance these reasons. The most important reason given was: personal safety and safety of visitors. This was contrasted with their experiences and fears of being imprisoned in any other prison. On visits, 60% of prisoners assert they would not get more visits if they were moved. 83% had visits in Peterhead at some time. The survey results indicate that the level and quality of visits at Peterhead support family contact which is a vital part of rehabilitation of offenders. It is extremely unlikely on the evidence of the Survey that this would be the case for this group of offenders in any other prison.
85% of prisoners believed there were 4 or more identifiable reasons why Peterhead is a Centre of Excellence in dealing with sex-offenders. Of the 8 reasons suggested in the Survey, 59% agreed that all 8 applied. Crucially, of the 4 most important reasons, after safety and a good environment, staff and prisoner, and prisoner and prisoner relationships were cited as the most significant factors. It has taken 10 years to create these relationships. They can be lost in a matter of months. While, in theory, it is always possible to replicate such relationships elsewhere, in practice it is very difficult and would take another 10 years or longer.

The lack of power in cells and night sanitation and other drawbacks of the existing fabric, or do not alter the view of 85% of the prisoners who wish to remain at Peterhead. However, they, not unreasonably, suggest that the option of providing these facilities is worthy of consideration.

Finally, the Survey includes some comments offered by individual prisoners. While such evidence cannot be quantified numerically, it ought to weigh in the balance qualitatively. The thread which runs through all of them is concern about personal and visitor safety and the belief that this will be lost if they are moved from Peterhead.

The need to involve external agencies such as Social Work Departments, Housing Authorities and the Police in throughcare.
preparations for release and post-release support and supervision could be seen as militating against Peterhead. However, such evidence as has been collected in the prisoners' survey suggests this has not been a significant problem in practice. Many sex offenders will not want to return to their home areas where they committed their offences and the problems of housing sex offenders on release in the community are well known.

3.8 The Council's own Social Work staff have been part of Peterhead's success in this regard, with the multi-agency approach commended by Professor W Marshall, in particular. A multi-disciplinary team involving the Justices Department, Association of Directors of Social Work and SPS have only recently highlighted the quality of pre-release arrangements.

3.9 With today's means of electronic communication and proper liaison among Peterhead, other prisons and external bodies it should be possible, at no great expense, to ensure a smooth transfer at an appropriate point in a treatment programme to a prison from which an offender is to be released into the community. Enough time could be made available at a releasing prison to ensure properly trained staff carry through any necessary re-enforcement work prior to release. The existence of trained officers and other professional staff already in Barlinnie, Polmont and 6 other establishments provides a framework on which to build.
3.10 As the Review rightly observes, the argument for a dedicated sex offender prison with a specific, holistic culture is not universally accepted. What is crucial is that such prisoners feel secure within the environment where the programme is being delivered. There can be no doubt that prisoners feel much more secure at Peterhead than they would anywhere else. Equally, there seems to be general acceptance that the "holistic" approach in a dedicated sex-offender prison is more effective than having sex offender units operating in mainstream prisons.

3.11 The review concludes that it would be wrong to place the majority of short-term (2 years or less) sex offenders in Peterhead. I agree. Their treatment programmes should be different and it makes sense to house them in other prisons. But this is not an argument against Peterhead's continued use as the dedicated unit for sex offenders on the question of the health of prisoners being adversely affected by having the nearest hospital to Peterhead 32 miles away in Aberdeen. I have not seen any evidence that this has been true in the past, nor is true now.

3.12 The Review endorses Professor W. Marshall's high opinion of the work which has been done at Peterhead. Since he has been involved with the setting up and assessment of the work done with sex offenders since its inception in 1992, this is scarcely surprising. He is also said to concur with the SPS's view that there is a need to develop the work.
further. It is perhaps an oversight that the Review fails to quote an excerpt from Professor Marshall's Report on Peterhead from July 2000: viz. "The administration and online staff at Peterhead Prison have achieved an excellent prison environment to conduct sexual offender treatment and they should be given full support to continue their outstanding work. I understand there are suggestions being considered to close Peterhead Prison and shift the program to an institution near the central belt. If this is done it will take a high quality governor and a devoted and fully supportive staff several years to achieve the standards operating at present in Peterhead Prison. This would be a retrograde step and would have to be supported by some very sound reasoning that is presently not at all apparent to me."

3.13 I understand this quote and Professor Marshall's Report of July 2000 was made available to the then First Minister and the Justice Minister in February 2001. I believe Professor Marshall has also recently endorsed this view. The failure to include this quote in the Review is at best unfortunate and at worst a sign of selective or partial drafting. Given his international standing in the field of treatment of sex offenders Professor Marshall's views must carry considerable weight.

3.14 The likelihood of riots on the scale suffered at Peterhead in the 1980's is small. The type of prisoners now being held there, as the Review acknowledges, tend to be easier to manage with few problems of concerted indiscipline. Even if such problems were to occur, the
location of Peterhead was a minor factor when support had to be supplied in such eventualities.

3.15 The Review asserts that if a new prison were being built today to house sex offenders, it is highly improbable that Peterhead would be chosen as the location. This may or may not be true, but it is irrelevant. The fact of the matter is that Peterhead was chosen as the Prison in the SPS estate best suited for this purpose. As early as October 1988 Peterhead was envisaged as having this role. In the SPS Discussion Paper referred to above ("Assessment and control etc.") it was stated in Chapter 7.6 that "Another factor will be the extent to which facilities for control risks need to be supplemented by facilities for "protections" (i.e. prisoners who are at risk or in fear of assault in the mainstream because of their offences or previous conflict with other prisoners). The principle of separation from the mainstream is similar for security, control or protection cases but the management needs of each of these categories is very different. in addition, while some protection cases require very high security, the majority present no significant security or control risks provided they cannot be preyed upon by other prisoners". In paragraph 5.6 of the same Paper reference is made to the role of the Prison Officer. It underlines "the necessity to put human relationships first and to concentrate efforts on dialogue and effective communication with even the most difficult and disruptive inmates". I believe this still holds true, but particularly in the
case of non-difficult or disruptive prisoners whose offences are seen as repugnant.

3.16 It is not unreasonable to interpret these statements as the early indications of policy thinking from which, since 1992, grew the reputation today of Peterhead in the management of sex offenders, including particularly the STOP programme and the “holistic” culture of the prison. Certainly, the role of the prison did not grow like “Topsy”, but was a consequence of deliberate policy decisions taken by the SPS and endorsed by a succession of Ministers over this period. If the SPS is to avoid accusations of a “U-turn” on this policy, they must, in Professor Marshall’s phraseology, show that the decision is “supported by some very sound reasoning”. Like him, such reasoning is not apparent to me.

3.17 Relocation of the prisoners from Peterhead is, of course, possible. But the scenarios proposed for this are not, in my view, persuasive. While the precise manner of transfer and the new locations are, understandably, not specified, it is implied that Glenochil could, in effect, be emptied of its existing prisoners and house all 500 LTAMSOs. While the prison is of roughly the right size and has the necessary modern amenities, in my view, insufficient attention is given in consideration of this scenario to the operational difficulties which arise. Glenochil has always presented management problems because of its design. The prisoners are housed in 14 cell corridors
and it is difficult, if not impossible, for staff to monitor prisoner movements in all the flats from one vantage point. This leaves staff feeling somewhat insecure. This design also makes it difficult for individual prisoners to find some space if they are coming under pressure from other prisoners. Unlike the more traditional "open" halls they cannot, as easily, remove themselves from situations of tension.

3.18 The experience of "Grand Design" in the late 1980's emphasised how difficult it is to move prisoners among establishments. This would still be the case, even if it were possible to create a "window of opportunity" which enabled it to be done over 3 or more years. The assertion in the Review that this could be done, commencing delivery of STOP 2000, maintaining a high standard of programme delivery and simplifying the transitional phase, by building on the growing expertise within the SPS in handling sex offenders' sexual thinking. On top of the problems experience has taught result from large-scale prisoner transfers, there is the clear reluctance of Peterhead prisoners and their families to leave Peterhead and the almost certain resistance from the "receiving" communities to have such prisoners parachuted into their midst. It is highly unlikely that the successful regimes will be transplanted successfully elsewhere in the short-term — arguably ever — no matter if it is to Glenochil or elsewhere.

4. Staff and Prisoners and their Families
4.1 As well as the reluctance referred to above of prisoners and their families to leave Peterhead, there is evidence that staff are similarly reluctant to leave. Notwithstanding the undertakings from the SPS that there will be no compulsory redundancies and staff wishing to remain with the SPS will be transferred, there remain real uncertainties for many staff. They are, mostly, mobile grades. What will happen if they are required to move and refuse to go? Will this be seen as "constructive dismissal"? Will their pensions and lump sums be adversely affected? These real questions remain unanswered.

4.2 At present, in Peterhead, prison officers and their families are valued and respected members of the community. The Prison has been part of the social and economic fabric of the town and surrounding area for 114 years. Even the change to being the main prison for LTAMSOs has not altered this. The staff and their families feel secure and happy in the community. This is not to suggest that the same is not true, to a degree, of other Scottish prisons, but the very remoteness and history of Peterhead makes this link with the community deeper and stronger.

4.3 The prisoners and their families overwhelmingly support retention of Peterhead. While society abhors the crimes they committed, our primary concern must be to try to ensure when they are released they do not find and create more victims. All the evidence suggests that the regimes at Peterhead are the best way we know of trying to achieve this. It is notoriously difficult to get prisoners to acknowledge their
wrongdoing and to take personal responsibility for it. It is much more
difficult in the case of sex offenders. The prisoners at Peterhead are
coming to terms with this. They are responding to staff treating them
not as "Beasts" or "Monsters", but as individuals who have huge
personal problems they must overcome if they are to have any chance
of a normal life when they leave prison. Their families appear to
appreciate this.

4.4 In the SPS Business Plan published in March 1989, a Mission
Statement was produced viz. "The Mission of the SPS is to keep in
custody those committed by the courts, to maintain good order in each
prison, to look after inmates with humanity, and to provide them with all
possible opportunities to help them to lead law-abiding and useful lives
after release". This remains, almost verbatim, the SPS Mission
Statement. It must underpin all of their goals, including their
contribution to the Executive’s aim of “A Safer Scotland” and the
achievement of Correctional Excellence. As was stated in the
Director’s Foreword to the SPS Annual Report to Parliament for 1989-90,
“The Prison Service is in the ‘people business’. Our task in
managing the Service is to enable every member of the Service and
every prisoner to realise their full potential as individuals in contributing
towards making the Service an organisation of which Scottish society
can be proud”. This statement is as true today as it was then. The
staff and the prisoners make prisons what they are. At Peterhead they
have, together, created a unique atmosphere with which everyone who
has visited has been impressed. Recent visits by members of the Justice Committee of the Parliament and by Her Majesty’s Chief Inspector of Prisons stress the positive attitude they observed among all members of staff and prisoners, not just those involved in the STOP programme. Each year 30% of prisoners complete the STOP programme. While the programme is of immense importance, arguably of equal weight is the positive impact which the culture of the prison has on the 300 or so sex offenders in it. The proactive regimes dealing with sex offenders and aimed at stopping them finding victims on release has permeated all staff and all prisoners. It has taken 10 years to build this culture and it could be lost at a stroke and never replicated anywhere else. Just as staff and prisoners, not buildings or location of prisons, make a jail, so they can destroy it or prevent it happening.

4.5 At present Peterhead performs a hugely valuable service to society and to the smooth operation of mainstream prisons in the SPS. It would be a grave error if this were lost. Despite the undoubted good intentions of the authors of the Estates Review, I believe, albeit for good and understandable reasons, they have come to the wrong conclusion about the future role of Peterhead Prison in the SPS Estate.

5. A Scenario for the Future

5.1 The status quo at Peterhead should not be an option. The opportunity exists on which to build a long-term future for the prison. We can build
physically, philosophically and, most importantly, with hard evidence of success in reducing the number of victims of sex crimes.

5.2 In terms of physical building the area within the prison perimeter is more than big enough for a development along the lines of that recommended in the Review for Barlinnie i.e. a mix of new build, demolition and refurbishment. It is odd that such a scenario was not properly thought through operationally and financially in the Review. I would recommend designing an accommodation block for 500, which could take all LTAMSOs. This would ease the problems created by the 200 or so such prisoners presently catered for in mainstream prisons and would contribute an extra 200 places to the 2,200 being sought in the Review. Indeed, when taken along with reduction in prisoner numbers forecast to result from non-custodial sentences currently being evaluated by the Executive a third new prison would not be needed. This would save approximately £230m which could fund the proposed Peterhead development. Appropriate ancillary accommodation could be designed by a mix of refurbishment and demolition and new build to provide a more efficient, effective and economic operational layout.

5.3 A necessary prerequisite of this decision would be the putting in place of an inter-locking network of sex-offender treatment programmes in other prisons to ensure smooth transition of prisoners into and out of Peterhead. These programmes should be flexible enough to deal with
the reality of each individual’s personal progress. They should also provide for appropriate input from external agencies at all stages of an offender’s progress.

5.4 Such a development at Peterhead could be built as a P.P.P. However, the Deputy First Minister has made it clear that sex offenders will be managed by the public sector. This proposal therefore, would see the decision on the PPP approach at Peterhead as an issue of second order. It would, undoubtedly, have to be examined in some depth by the SPS and Ministers both operationally and financially. I suggest when doing so, the SPOA locally are engaged directly in this and encouraged to propose ways in which their members can continue to contribute to the more cost effective management of a state-of-the-art prison for the management of LTAMSOs. But a decision to proceed on this basis needs to be made and announced quickly. The project has taken 2½ years to produce and the long-term future of Peterhead has been being debated now for 2 decades. The staff, the prisoners and the community deserve to have their long-term future protected now.

6. Conclusion

6.1 It would be a serious mistake to close Peterhead. Mainstream jails in Scotland would become more difficult to manage, there would be more victims of sex crime through re-offending, and the Executive’s ambition to create a “Safer Scotland” would be seriously undermined.
Annex 1

Publications referred to:

1. The SPS Prison Estates Review
3. Privatised Prisons and Detention Centres
5. The Scottish Executive's Consultation on the Future of the Scottish Prison Estate.
13. Minutes of Meeting of the Justice Committee Tuesday 26 March 2002.
Annex 2
Prisoners Survey Committee
HMP Peterhead

April 2002

Recent recommendations by the Scottish Prison Estates Review, and associated media coverage made a number of statements regarding the view of prisoners in Peterhead on the possible closure and subsequent move to the Central Belt. At that time, as no-one had asked the prisoners, statements made we only assumption.

A survey of prisoners, by prisoners was carried out in April 2002. A copy of the results and analysis is enclosed for your information.

If you have any comments, or would like further information, please do not hesitate to contact us. Any mail should simply be headed “Prisoners Survey Committee”. 
PETERHEAD PRISONERS SURVEY

There have been a number of surveys in the past but all have been national rather than looking at issues specific to Peterhead. Statements have been made on behalf of prisoners and their families recently during discussions on closures, such as the impact on the location for visits. These statements may in fact be true but as no one has asked the prisoners, they are at best assumptions.

This survey does not address the fabric of Peterhead. It is taken as read that everyone wants modern facilities with access to sanitation day and night and to have in cell electricity and that facilities for visitors are far from ideal.

1. Only 6% of prisoners classified as 'Sex Offenders' re-offend once released from prison and only a very small number of that 5% commit a further crime of a sexual nature. Therefore what makes Peterhead Prison an effective establishment? (tick appropriate box or boxes).
   a. Environment for the prisoner. ................................................. 65
   b. Environment for visitors. ..................................................... 62
   c. Staff and prisoner relationships. ........................................... 62
   d. Prisoner and prisoner relationships. ...................................... 55
   e. Prisoners feeling safe. .......................................................... 79
   f. Freedom to move around the prison. ....................................... 41
   g. Work opportunities. .............................................................. 27
   h. Programme and educational opportunities. .............................. 46
   i. All of the above. ................................................................... 33

(Many prisoners gave multiple answers to this question).

2. Which of the following would you most like to be implemented with regards to Peterhead Prison?
   a. Closure of the prison with a rebuild on the current site, maintaining a sex offenders regime. .............................................. 118
   b. Closure of the prison with a rebuild on the current site but with a sex offenders unit within a mainstream prison. ......................... 4
   c. Closure of the prison and relocation to the Central belt maintaining a sex offenders regime. ................................................. 64
   d. Close of the prison and relocation to the Central belt but with a sex offenders unit within a mainstream prison. ......................... 14
   e. Upgrading a modernisation of the current Peterhead facilities to end slopping out and provide EPIC (electric power in cell) .................. 147

(Many prisoners gave multiple answers to this question).

3. List in order what is most important for you. (1-7 in order of importance (1) being most important and (7) least important).
   a. Safety of yourself. ................................................................ 1
   b. Safety of your visitors. ............................................................. 7
   c. Full time work. ........................................................................ 1
   d. Education and Programme/Courses work. ................................ (SEE SEPARATE TABLE)
   e. Gymnasium. ........................................................................... 7
   f. Freedom to move about the jail. .............................................. 3
   g. Power, TV and toilet in cell. ..................................................... 5

22
4. On a scale of 1 – 10 how concerned are you about moving to another jail? (1) being having no fear and (10) being terrified.

<table>
<thead>
<tr>
<th>SCALE</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
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<td>8</td>
<td>10</td>
<td>15</td>
<td>24</td>
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</table>

5. On a scale of 1 – 10 how safe did you feel within the jail that you were in prior to moving to Peterhead Jail? (1) having no fears or worries and (10) being terrified.

<table>
<thead>
<tr>
<th>SCALE</th>
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<th>2</th>
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<th>4</th>
<th>5</th>
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</tr>
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<td>36</td>
<td>12</td>
<td>10</td>
<td>24</td>
<td>10</td>
<td>77</td>
</tr>
</tbody>
</table>

6. If you do not get visits in Peterhead Prison is it because:- (Tick as appropriate).
   a. Location of Jail.
   b. Visitors unable to travel i.e. age etc.
   c. Loss of family contact due to the nature of the crime that you have been convicted of.
   d. Cost of travel to this location.
   e. Personal choice.

   (Multiple answer were ticked by many prisoners. 66 prisoners marked N/A.)

7. If you are unable to take visits at Peterhead prison do you take advantage of the accumulated visit scheme. Yes/No. If not why not:-

   Yes- 41
   No  - 133

8. Would more people visit you if you were transferred to another Jail? Yes/No.

   Yes- 90
   No  - 133

9. How well do your visitors get on with the staff at Peterhead prison?

<table>
<thead>
<tr>
<th>Very Well</th>
<th>Well</th>
<th>Not Bad</th>
<th>Not Very Well</th>
<th>Very Bad</th>
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</thead>
<tbody>
<tr>
<td>56</td>
<td>76</td>
<td>8</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

10. Have your visitor(s) been the victim of abuse from other visitors or inmates as they visited you at other convictions? Yes/No (please comment further if you wish).

    Yes- 79
    No  - 115

11. Have your visitor(s) been the victim of any form of abuse whilst visiting you at Peterhead Prison? Yes/No (please comment further if you wish to do so).

    Yes- 12
    No  - 175

12. Do you think that quality and length of visits would be as good as they are here if you were transferred to another jail? Yes/No (please comment further if you wish to do so).

    Yes- 21
    No  - 173
13. How well do you get on with staff within Peterhead Prison?
   a. Very Well.
   b. Well.
   c. Not Bad.
   d. Not Very Well.
   e. Very Badly.

<table>
<thead>
<tr>
<th>a</th>
<th>b</th>
<th>c</th>
<th>d</th>
<th>e</th>
</tr>
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<tbody>
<tr>
<td>131</td>
<td>61</td>
<td>39</td>
<td>2</td>
<td>3</td>
</tr>
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</table>

14. Would you prefer to move to a Central Belt jail or stay at an upgraded Peterhead Prison? (Tick appropriate box).

<table>
<thead>
<tr>
<th>Stay</th>
<th>Move</th>
</tr>
</thead>
<tbody>
<tr>
<td>193</td>
<td>44</td>
</tr>
</tbody>
</table>

15. Do you think that all sex offenders should be housed within the same jail, whether they are participating in groups or not? Yes/No

   Yes - 197
   No - 34
Question 3

(Each question answered on scale 1 - 10; 1 = important, 10 = Not important)

<table>
<thead>
<tr>
<th>Scale</th>
<th>1</th>
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<th>3</th>
<th>4</th>
<th>5</th>
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<th>7</th>
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<th>10</th>
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<td>10</td>
<td>8</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>Safety of your visitors</td>
<td>154</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Full Time work</td>
<td>118</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Education, Programme, Groupwork</td>
<td>8</td>
<td>21</td>
<td>14</td>
<td>10</td>
<td>23</td>
<td>2</td>
<td>7</td>
<td>6</td>
<td>0</td>
<td>18</td>
</tr>
<tr>
<td>Gymnasium</td>
<td>8</td>
<td>13</td>
<td>10</td>
<td>5</td>
<td>37</td>
<td>7</td>
<td>5</td>
<td>8</td>
<td>4</td>
<td>18</td>
</tr>
<tr>
<td>Freedom to move about the prison</td>
<td>125</td>
<td>14</td>
<td>13</td>
<td>11</td>
<td>23</td>
<td>8</td>
<td>4</td>
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<tr>
<td>Power, TV and toilet in cell</td>
<td>141</td>
<td>11</td>
<td>14</td>
<td>3</td>
<td>21</td>
<td>4</td>
<td>4</td>
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</tbody>
</table>
SURVEY ANALYSIS

A survey of prisoners was carried out in Peterhead Prison. On 18 April, a survey form was issued to each prisoner (296 in total). 237 forms were returned on 19 April: an 81.7% return.

The results can therefore be taken as a valid representation of opinion. A summary and analysis of results follows:

1. What makes Peterhead an effective establishment?

Eight options were offered. 139 felt that all the options contributed. Only 15 voted for a single factor, and 4 state "none". 85% felt that 4 or more options applied.

2. Preferred option for Prison establishment.

Multiple answers were selected in the majority of returns. The clearly preferred options are to remain on the same site with either a new prison (118), or refurbishment (147). A new Sex-offender Unit in the Central Belt was selected on 64 returns. The option of accommodation for sex-offenders attached to mainstream at Peterhead was selected by only 4, with the same option in the Central Belt in 14 cases.

3. See Table of results.

4. Concern at moving to another Jail (scale 1-10).

Only 36 showed no fear of moving (15%), with 73% rating their level of concern between 5 and 10. 75 people marked "10 - terrified" (31.7%).

5. Safety in previous jail (scale 1 - 10).

Only 27 felt completely safe in their previous prison. 75% rated their fear for safety between 1 and 10. 77 marked "10 - terrified". (52.8%).

6. Reasons for not getting visits.

Reasons included 64 with loss of contact and 51 personal choice (providing 48%). Multiple answers were ticked with "location", "visitors being unable to travel" and "cost" being selected together on many returns. (See also Question 11 where 197 out of 237 have experience of getting visits at Peterhead).

7. Do you take advantage of the accumulated visit scheme?

The figures are not borne out by local knowledge – few people take accumulated visits. Enquiries following the survey indicate that some prisoners accumulate their visits but take them in Peterhead, with their family visiting over a weekend (Friday, Saturday, Sunday) or both visit sessions on a Wednesday. Anecdotal evidence supports this preference.

8. Would you receive more visits at another prison?

60% stated "no".

40% stated "yes". This figure includes prisoners who get visits in Peterhead, but would get additional ones elsewhere.

9. How do visitors get on with staff at Peterhead?

148 replied. Only 5 made negative comment.

10. Have visitors been subjected to abuse at Peterhead?

197 replied. 40% had suffered abuse at other prisons.
11. Have visitors been subject to abuse at Peterhead?
197 replied, of whom only 8% identified any problems.

12. Would the length and quality of visits be as good in another establishment?
194 replied. 173 (90%) felt the quality of visits would be poorer elsewhere.

13. How well do you get on with staff in Peterhead?
Of 237 returns, only 5 made negative comment.

14. Would you prefer to move or stay in an upgraded Peterhead?
81.5% marked “stay”.

15. Should all sex-offenders be housed in the same prison?
197 (85%) stated “yes”.
CONCLUSION:

The survey produced an excellent response covering a wide range of issues. All were issues that prisoners in Peterhead Prison asked to be included in the questionnaire.

Four particular issues stand out when the figures are analysed.

1. SAFETY

This clearly to the fore in every reply. Sex-offenders are a vulnerable category of prisoner and fear and the very real risk of victimisation of prisoners and their families anywhere that is attached to a mainstream unit is flagged up again and again - not as a problem in Peterhead.

2. VISITS

"Prisoners do not get visits in Peterhead because they are mainly from the Central Belt". This has been widely cited as a reason to close and relocate to the Central Belt. The survey does not support this at all. 60% would not get more visits if they were moved. 83% of those who replied have had visits in Peterhead at some time.

Family contact is a vital part of the rehabilitation of offenders. The level and quality of visits reported in the survey backs up the role Peterhead plays in supporting this.

3. PETERHEAD'S REGIME

What makes Peterhead effective as a Centre of Excellence, dealing with sex-offenders was of particular note. 85% felt there were 4 or more identifiable reasons why the set up is effective. 59% concurred that all eight offered reasons applied.

This would seem to indicate that there is much more to Peterhead than just the fabric, and to create an environment elsewhere which is conducive to dealing with offence-specific issues is a complex process. The relationship and atmosphere in Peterhead was not made; it has grown. It is not possible for a survey to show if what works in Peterhead can be recreated elsewhere, but this survey appears to indicate that it would be extremely difficult to do so.

4. STAY OR MOVE

85% expressed a preference to stay in Peterhead. What also stands out is that a large proportion would be happy to remain in the existing buildings with the addition of power and access to sanitation - an option which seems not to be thought worth considering by the Estates Review Board. The opinion of those living in the prison, as reported here, supports the consideration of this option.

As well as numeric detail, the survey produced comment to support the answers given, and to voice the feeling behind certain views. It is these comments that support paragraph 1 (safety) above when considering moves to other prisons.

The comments made have been extracted and are attached as an annex to this report.

To encapsulate the report briefly:

Prisoners have expressed that what makes Peterhead tick is complex. Can this be replicated elsewhere? Prisoners do get visits in Peterhead – quality visits, promoting and maintaining good family contact. Prisoners feel safe in the environment in Peterhead – a state essential to deal with offence-related issues. A significant number would be happy with an upgrade to the existing buildings. There is a clear preference to remain in Peterhead.
Confidential

ANNEXE: Prisoners’ comments.

Question 7

Fear of attack by mainstream/mainstream protection prisoners, and my visitors safety from prisoners of their visitors.

No other prison manages such a good prisoner, visitor, staff relationship during visit periods as Peterhead.

I am too scared to go to another jail. I fear for my safety and my visits get hassled.

I wouldn’t want my visitors safety to be put at risk coming to another establishment.

Because I would be returned to Perth Prison where the regime for sex-offenders is very bad.

Visitors don’t like going to Barlinnie for visits. 

Fear for myself and fear for my family if they visited.

My partner prefers the relaxed regime at the visits as well as the two hours it affords.

Visits are taken with mainstream and you are made to stand out, resulting that visitors can get hassle outwith the prison.

Don’t want to go to Barlinnie.

Unsafe for prisoners and visitors.

Safety at other prisons for myself and others.

Question 10

Cars damaged due to relationship with myself. Threats uttered at visiting rooms to myself and visitors. Visitors ostracised before and after visits. Visitors put on.

My family visited me at Edinburgh and got trouble from other visitors when they found out I was a sex-offender. My family were threatened, dog shit put on the car and windscreen and my brother was assaulted.

They felt uncomfortable at another jail in the West of Scotland.

They have witnessed unpleasant and disruptive behaviour. They thought HMP Barlinnie was oppressive and dehumanising.

They were spat on and not just from the visitors.

I had to stop my visits at Gienoich due to the abusive remarks and threats of violence towards my fiancee. She was told she would be waited on in the carpark and “done in” for being a beast lover.

They were threatened – warned off.

My wife has been shouted at outside and jostled.

Inmates at Kilmarock shouting “beast” in the visit hall. Visitors getting abuse outside the prison.
Question 11.
They and I both feel safe and relaxed.
Peterhead is a much more relaxed and safe environment for my visitors.
My visitors feel completely safe and have given no thought whatsoever about the possibility of abuse when visiting Peterhead.
The environment at visits is very conducive.
My fiancée feels relaxed and comfortable and enjoys the friendly atmosphere in Peterhead.
Courteously treated by staff and other families.

Question 12
In a mixed visit room you are always pointed out.
I have experienced visits at other establishments and Peterhead is the best by far.

Unless I went back to top end facilities (Pentland Hall, Edinburgh) I would not get the quality of visits. My visitors would not be given the level of courtesy given by staff in Peterhead.

Visits at Glenochil, subjected to a barrage of abuse on the way back to the hall and have to dodge missiles thrown from the windows to harm you. Any goodness from a visit soon disappears. There is no comparison between Glenochil and Peterhead.

The visits (elsewhere) are very tense and we were always aware of being watched and commented on by some of the other prisoners and their families.

It is more relaxed as there is no-one yelling abuse and you can spend more time with your family without being threatened.

Question 15.
If prisoners are kept together, they can influence other prisoners to address offending behaviour.
GRANT THORNTON RESPONSE TO
SCOTTISH EXECUTIVE CONSULTATION ON THE
FUTURE OF THE SCOTTISH PRISON ESTATE

Grant Thornton®
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1. INTRODUCTION

Grant Thornton were commissioned to review the Scottish Executive's "Consultation on the Future of the Scottish Prison Estate" and, in particular, the supporting document prepared by PricewaterhouseCoopers (PwC) entitled "Financial Review of Scottish Prison Service Estates Review".

Our brief was to review the findings of the Executive's Consultation document focusing on the recommended closure of Peterhead Prison.

We have attempted to evaluate the financial analysis contained in the PwC Review but only limited assessment has been possible due to the absence of supporting detailed calculations and data.
2. SUMMARY OF FINDINGS

The results of Grant Thornton’s analysis of the Scottish Executive’s Consultation Document on the Future of the Scottish Prison Estate and the supporting PwC Financial Review are set out below:

- The Executive’s Review does not start from the major policy decision as to whether long term adult male sex offenders (LTAMSOs) should be centralised or accommodated in dispersed locations.
- The Review is not based on a comprehensive assessment of the benefits and costs of options.
- Key non-financial aspects relating to the decision to close Peterhead Prison have been ignored or considered only superficially; these may affect critically the deliverability of any option which seeks to replace the Peterhead Centre.
- The Consultation document does not evaluate whether the STOP programme can be successfully transferred from HMP Peterhead to other prisons. The possibility of increased recidivism as a result of closure of HMP Peterhead is not considered.
- Surveys of the buildings on the Peterhead site carried out within the context of the HM Prisons Inspectorate Report suggest that the residential accommodation is far from the end of its useful life - as asserted by the Review - but is indeed well maintained.
- Not all of the options for the provision of LTAMSO facilities have been identified and assessed. Redevelopment to meet future demand could easily be accommodated on the Peterhead site.
- The PwC analysis does not cover a wide range of Public Private Partnership (PPP) options: those that are included are narrowly defined.
- The PPP Private Build Public Operate option is discounted too easily with no identification of a structure that could address the public sector to private sector interface issue and the associated risk transfer difficulties.
- Costings prepared for the PPP Private Build Public Operate are too simplistic, being based on the Public Sector Comparator.
- The PwC Review makes no mention of the relocation costs associated with the redeployment of Peterhead prison officers elsewhere within the SPS nor the duplication of overheads if LTAMSO centres are dispersed across multiple sites.
- No serious assessment has been made of whether the market could price cost effectively for PPP Private Build Public Operate contract.
- Indicative cost estimates for the redevelopment of Peterhead Prison to provide 500 places in new residential accommodation indicate that the NPV per prisoner place per annum is 25% lower than the equivalent figure for a PPP Private Build Private Operate 350 place prison calculated by PwC.
- The Consultation document and PwC also ignore the impact on the local economy of 291 Full Time Equivalents (FTEs) and the consequential effect on the local housing market.
All of the above indicate strongly that any decision to close Peterhead Prison would be premature without a substantial amount of detailed analysis addressing the areas omitted from the Review's option appraisal.
3. OUR APPROACH

Grant Thornton was asked to review and assess the robustness of the conclusions reached by the Scottish Executive to close Peterhead Prison.

In responding to this brief, our analysis has included the following:

- Executive’s consultation document and the supporting PwC financial analysis;
- HM Prisons Inspectorate’s recently published report on Peterhead prison on its Follow Up inspection dated 25-26 March 2002, and
- experience to date on prison developments elsewhere in the UK.

We have reviewed both the overall methodology used to identify the preferred way forward in the Executive’s Review and the financial assumptions underpinning the Review’s findings.

In the limited time available, we have not been able to undertake an in depth study, but rather we have focused on the key areas where further work should be carried out in order to determine a robust basis for deciding the future provision of prison facilities in Scotland.
4. AREAS WITHIN THE REVIEW REQUIRING FURTHER ANALYSIS

4.1 METHODOLOGY ADOPTED BY THE SCOTTISH EXECUTIVE

The Executive has invested significant time and effort in reviewing the Scottish Prison Service's Estates and the PwC findings in reaching its conclusions. Whilst we do not wish to question the motives of the Review, we have particular concerns about the approach adopted.

The report is apparently well argued, but we believe certain significant aspects are omitted or are not given sufficient consideration. These are highlighted below and discussed in detail in the following sections of this document.

- We believe that SPS should be addressing two different questions, but they are conflated in the option appraisal. The first question should be: "how should prisons be provided?". The second question should be: "where should prisons be located?".

- In relation to the former, in the first instance we believe the Review should have addressed the policy decision of whether the requirements of Long Term Adult Male Sex Offenders (LTAMSOs) should be accommodated within the general prison population or whether these inmates should be detained within a specialist centre. The current position is that the SPS has a specialist centre for the rehabilitation and detention of LTAMSOs at HMP Peterhead combined with facilities at a number of general prisons throughout Scotland. The Review does not address this issue and attempts to impose upon LTAMSOs a general template for provision which does not necessarily fit.

- Focusing on the second key question, we believe that there has not been a sufficiently wide ranging discussion about the potential procurement and capital development options, or at least this is not apparent in the Review report or the PwC analysis. It appears that certain options concerning the development of Peterhead have been all too easily dismissed. We believe that this is a direct consequence of merging the LTAMSO analysis with the approach to the configuration of general prison provision.

4.2 THE BASIS OF THE PWC REPORT

The PwC report purports to demonstrate that prisons should be provided on a Design, Construct, Manage and Finance (DCMF model) within a PPP Private Build Private Operate structure. We believe that the evidence used is distorted. Essentially, the argument is that DCMF prisons cost half the public sector equivalent. This figure has been arrived at by extrapolating historic costs from English prisons. However, the savings demonstrated at the time in the business cases for those prisons was in the range 10-15% not the 50% indicated in this report. Also, it seems that the capital (and possibly operational) costs have been greatly overstated in the public sector comparator. These costs need to be independently verified by specialist quantity surveyors with considerable experience of prison developments.

The report also indicates that the SPS would not be capable of running a prison efficiently on a "conventional" PFI basis where management remains operational control. This is an assertion for which little evidence is forthcoming. We believe that the full range of options in this regard has not been assessed and we attempt to explore these more fully elsewhere in this report. The key...
concern here is that an SPS in-house bid should be considered alongside the DCMF alternative, drawing upon the lessons learnt in the PPP programme to date.

Section 4.4 (p.32) of the report contends that a “radically different operating model” would not be possible under a PPP Private Build Public Operate model. However, experience in the health sector is that fundamental re-engineering of service delivery has been at the core of these schemes, drawing upon international models of care. The output specifications have been deliberately designed to ensure that private sector bidders recognise new operational models and seek to design accordingly with the emphasis on innovation. These new models of care are driven by clinicians in NHS Trusts who retain clinical service delivery control.

Section 4.5 describes the difficulties associated with sharing responsibilities between SPS and a private sector operator under a Private Build Public Operate model. Recent events at Yarls Wood Immigration Service, which is run totally by the private sector, have led to the suspension of services pending resolution of liability for the £38m damage caused by a fire instigated by rioting detainees. Funders involved in PPP prison schemes have expressed their concerns that private sector operators of prisons had either received very high insurance premiums or had been unable to obtain cover. Clearly this uncertainty is relevant to both Private Build Private Operate as well as to any potential Private Build Public Operate schemes.

The report is inadequate as an option appraisal of where the new prison should be located. Normally, a full cost-benefit analysis would be carried out, comparing costs, benefits and risks of the various site options, against the overall objectives of the service. This does not appear to have been done.

A cost benefit analysis should include wider cost-benefits. This is commonly taken into account when dealing with economically-sensitive areas. No evidence is shown that this has been considered. Neither have opportunity costs of alternative sites been assessed.

4.3 DEFINITION OF THE OPERATIONAL MODEL

We believe the Review’s start point should have been the major policy issue on the consideration of the overall operational model for the Scottish Prison Service. In considering this, account should have been taken of the following structure for mapping out and appraising options:

- retain the status quo;
- define options for the general prison population;
- identify options for LTAMSOs;
- quantify financial and non-financial benefits of each option; and
- consideration of the appropriate procurement route - PPP or traditional - for the preferred general prison option and LTAMSO option.
5. IDENTIFICATION OF THE OPTIONS

We have mapped out below options in relation to general and LTAMSO provision. For the purposes of this review and in accordance with our brief we have focused on LTAMSO provision.

<table>
<thead>
<tr>
<th>General Provision</th>
<th>LTAMSO Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do Nothing</td>
<td>1. Do Nothing</td>
</tr>
<tr>
<td>2. Do Minimum</td>
<td>2. Do Minimum</td>
</tr>
<tr>
<td>3. Redevelopment Options</td>
<td>3. Limited Redevelopment at Peterhead</td>
</tr>
<tr>
<td></td>
<td>350 places</td>
</tr>
<tr>
<td>4. New Build at Peterhead</td>
<td></td>
</tr>
<tr>
<td>5. Transfer to Glenochil</td>
<td></td>
</tr>
<tr>
<td>6. Disperse to Other Prison Sites</td>
<td></td>
</tr>
<tr>
<td>7. Develop new site on West Coast/Central Belt of 300 Places but retain Existing Site</td>
<td></td>
</tr>
</tbody>
</table>

5.1 DISCUSSION OF THE OPTIONS FOR PROVISION OF LTAMSO FACILITIES

5.1.1 Option 1 Do Nothing

This option represents the status quo. It consists of the continued provision of LTAMSO rehabilitation and detention at HMP Peterhead without any attempt to address the issues of night sanitation and the lack of electricity in cells.

5.1.2 Option 2 Do Minimum

This option envisages the continued provision of LTAMSO detention and rehabilitation at HMP Peterhead but with access to night sanitation for all prisoners, the installation of a power point in each cell and the refurbishment of core prison facilities.

The introduction of night sanitation facilities can be achieved by the redeployment of prison officers. This would allow prisoners to gain access to lavatories through the provision of an increased complement of officers at night. This solution was suggested by the staff at HMP Peterhead to HM Prisons Inspectorate who commented that they "support this as an entirely workable solution" (HM Prisons Inspectorate, Follow Up Inspection 25-26 March 2002, p.7). It would not increase staff costs (assuming a full establishment).

The installation of electric power in each cells could be achieved at a relatively modest cost. HM Prison Inspectorate's Report notes that there are already conduits in place to facilitate light switches within cells. The Report points out that these could be used in parallel to provide prisoners with a power point. We have obtained indicative costs which suggest that power points could be installed in all cells for £35k or less.

Although not noted as an issue in HM Prison Inspectorate Report, the Consultation document (p.34) states that many of the buildings other than the residential accommodation will need...
replacement in the relatively near future. This option acknowledges the Executive's concern over the remaining useful life of the non-residential accommodation buildings by including an extensive refurbishment of these buildings. In the absence of any evidence of structural deficiencies in these buildings, this refurbishment can reasonably allay any concerns as to the condition of these buildings.

5.1.3 Option 3 Limited Redevelopment at Peterhead consisting of a 350 place houseblock

The estimated costs of this option were reviewed and validated by PwC prior to the issue of its report. The resulting NPV for the proposed redevelopment at Peterhead is £170.4m with an NPV per prisoner place of £19,477. The NPV of this option is discussed further in Section 7.

5.1.4 Option 4 New Build at Peterhead

Two sub-options have been considered under this option.

Option 4a is the construction of 500 new cells on the existing Peterhead site. It is envisaged that this option would involve the construction of 10 x 50 cell modular units, using existing exercise facilities.

Option 4b is the construction of 500 new cells on the existing Peterhead site with each modular cell unit having its own dedicated recreational facility.

With both options, there would be a phased substitution of new for old cell units commencing after 250 new cells have been constructed. This should ensure the prison remains fully operational throughout.

5.1.5 Option 5 Transfer to Glenochil

Option 5 is the transfer of the LTAMSOs from Peterhead to HMP Glenochil. This option is raised as a possibility in the Consultation document (p.35) but no further analysis is included. As noted in the Consultation document, Glenochil currently accommodates LTAMSOs who have refused to participate in the STOP programme and Glenochil staff are currently being trained in motivational techniques to tackle the denial of these intransigent sex offenders. We believe that this option merits further consideration but that currently there is no evidence that the STOP programme could be successfully transplanted from Peterhead to Glenochil.

HM Prison Inspectorate recommended in July 2000 that a wide ranging consultation be held to determine whether the STOP programme could be successfully transferred from Peterhead to other sites. In addition to the other concerns raised, until this consultation has taken place it would appear premature to make a decision on the future status of HMP Peterhead.

5.1.6 Option 6 Dispersal to Other Prison Sites

This option consists of the closure of HMP Peterhead and the dispersal of LTAMSOs currently residing in Peterhead to other prison sites within Scotland.
Co-locating LTAMSOs with other categories of prisoner represents a departure from the current situation whereby a high proportion of LTAMSO are held at HMP Peterhead. The implications of this change need to be carefully considered as LTAMSOs are regarded as vulnerable to violence and abuse from other categories of prisoner.

However, we recognise that some LTAMSOs may benefit from an increased number of visits due to the other prison sites being geographically closer to their families than Peterhead.

5.1.7 **Option 7  Develop new West Coast site/Central Belt of 300 Places, retain Existing Site**

Under this option, HMP Peterhead would continue to rehabilitate and detain LTAMSOs in line with the Do Minimum option outlined above, i.e., right sanitation would be provided, electrical power points would be installed in each cell and the core facilities would be refurbished.

However, in addition to HMP Peterhead a new 300 place LTAMSO prison would be developed within the Central Belt on the West Coast. Assuming the current capacity at Peterhead remains unchanged at 296 places then the addition of a further 300 places on the West Coast would allow the approximately 600 sex offenders within the prison population (Consultation document, p.35) to be treated within specialist sex offender institutions. As is noted in the consultation document, treatment gains are maximised when sex offenders are held together for the duration of their treatment.

While recognising the practical difficulties of establishing a new sex offender specialist centre, we believe that the proposal should at least be considered even if it is subsequently discounted.
6. BENEFITS APPRAISAL

6.1 INTRODUCTION

Our review of the rationale for the preferred way forward on Peterhead Prison has suggested that a number of factors which could have influenced the decision were not analysed in sufficient detail or, apparently, were not covered at all.

We have described these in the following sections and we believe that the cost benefit analysis should include these factors in order properly to identify the impact of closure of the Prison.

6.2 THE POLICY DECISION ON CENTRALISATION/DECENTRALISATION OF LTAMSOs

As stated earlier, the approach recommended by the Treasury on appraisal and evaluation by Government, in our view, has not been adhered to sufficiently. The Green Book recommends a comprehensive analysis of options including "identification, quantification and valuation of the costs, benefits and risks and uncertainties associated with each option". We do not believe this has been adequately addressed.

The Review moves too quickly to consideration of redevelopment options and locations. We are of the view that more emphasis should have been placed on the policy decision as to whether centralisation of LTAMSOs is beneficial or not.

Although the potential exists to replicate elsewhere the achievements of Peterhead in the STOP Programme elsewhere, there is scant consideration in the Review as to the ramifications of this policy decision. Setting aside the opportunity costs of this decision which are discussed in Section 7, it is essential that proper account is taken of:

- the strengths and weaknesses of the existing Peterhead centre in its care and rehabilitation of LTAMSOs;
- whether the existing model could be replicated - if at all - within a reasonable timeframe;
- how the relationships built up at Peterhead could be transferred without any detrimental effects;
- the challenges in achieving satisfactory integration within existing prison(s) and the receiving community(s); and
- whether planning approval would be forthcoming for such a development.

In addition, the establishment of Peterhead as a centre for of excellence for the management of LTAMSOs was the result of a number of deliberate policy decisions by the SPS, fully endorsed by ministers, culminating in the STOP 2000 programme. Thus is widely recognised for its achievements. The closure and break-up of Peterhead through dispersal of LTAMSOs to a

number of prisons could lead to accusations of a serious policy u-turn, with some justification in the absence of a more robust case than is presented in the Review. At the very least, we believe that a considerable amount of further assessment should be undertaken to confirm that the decision to close Peterhead is the right one and is founded on well researched evidence.

6.3 VISITOR ACCESS AND HARASSMENT

The Review refers to distance as a significant impediment for families of offenders and the associated impact on the ability to maintain family links. The Review contends that "of the prisoners who do not receive visits, distance is cited by 24% as the principal reason." Clearly, this leaves 76% who do not regard distance as the most significant factor.

No mention is made of the effect Peterhead has on the amount of harassment visitors face from other prisoners at Peterhead. Inevitably, this bears no comparison to the extent of difficulty visitors would face if LTAMSOs were located in one of the general prisons.

6.4 STAFF MORALE

This issue cannot be overstated. There is a serious risk that conjecture about the future of Peterhead alone will be sufficient to erode years of work with the consequent loss of key staff. Similarly, with the uncertainty that exists, it will prove extremely difficult to recruit staff to a geographically remote area where there are considerable uncertainties about long term prospects for employment and the local housing market. Whether these effects could be adequately reversed is questionable.

6.5 STAKEHOLDER CONSULTATION ON WHETHER STOP COULD BE DELIVERED ELSEWHERE

The National Probation Service paper on the potential relocation of the Wolvercote Clinic, to the Silverlands site, from its current location in Epsom, Surrey, in England, raises a number of issues which do not appear to have been factored into the Review's appraisal of options for LTAMSOs.

In particular, there is no recognition of the importance of consultation with stakeholders on any decision regarding the future location of the facility. This concerns:

- the staff at the Prison and the critical importance of ensuring that they remain committed and that expert and experienced staff will transfer to the new facility, if that proves to be the decision;
- the involvement of statutory and voluntary services which work in collaboration with Peterhead (the police, probation, other prisons, social services and others); and
- arrangements for the management of risk.

7 The Wolvercote Clinic works principally with men who have abused - or are alleged to have abused - in the context of a relationship, although having defined admission criteria, it does not accept those men with specified criteria likely to compromise their management.
6.6 COMMUNITY IMPACT OF CLOSURE

Finding a suitable site elsewhere inevitably will be a difficult and sensitive issue. Whatever the outcome of the SPS Review, it is clear that Peterhead developed the STOP programme which represents considerable value to society in rehabilitating LTAMSOs. Nevertheless, it is highly likely that there will be significant resistance amongst any receiving community. The Review does not make it clear that in recommending closure of Peterhead, sufficient account has been taken of the following factors all of which will need to be addressed:

- proximity to, and nature of, close neighbours eg school or private residential accommodation;
- adequate site security for residents within its immediate proximity; and
- safety of staff who work and possibly reside there.

All of these factors are identified as key criteria in a National Probation Service paper on the potential relocation of the Wolvercote Clinic.

We have discussed in Section 7 the potential economic impact of the closure of Peterhead on the local economy. No mention is made of the extent to which a network of support for the Prison exists amongst the local community and the close integration of the Prison Officers and their families into the community. These must be significant factors in evaluating the feasibility of moving Peterhead to another location(s) elsewhere in Scotland.

6.7 LEAD TIME TO RE-ESTABLISH THE PETERHEAD MODEL

The Review refers to a minimum lead time to re-establish a centre of LTAMSOs on another site of at least 3 years. However, we believe that this may be a serious underestimate for two principal reasons:

- the need to replicate the standards presently achieved at Peterhead through the STOP programme; and
- the inevitable difficulty of gaining planning approval, if this proves necessary, and the risks of objections being raised during the judicial review period.

6.8 BUILDING CONDITION AND INFRASTRUCTURE

The Review asserts that "...many of the buildings are showing their age and are reaching the end of their useful life". This is one of the key reasons for recommending its closure, along with its geographical remoteness from the areas of residence of the bulk of the prisoners and their families. However, this contradicts the recently published HM Prisons Inspectorate Report. The HMI Report refers to a specialist inspection commissioned to substantiate the Review's claims of the poor condition of the building fabric.
Whilst the HMIP Report concurs that "the prison had not been updated to keep abreast of legislation or living standards... The residential buildings at HMP Peterhead have been well maintained and are in good physical condition." The Report also concludes that "The site has ample space to make any redevelopment a simple matter."
7. FINANCIAL AND ECONOMIC ANALYSIS

7.1 KEY ISSUES ABSENT FROM THE REVIEW

7.1.1 The impact on the local economy of closure of Peterhead

HMP Peterhead directly employs 255 staff consisting of 249 full time staff and 6 part time staff. Assuming that 2 part time jobs equal 1 full time job, the prison supports 252 full time equivalents (FTEs). In addition, an independent economic impact assessment commissioned by Aberdeenshire Council estimates that the prison indirectly supports a further 39 FTEs in the local area.

In the event of the closure of HMP Peterhead, these FTEs would be removed from the local economy. Although some of these displaced FTEs would expect to find work locally in other sectors, it is reasonable to assume that the majority of the staff affected would either be redeployed elsewhere in Scotland or accept voluntary redundancy. This represents a significant loss to the local economy which is not considered in the Consultation document or the PwC Review.

The prospects for the individuals affected by the proposed closure finding comparable employment locally are poor. This is due to the long term decline in the fishing and oil & gas industries which are major employers in the Peterhead area.

In addition, the redeployment of HMP Peterhead staff at other SPS locations would bring approximately 200 to 300 homes onto the market. This increase in supply would be expected to exert downward pressure on local house prices possibly resulting in negative equity for some local homeowners. This oversupply may also result in houses remaining on the market for extended periods due to there being insufficient buyers. The conditions in the housing market may also deter individuals from moving to the Peterhead area thus constraining future economic growth. There could be significant relocation costs which SPS may need to fund.

Although not strictly an economic benefit, HMP Peterhead brings prison officers from other parts of Scotland many of whom have young families. As such HMP Peterhead makes a major contribution to the social and cultural diversity of what could otherwise be considered a relatively remote community.

7.1.2 Duplication of Management and Overhead Costs Associated with Multiple Centres

The Consultation and PwC Review fail to address the duplication of management and other overhead costs associated with treating LTAMSOs across multiple centres. We suggest that, as well as quantifying this cost, the Executive should consider whether the number of LTAMSO centres is constrained by the availability of suitably qualified staff and non-SPS professionals such as psychologists and social workers. To attract the right staff, in appropriate numbers, may necessitate enhanced remuneration packages. This may not be feasible if differentials are to be maintained across the SPS.
7.1.3 Potential Relocation Costs for Staff Transferring

As noted above, the removal of a total of 291 FTEs from the local economy is expected to result in a significant fall in the local housing market. The PwC review does not detail the costs on which the NPV calculations of the various options are based but it appears that the analysis ignores the potential relocation costs of staff transferring.

We have already stated that these costs could be significant as the SPS may need to compensate staff for any loss on the sale of their homes in Peterhead.

7.1.4 Quantifying the Costs of Recidivism

HM Prisons Inspectorate's Report notes that Peterhead has been acclaimed by many sources for its delivery of the STOP programme which addresses sex offending behaviour in a very focused and intensive way. In particular, the Report notes that of the 167 prisoners that had participated in the programme and subsequently been liberated only six had been re-convicted for a further sexual offence. Even allowing for the fact that such cases can take considerable time before they are reported, this is a real achievement.

It is unclear whether this low level of recidivism could be achieved at other locations if HMP Peterhead is closed but the Consultation document and PwC Review fail to address the issue.

One possible methodology for quantifying the financial cost of recidivism would be to assume that re-offending rates rise to those recorded for other SPS prisons. The increase in the number of convictions could then be multiplied by an average sentence length to calculate the additional prisoner days resulting from an increase in recidivism. Multiplying the increase in prisoner days by the cost per prisoner day would then provide a measure of the financial cost to the SPS of an increase in recidivism.

It must of course be acknowledged that such a calculation would not capture the social costs of an increase in recidivism nor the distress caused to the victims of these crimes.

However, the point must still be made that the Consultation document and PwC Report appear to ignore the effects of recidivism entirely.
## 7.2 ECONOMIC ANALYSIS OF ADDITIONAL OPTIONS FOR LTAMSO PROVISION

To assist in evaluating whether the options identified were worthy of further consideration, we calculated the NPV of each option based on the information available. In recognition of the limitations of the available, these figures should be treated as best estimates rather than definitive statements of the NPV for each option. The methodology followed in calculating these NPVs is described below.

## 7.3 NET PRESENT VALUE (NPV) OF EACH OPTION

<table>
<thead>
<tr>
<th>OPTIONS</th>
<th>NPV (£m)</th>
<th>NPV PER PRISONER PLACE PER ANNUM (£000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
<td>102</td>
<td>12,034</td>
</tr>
<tr>
<td>Do Nothing</td>
<td>(per Grant Thornton calculation)</td>
<td></td>
</tr>
<tr>
<td>Option 2</td>
<td>107</td>
<td>12,403</td>
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<tr>
<td>Do Minimum</td>
<td>(per Grant Thornton calculation)</td>
<td></td>
</tr>
<tr>
<td>Option 3</td>
<td>170</td>
<td>19,477</td>
</tr>
<tr>
<td>Limited Redevelopment at Peterhead</td>
<td>(per PwC calculation)</td>
<td></td>
</tr>
<tr>
<td>350 places</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Option 4a</td>
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<td></td>
</tr>
<tr>
<td>New Build at Peterhead</td>
<td>176</td>
<td>14,283</td>
</tr>
<tr>
<td>501 places without dedicated recreational facilities</td>
<td>(per Grant Thornton calculation)</td>
<td></td>
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<tr>
<td>Option 4b</td>
<td>182</td>
<td>14,525</td>
</tr>
<tr>
<td>New Build at Peterhead</td>
<td>(per Grant Thornton calculation)</td>
<td></td>
</tr>
<tr>
<td>501 places with dedicated recreational facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Option 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer to Grangemouth</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disperse to Other Prison Sites</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 7</td>
<td>206</td>
<td>14,049</td>
</tr>
<tr>
<td>Develop new site on West Coast/Central Belt of 250 Places but retain Existing Peterhead Site</td>
<td>(per Grant Thornton calculation)</td>
<td></td>
</tr>
</tbody>
</table>

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21 May 2002
7.4 METHODOLOGY

To ensure comparability with the NPV figures calculated by PwC we have sought to follow the methodology set out in the PwC Review as closely as possible. The major difference in our methodology compared to that of PwC is that we have sought to calculate the NPV of all options based on "bottom up" costs wherever possible. In contrast, PwC has based its calculations on the historic building specification and location costs of HMP Kilmarnock.

In preparing our NPV calculations, we have obtained information on costs and other key variables from the following sources:

- Professional architects, surveyors and property specialists
- The Scottish Executive’s Consultation on the Future of the Scottish Prison Estate

Consistent with PwC’s methodology, we have assumed a 25 year concession term and by discounting cash flows stated in real terms by 6% in accordance with current HM Treasury guidance. Unlike PwC we have not taken 24 months as the construction period for all options but used the appropriate construction period estimated by professional advisers.

7.5 COMMENTARY ON NPV CALCULATIONS

To aid comparability of the various options, the above table shows the NPV per prisoner place per annum.

As expected, the Option 1 (Do Nothing) and Option 2 (Do Minimum) show significantly lower NPV’s per prisoner place per annum than all other options. This is attributable to Option 1 not involving any capital expenditure and Option 2’s capital expenditure being relatively minor in magnitude.

The figures shown for Option 3 are taken directly from the PwC Review. The figures for Options 4a, 4b and 7 are calculated directly from indicative cost estimates for these options. No NPV calculations have been performed for Options 5 and 6. There is inadequate detail in the Consultation Review to prepare NPV calculations based on transfer to Glenochil or dispersal to various prisons.

The above table clearly shows that there is scope to question whether the cost figures and assumptions used in the PwC Review are sufficiently robust to support any decision to close Peterhead.

The table below compares the NPV per prisoner place per annum for Options 3, 4a, 4b and 5 with the comparable figures for developments at Barlinnie, Low Moss, and Shotts.
<table>
<thead>
<tr>
<th>Development</th>
<th>NPV per prisoner place per annum (£000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 7 - Develop LTAMSO Centre on West Coast, retain Peterhead</td>
<td>14.049</td>
</tr>
<tr>
<td>Option 4a - Develop new 500 place accommodation at Peterhead retaining existing recreation facilities</td>
<td>14.283</td>
</tr>
<tr>
<td>Option 4b - Develop new 500 place accommodation with dedicated recreation facilities at Peterhead</td>
<td>14.525</td>
</tr>
<tr>
<td>Option 3 - Develop 350 place houseblock at Peterhead</td>
<td>19.477</td>
</tr>
<tr>
<td>Shots</td>
<td>16,811</td>
</tr>
<tr>
<td>Low Moss</td>
<td>17,366</td>
</tr>
<tr>
<td>Barlinnie</td>
<td>18,899</td>
</tr>
</tbody>
</table>

While a 350 block houseblock at Peterhead may be considered comparatively expensive on purely financial grounds based on PwC’s figures, it is clear from the above table that there are other options for the development of the Peterhead site which merit further consideration from the Executive, and which may represent significantly better value for money.

These figures indicate that the decision as to whether to develop or close Peterhead is much closer on cost grounds than indicated in the PwC Review. This reinforces the importance of conducting an evaluation of the benefits and disbenefits of each option prior to reaching a decision on the future of LTAMSO prisoners.
8. STRUCTURE FOR REDEVELOPMENT: PPP OR PUBLIC PROCUREMENT?

8.1 THE SCOPE OF PROCUREMENT OPTIONS CONSIDERED

The PwC Report discusses in some detail the appropriate structure of a PPP procurement and how it compares on costs with a publicly funded and operated development. There is some top level analysis of a PPP Private Build Public Operate option, but this is discounted on the basis of the interface issues with the private sector and the likelihood that there would be an "on balance sheet" outcome and the financial implications for the SPS.

The Justice Forum publication 3, presented to the Justice 1 Committee of the Scottish Parliament, quotes Martin Narey, Director General of the Prison Service in England and Wales, who stated in October 2001: "We are pretty good at running a prison but we are not good at contracting and design. At the moment, I anticipate that all new prisons will be built by the private sector." He also said that "it is now very possible that at some point we will have a prison designed, financed and built by the private sector but run by the public sector."

We have considered a broader range of options and we also believe that the PPP Private Build Public Operate Option has been too easily dismissed. Inevitably there will be challenges, but as the Justice Forum publication alludes, the market is quite likely to respond favourably to a PPP Private Build Public Operate as this is the standard model for PFI in other sectors.

In addition, no mention is made of the possibility of building on the lessons learnt on PPP within a different PPP structure utilising a ICT contract and outsourcing. These are described below.

8.2 THE OPTIONS DEFINED

The following procurement options have been identified in relation to the LTAMSO provision, building on those set out in the PwC report:

- Option A - PPP Private Build Private Operate (as defined by PwC)
- Option B - PPP Private Build Private Operate assuming ICT Design and Build Contract, Outsource Contract for all Operating
- Option C - PPP Private Build Public Operate (as defined by PwC)
- Option D - PPP Private Build Public Operate assuming ICT Design and Build Contract, Outsource Contract for Lifecycle and Hard FM
- Option E - Publicly Funded Construction and Operation (as defined by PwC)

Set out below is a matrix showing a feasibility assessment of procurement options matched against the development options described in Section 5.

<table>
<thead>
<tr>
<th>PROCUREMENT OPTIONS</th>
<th>LTAMSO REDEVELOPMENT OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option A: PPP Private Build Private Operate (as defined by PwC)</td>
<td>Option B: PPP Private Build Public Operate (as defined by PwC)</td>
</tr>
<tr>
<td>Option 1: Do Nothing</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 2: Do Minimum</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 3: Limited Redevelopment at Peterhead 350 places</td>
<td>✓</td>
</tr>
<tr>
<td>Option 4: New Build at Peterhead</td>
<td>✓</td>
</tr>
<tr>
<td>Option 5: Transfer to Glenochil</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 6: Disperse to Other Prison Sites</td>
<td>N/A</td>
</tr>
<tr>
<td>Option 7: Develop new site on West Coast/Central Belt of 350 Places but retain existing Peterhead Site</td>
<td>✓</td>
</tr>
</tbody>
</table>

1 Could outsource FM.

2 Only if applicable to the whole prison site(s).

Based on our knowledge of the prison market, we have identified additional procurement options which we believe are worthy of further consideration. The PwC analysis covers DCMF options only and does not attempt to consider practical experience of the PPP approach which have proved successful and could be applied using a variant methodology.
In particular, we consider that a PPP Private Build Public Operate could be commercially viable, yet still deliver value for money. Under Option D, we have illustrated an approach whereby the private sector could be commissioned to design and build the prison using a JCT contract. This could be managed to ensure they take substantial design risk and the procurement could be fast tracked using the restricted OJEC procurement procedure. A separate contract could be issued for lifecycle and planned preventative maintenance (PPM) to be provided by the private sector. The latter has been successfully negotiated on a number of UK prison contracts. Custodial services would continue to be provided by the SPS. This model could be extended into a variant on the PwC defined Private Build Private Operate to include outsourcing all Custodial Services, if appropriate.

We have not attempted to be exhaustive in identifying procurement options. We consider that there a number of practical alternatives which have not been addressed by the Review which warrant more detailed consideration. As we have attempted to show above, by no means does each procurement option work across all the redevelopment scenarios.

We recognise that there is no merit in pursuing alternatives that simply would not attract commercial interest. Therefore, we would recommend that a soft marketing exercise be undertaken amongst potential bidders to test the appetite for the additional procurement options identified above. These options can then either be discounted or be included in a more rigorous appraisal of options.

S. Grant Thoman
21 May 2012
8.3 CONCLUSIONS

We support one of the key conclusions of the HMI Report on Peterhead that "it would be worthwhile to produce a detailed cost/benefit analysis before writing Peterhead off." Indeed, we would go further. We believe that to close Peterhead on the basis of the Review's work to date would be a decision made in the absence of all the material facts. We recommend that a significant amount of further investigative work should be undertaken, more wide ranging in scope and clearer in terms of reference.
RESPONSE TO THE SCOTTISH EXECUTIVE CONSULTATION ON THE FUTURE OF THE SCOTTISH PRISON ESTATE.
June 2002

SCOTTISH EXECUTIVE PROPOSALS TO INCREASE THE CAPACITY OF SCOTTISH PRISONS

COST-EFFECTIVENESS

The Scottish Executive plans to invest substantial sums on prisons and to increase prison capacity in Scotland. This is despite the fact that for the majority of offenders prison is not cost-effective in terms of reducing re-offending rates. What will be the improvements as a result of this investment in terms of a Safer Scotland and a reduced number of victims? The proposal is to spend £619M NPV on 3 new prisons that will provide, significantly, an additional 900 prison places. Obviously there can be no quarrel with the need to provide new or refurbished places to end slopping-out as quickly as possible and to replace the poor accommodation at Low Moss, while resulting in no increase in the overall total of prison places. However, SACRO questions the need for extra places. Community sentences that reduce re-offending are more cost-effective and there is evidence that community sanctions deliver more crime reduction and more community safety for the taxpayer’s pound. Prisons could work more effectively with the serious and violent offenders for whom prison is the appropriate sentence if they did not have also to cope with large numbers who do not need to be there. This would allow prisons to be more effective.

The CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) said, in its most recent general report “throwing increasing amounts of money at the prison estate will not offer a solution. Instead, current law and practice in relation to custody pending trial and sentencing as well as the range of non-custodial sentences available needs to be reviewed”.

PRISONER NUMBERS INCREASE WITH PRISON CAPACITY

“Experience is that the prison population in the state concerned [where they increase prison capacity] tends to continue to rise, in tandem with the extra capacity acquired by the prison estate. …overcrowding may become even worse.” (Mark Kelly, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 2001).

STATISTICAL PROJECTIONS

The Minister for Justice was himself well aware of the fragility of statistical projections on 4 October 2000, when he told the Scottish Parliament Justice and Home Affairs Committee that:

“It is fair to say that it is notoriously difficult to predict prison populations, which are extrapolated from previous figures. When the comprehensive spending review that was announced in 1998 was being put together it was estimated that the prison population in 2000 would be 6,500. (In fact it turned out to be 5,869). It is an inexact science. We must strike a
balance between the provision we make, bearing in mind the fact that it is impossible to predict the figure accurately and the alternatives to custody that are being developed....”

If we look back at the prison population figures over the past 30 years and make projections from any one year, the actual population ten years ahead would not have been in line with the projection.

It is then, inappropriate and a counsel of despair to accept projected prisoner population of 7,200 in 2008. Scotland already imprisons far more than neighbouring European countries. This could be described as a “national shame” (Juliet Lyons, Prison Reform Trust, speaking at the British Society of Criminology, 12.4.02, referring to current England and Wales levels, currently 124 per 100,000 population, (Scotland is currently at 115).). Why would Scotland need to have by the year 2008, 145 prisoners per 100,000 population? Even in England and Wales where there are currently proportionally more people imprisoned than Scotland, they project “only” 141 prisoners per 100,000 population by that date. Juliet Lyon also reported that in England the Home Secretary and Lord Chancellor’s Department do not want to increase the numbers in prison. Here, the First Minister on 28.1.02 expressed the same view “that we must stop sending so many people to prison in Scotland”. Yet we continue to project and plan for a substantial increase.

There is a view that the public are ready for change. In England, research for the Halliday Report (Making Punishments Work. Report of a review of the sentencing framework for England and Wales, July 2001) found the largest support for rehabilitation, with a majority wanting offenders to pay back to the victim or community. This suggests that there is public support for “penal minimalism”. This is echoed by the Scottish Parliament survey of public attitudes to crime and punishment, the British and Scottish Crime Surveys and the Esmee Fairbairn Foundation survey, which led their Director Rob Allen to conclude that there is a groundswell of opinion that prison is not the answer. (British Society of Criminology, 12.4.02)

With a wide range of community sentences already in place and further proposed, if there are adequate resources and programmes to support them and sentencers use them, the projections of prisoner population expansion will not be fulfilled. Projections are based on the past. Statisticians do not claim the methodology used for the prisoner population projections are perfect. In particular, we should note, “The projections assume the observed trends in sentencing behaviour will continue.” (Scottish Executive Consultation on the Future of the Scottish Prison Estate.) Yet clearly sentencing should be changing, given the raft of new community disposals made available in recent years and proposed in the Criminal Justice (Scotland) Bill. In addition, much more could be done to inform and encourage sentencers to use community disposals and sentence at a steady level rather than continually increase sentence levels.

**BETTER COURSES OF ACTION TO CHANGE THE FUTURE**

1. **There should be a policy decision to reduce the size of the prison population.** It would be an achievement for Scotland to distance itself from the populist punitiveness of England and the USA, and to operate a rational cost-effective criminal justice policy. Savings in reduced use of prison will follow. The SE Consultation paper (Para 23) recognises other countries have achieved lower proportionate prison populations “by deliberate, nationally agreed sentencing policies brought into operation over many years.”.

In Finland the prison population was lowered over a number of years through a policy decision, made because their prisoner rate was far higher than that in neighbouring countries and because cost-benefit analysis was introduced into political thinking about how to deal with crime. It was estimated that if the prison population were reduced by 50% the increase in
crime might be 2%. In the wake of this were legal reforms and changing sentencing practice to reduce the number of short sentences. Judges were crucial to this change, their independent role was retained and training courses were arranged for judges and prosecutors on a regular basis.

In **Victoria, Australia** the prison population is only 80 per 100,000 population c.f. 150 elsewhere in Australia. This may be a result of having a sentencing commission. (Rob Allen, British Society of Criminology, 12.4.02)

In **North Carolina, USA**, there was a decision taken that the level of imprisonment was too high. Since 1975 they have brought down the prison population to 90 per 100,000 population compared with the USA average of over 700. This has been done by investing in community sentences and creating a Sentencing Commission, not controlled by judges although taking their views into account, that introduced sentencing guidelines for every type of case. Judges’ sentencing behaviour was changed so that they: reduced sentencing disparities and made sentencing more predictable; increased the numbers imprisoned for violent crimes; reduced the proportion of offenders sent to prison; and diverted to community penalties those who would previously have been sent to prison. (Professor Michael Tonry, British Society of Criminology, 12.4.02).

**Portugal**, has, it is reported, made a commitment recently, to reduce the size of its prisoner population (145 per 100,000 population in 1999, down to 127 by 2001), recognising their previous and current levels are unacceptable. They are, then, already almost down to the England and Wales rate of 124. The Scottish Executive proposals mean Scotland is planning a prisoner rate of 145 by 2008. **Scotland will then be the country that sends more people to prison per head of population than any other European country.**

2. There should be a fundamental shift to **restorative justice** measures. This would chime with the policy to meet **victims’ needs**. The Minister for Justice, Jim Wallace (Sir Kenneth Younger Memorial Lecture, 29.11.99) recognised the value of restorative justice: “restoration presents government with one way of ensuring that offenders can be given the chance to make amends…..Restoration accepts the right of the victim to be compensated. It acknowledges the obligation on the accused to confront the results of his crime. It also holds out the opportunity of reducing the use of formal proceedings and the use of custody. Taken together, restorative justice may be seen by many as a return to a more natural approach to the resolution of disputes.”

In the introduction to the Scottish Executive’s consultation paper on the Future of the Scottish Prison Estate, it says “The Executive…expects that systems of restorative justice will play a significant part in the justice system of the 21st century in Scotland.” If this is the case there should be a significant decrease in the size of the prison population.

3. Invest adequately in the cost-effective options to save on prison places: in diversion, bail services and community sentences and make them available with sufficient capacity across Scotland. This would affect the prison population projections significantly and more than the 500 allowed for in the calculations. We need to shift resources from prison to prevention. The options are:

- **diversion**, which includes mediation and reparation. Currently there are no plans to increase from only five such schemes in Scotland. This is despite the proven effectiveness, popularity with Procurators Fiscal and a Scottish Executive policy decision to roll out such services for young people who offend.

- **bail support and supervision services**. With adequate capacity and stronger requirements on sentencers to justify remand, there could be a significant drop in
remand numbers. The HMCIP Thematic Study on remand (1999), points out that a theme in the research encountered is “that some courts do not always seem to use remanding for the aims of protecting the public or to prevent interference with the course of justice”. It goes on to say at p98 “alternatives to custodial remand ought therefore to be considered first, with imprisonment imposed only where there is not other safe option.” Despite the legislative position, this does not appear to be the case in Scotland at present. Also, anecdotally it is said in Scotland that remand is used for punishment. If this is the case, this is inappropriate.

The potential of bail schemes is recognised in “A Better Way” where on p27 it states “We welcome these [bail] developments because they have the potential, through greater use of the existing schemes and the extension of the services, to achieve the reduction in numbers [of women in prison] which we suggest is possible.” In 1997 (HMCIP Thematic Study, 1999) only 46% of remands received a custodial sentence. This further suggests a far greater proportion could be on bail in the community in the first place. Over 50% of remand prisoners are either found not guilty or, if found guilty, not given a custodial sentence and are therefore not a danger to the public. With support and supervision, those whom the court are uneasy about putting on bail can safely be kept in the community, will appear in court on the due date and will make an early start to addressing their offending behaviour.

The Edinburgh Bail scheme works with 25-30 people at any one time, (about 118 per year). This throughput is not adequate to significantly reduce remand prisoner numbers, as there are about 15,000 remand receptions into prison each year. There is, however, a general view that far more people could appropriately be placed on bail supervision, particularly the young offenders. Recently, there has been a rise in the more serious offender being placed on bail under solemn procedure, which means they may be subject to supervised bail conditions for up to one year, this is far cheaper than holding them in prison. Experience shows that where a bail period is completed satisfactorily, the court will in the majority of cases (65% in Edinburgh) use community-based options. Therefore, it appears that those on bail supervision are less likely to be sent to prison when sentenced, thus reducing the numbers on short sentences.

The provision of bail accommodation and bail supervision would be the service that would most make an impact on remand numbers. Bail information, however, is the priority for the bail services being rolled out across Scotland and it is unlikely that bail supervision will be available on the small amount of money available, (£900,000 for the whole of Scotland). This means the allocation to some local authorities is so small they cannot actually use it and others can only employ a part-time worker. An immediate injection of another million pounds is required to allow investment at a level that will give results which will then encourage further investment to cut the size of the average daily remand population by at least half. (There will always be some who must be remanded to protect the public.)

Also, as the 110 day Rule does not apply if the accused is granted bail, adequately resourced bail schemes would relieve pressure on the Crown Office and PF Service.

Another reason to promote bail schemes is that that majority of suicides in Scottish prisons are by remand, not sentenced prisoners.

- community sentences. The Scottish Executive has begun the process of investing in community sentences but if we are going to reduce the numbers in prison, we need to invest more to tackle the numbers, not only on remand but also on short-term sentences including for fine default. The Minister for Justice said in November 1999
that the group on whom “we must focus our attention and ask the question whether in every case prison is appropriate” comprised 2,700 relatively petty offenders, young people, women, fine defaulters and remands (today the same group is about 3000 in number). While some offenders in these categories will merit a custodial sentence for committing a serious crime, the majority will not. The remainder for whom prison is appropriate comprises those imprisoned for homicide, drug offences and serious violent and sexual offences. There should be a transfer of resources away from short prison sentences towards well-funded and effectively managed community sentences. There has been a lot of investment in these in recent years but availability is still patchy across the country and capacity limited. The full menu is not available to all courts.

We should ensure implementation of the new measures proposed in the Criminal Justice (Scotland) Bill 2002 to increase the use of Supervised Attendance Orders and Restriction of Liberty Orders, and allow for resourcing of programmes to enhance deferred sentences. Drug Treatment and Testing Orders are being rolled out across Scotland. There is to be piloted in two courts the implementation of Section 235 of the Criminal Proceeding (Scotland) Act 1995 which will remove the option of imprisonment for fine default. In addition, there may be the re-introduction of Fine Enforcement Officers and the introduction of flexible ways to pay fines. Community Service Orders and Probation orders need to be better resourced so that sentencers know they will be imposed immediately after sentence is passed and that breach will be dealt with promptly.

In addition to community penalties and adequately resourced programmes and supervision to back them up, sentencers also need a directory on the bench of local availability of community sentences and supporting programmes, together with information on the research evidence of the effectiveness of community based sentences, case specific information about the effectiveness of the sentence they imposed and training in setting fines at appropriate, affordable levels.

4. Support sentencers and tackle sentencing

“receptions into prison and average sentence lengths continued to rise in a period when crime was falling.” and “Experience in the 1990s has shown that over a period when the use of community penalties grew, the prison population also grew.” (Prisons Estates Review, Appendix F).

Sentencing, therefore, has to be tackled in a number of ways: by providing sentencers with all the options and information listed above; by reviewing what crimes are appropriate for a custodial sentence and what crimes might no longer need to be crimes (e.g. perhaps non-payment of fine for not having a TV licence, or for breach of the peace by soliciting.) then by Sheriffs, Stipendiary Magistrates and Justices being under a duty to use the most appropriate and effective measures available to them.

Should the court be allowed “complete discretion in its use of prison where the offender can be managed safely in the community, at a fraction of the cost and with similar outcomes in terms of re-conviction. If health authorities have to make difficult decisions...because of budgetary constraints, there is no reason to exempt courts from a similarly, hard-headed approach.” and “Sentencers should be more accountable for the financial and social costs of their decisions.” (Sentencing for Success. Howard League. 2001.)

To help to achieve these aims, the issue of sentencing guidance and information needs to be considered. In England and Wales, the Court of Criminal Appeal lays down sentencing
guidelines. There too, the Halliday Report proposals depend on guidelines to change sentencers’ behaviour and in “Making Punishments Work” it states “Maximum sentences will need to be re-considered…. [and] consideration [given] to….sentencing powers of magistrates and district judges” (generally 6 months custody in relation to any offence). Also, in England, Kevin McCormac said, there are proposals to “Build on the success of the Sentencing Advisory Panels”. These panels are also described as having achieved successes in “Making Punishments Work”. This document also advocates that there should be an obligation on all sentencers to give reasons for departure from the guidelines. In Scotland the High Court of Justiciary has the power to provide guidelines in terms of ss. 118(7) and 189(7) of the Criminal Procedure (Scotland) Act 1995 and in terms of s. 197 of that Act, a sentencing court must have regard to such guidelines. The power to lay down guidelines has not been much used and SACRO recommends that the power should be more widely used.

“In order to achieve greater consistency and effectiveness in sentencing, sentencers need better information about their own activities, the activities of other courts, the cost implications” of their decisions, and the outcomes in terms of re-offending.” (Sentencing for Success. Howard League. 2001.) This could be provided in Scotland if the Sentencing Information System currently available in the High Court were made available in all courts. Also, the objectives for sentencing should be clearly laid down.

The role of sentencers could be changed so they can be more involved in the implementation of the sentence, as in the Drugs Courts where they seem to have “much greater ownership of the sentence and a greater investment in seeing it work”. (Making Punishments Work.), for all types of sentence. In England and Wales, it is proposed that review hearings are introduced.

The Scottish Executive’s policy of providing a wider range of community based sentencing options for the courts, welcome though these are, will not guarantee a reduction in the use of custody. This has not happened in the past in the UK. Courts in England and Wales over the last twenty years have had the widest range of community based sentencing options available in western jurisdictions, yet, as in Scotland, the rate of imprisonment has steadily increased.

Sentencing is not only a matter for the court, sentencing can also be prescribed by statute. Parliament makes the legal framework within which judges have to work. Parliament may wish to legislate to ensure that sentencing achieves particular outcomes or is conducted in a more consistent manner. Judicial independence from the Scottish Executive does not mean that judges have no responsibility to ensure an element of consistency in sentencing both in terms of outcome and approach. We recognise that consistency can never, nor should it, be fully achieved as sentencers are dealing not only with a particular crime (which may or may not have parallels to other crimes with a similar name) but also with a particular individual who will have his own characteristics. Nevertheless, the significant differences in sentencing which are evident between different courts and known sentencers (the ones defence agents try to avoid) suggest there is an element of unfairness which needs to be addressed.

Courts should be prepared to repeat their use of community disposals, in the same way that, at present, they are prepared to repeat the use of short periods of custody. Repeat community penalties should be the norm, re-conviction after one community penalty should not immediately result in a custodial sentence. This is now the case in the Drug Court and it is hoped this example will be followed in other courts. The use of custody should be justified only where the offence was serious enough in itself to warrant its use. The Minister for Justice, Jim Wallace (29.11.99) said there “was a clear need to increase community-based provision as against residential or custodial decisions.” This was in the context of tackling youth crime but is no less valid for adults. We should also ensure that community penalties are used as a direct replacement for imprisonment and not instead of a fine.
The following suggestions are made in relation to sentencing:

- **give all sentencers bail schemes as an option and then require them to fully justify use of remand.** The Prison Estates Review statistical appendix points out that “the increases in remand population have increased the projections”

- **significantly reduce the use of custodial sentences of less than 6 months.** The present system with its frequent use (82% of all custodial sentences were for 6 months or less in 2000) of short periods of custody, does not succeed in meeting the public’s wish to see a reduction in re-conviction rates. Research suggests that more custody does not reduce re-offending. Repeated use of short-term prison sentences is likely to lead to further failure in terms of further re-offending and further imprisonment for short periods.

The main aim ought to be to reduce the use of short-term prison sentences but without simply replacing them with longer prison sentences. Short prison sentences are also relatively expensive and divert SPS staff from working with long term, and therefore more dangerous, prisoners to try to reduce their offending.

The prison population projections in Appendix F point out “the increases in the two short-term population categories [less than six months and six months to less than eighteen months] and the increases in remand population have increased the projections, compared with those presented in April 2001, by some 200 – 300 per financial year in the next five years, rising to yield an additional 500 in 2010-11.”

Even in 2000 (Table 2 Appendix AF) there were 399 adults and 97 YOs, a total of 496, sentenced to less than 6 months. This points up the importance of tackling rates of imprisonment in this group.

On average, adult fine defaulters spend 2.9 days in prison (YOs 2.7 days). Those on short sentences under 6 months spend on average 28.8 days (YOs 24.5 days). Appendix F Table 2 shows that if all custodial sentences of less than 6 months were ceased, the average daily prison population would be reduced by 500—a significant number which could more than half the projected growth in prisoner numbers of 900. A significant part of this group could safely, more effectively and cheaply be given community sentences.

Use of short custodial sentences by the Sheriff Summary Court should be significantly reduced. There are calls to go further, for custodial sentences under 6 months to be abolished altogether. The Halliday Report for England and Wales drew attention to the ineffectiveness of short sentences.

- **Introduce early release.**

The estimated potential impact on prisoner numbers of early release on Home Detention Curfew, mentioned in Appendix F of the Prison Estates review, suggests that this might reduce the average daily prison population by 200.

- **Increase the maximum fine to £10,000,** for serious cases prosecuted summarily, to extend the scope for those who can afford to pay, in order that custodial sentences can be avoided.

- **Increase maximum length of Community Service Orders from 240 to 300 hours** at summary level, again to encourage their use and avoid custodial sentence.
• Remove the vested interest in District Courts using the fine instead of the Supervised Attendance Order since fines from the District Court are received as income by the local authority.

• Remove the power to imprison for fine default from the District Court.

• Increase the level of fiscal fines, along with guidance to set them at levels appropriate to people's means.

• Consider how the trend to longer sentences can be reversed. Prison sentences in Scotland are 40% longer on average in the year 2000, than they were in 1980 – a massive change which it seems difficult to understand or justify. The Scottish Executive Consultation on the Future of the Scottish Prison Estate (p10) anticipates “greater numbers being imprisoned for longer periods of time.”. Information should be given to sentencers about there being no evidence that shows that lengthening sentences in this way is not effective in terms of recidivism or general deterrence. (Prof. Neil Hutton, University of Strathclyde). Kevin McCormac, Home Office (12.4.02) pointed out that there is “little evidence for connections between variations in sentence severity and differences in deterrent effects.” What, then, is the justification for the steady increase over recent years, in the use of long prison sentences? There are more drug dealers being prosecuted but would it not be more effective assiduously to chase the assets of the “big boys” as a more effective sanction for this kind of offender.

The proposals in the Summary Justice Review to increase the sentencing powers of Sheriffs should be resisted.

• We need, also, to think carefully about the types and lengths of sentence which can be given and what we want to be criminal offences, given the effect a criminal record has on a person’s employment prospect and the protective effect of employment on not re-offending. A range of crimes could be decriminalised or dealt with by non-court disposal through diversion. These might include soliciting and making non-payment of TV licence a civil offence. Also if possession of small amounts of cannabis for personal use is to remain an offence, it could be dealt with more efficiently through fiscal warning. In addition, if a crime has a significant impact on identifiable victims then restorative measures should always be an option.

• Have a statutory requirement for sentencers to show all fine enforcement measures have been tried (as in England and Wales) and other community sentences actively considered before imprisonment. In England and Wales, the reason why alternative enforcement measures have either not been tried or have failed must now be stated in court. As a result of this ruling, enforcement practice has been revised in many courts and there is greater use of disposals other than custody. Since the judgment, the number of receptions to prison for fine default has halved. In the first 6 months of 1996 there were 5,372 receptions for fine default compared with 11,282 in the same period of 1995. There is no such statutory provision in Scotland and restrictions on imposing custody on a person under 21 years of age do not arise in fine default cases.

5. Other Proposals

• Implement the recommendations in “A Better Way” (report of the Ministerial Group on Women’s Offending, February 2002) designed to reduce the size of the
female prison population. These must all be followed through, (not aware that any action has been taken to date) so that the previous Ministerial target to significantly reduce the number of women in prison in Scotland by 2000, is in fact achieved by 2003.

- Judicious increase in the use of electronic tagging, with support and behaviour change programmes, to reduce numbers in prison, especially on remand. The net-widening, which clearly took place in England and Wales, would need to be avoided. SACRO’s experience of providing bail services is that young offenders do best when placed and supervised at home, so assessment for electronic monitoring would have to include consideration of family factors. A further consideration is that successful supervision may involve several different addresses – hostel to other supported accommodation, move to own tenancy, move to avoid harassment or risks of re-offending. This might militate against the set up of electronic monitoring arrangements.

SACRO also has experience of supervising more serious (solemn procedure) bailees. Some of these may be supervised for 6 months or more and to date there has been a high level of compliance without the extra condition of electronic tagging. However, it is with this group of offenders, those seen as presenting higher levels of risk, where we believe electronic monitoring may have a contribution to make. But it must be carried out in combination with other supervision and support. Such accused persons may spend long periods on bail as an alternative to long periods in custody and the extra condition might enhance the credibility of the bail schemes in the eyes of the sentencers and enable courts to consider more accused persons as suitable for bail.

- In addition to all the above, we need to implement more of the early intervention measures which would cut crime: family support; pre-school provision; tackle school exclusion and truancy; tackle literacy, basic skills provision and unemployment; have effective drug and alcohol education in school; provide more youth activity programmes; and do more to combat racism.

PUBLIC OPINION

The public want offenders not to re-offend. The Home Secretary, David Blunkett (in the foreword to “Making Punishment Work” February 2002) said “The need to be explicit about the overall aim [of sentencing] of reducing crime, was strongly endorsed [by the public] and there was widespread recognition that effective sentences in the community could contribute to a reduction in re-offending.” There was a high degree of support in England and Wales for community sentences as it was also recognised that they could reduce the prison population and offer unique reintegrative and rehabilitative possibilities.

The public’s wish, identified in the Scottish Parliament commissioned survey, is also for consistency in sentencing.

RECOMMENDATION

SACRO recommends the setting up of a Ministerial Working Group to study and make recommendations on all initiatives to reduce the prison population in Scotland and how to make them work. This would be for the whole prison population, similar to the one set up on Scotland’s 200 Women Prisoners. It should have a clear focus and remit to stop the prison population rising and bring it down by reducing as far as possible those 2,700-3,000 on remand and short sentences, referred to by the Minister for Justice in his November 1999 paper, who are in prison but not a
significant danger to society. We suggest it meet frequently and report in February 2003, before the run up to the May 2003 election.

WHAT DO THE NUMBERS LOOK LIKE?

Below is a calculation of the reduction which could be made in the projections if the suggestions made above were adopted.

POTENTIAL FOR REDUCING NUMBERS IN PRISON PROJECTED FOR 2010 IN THE SPS PAPER

- Diversion-small numbers of potential daily prison population, not included in our total
- Bail - 500 i.e. half current level (nil deducted in official projections)
- Fine default-70 i.e. end imprisonment for fine default (nil deducted in official projections)
- SAOs-increase by 70 (currently 60-70 places)
- Half the number of sentences under 6 months and replace with community sentences or fines-250 places
- Community sentences/programmes generally - used to a much greater extent and a general reduction or at least a stabilisation in sentence growth - say 750 (nil deducted in official projections)
- DTTO-300 (nil deducted in official projections)
- Home Detention Curfew (being reviewed before implementation decision) -potential to reduce daily population by official estimate of 200

Total= 2140

If deducted from the official projected prisoner population of 7,200, this would give a figure of 5060 and would remove the need for significant numbers of extra places. Even allowing say, 500 for some double counting in the above figures this would still leave a significant reduction. If all the proposals in this paper were adopted the figures would be different again as no allowance has been made for some of them e.g. increasing the maximum fine.

Any projections of this kind are bound to be speculative and imperfect (just as the official projections are) but they give some idea of what could be done if the political will was there, and offer the opportunity to save Scottish resources which could be devoted to more pressing needs such as Health and Education. These figures would need to be worked towards by providing the necessary programmes to ensure effectiveness.
PRIVATE PRISONS

It is clear there is a need for conditions in prisons to improve, to provide humane conditions as quickly as possible. If more prisons are to be built this should be done in the most cost-effective way, to meet the need to provide humane conditions but not to increase prison places. We believe it is wrong to make profit out of imprisoning offenders. If Scotland has a very high proportion of its prison population in privately run jails, this would mean there is a lobby for maintaining prisoner numbers at as high a level as possible. This would contrast significantly with SPS at present whose management and staff accept, even advocate, the arguments for reducing the numbers in prison.

PETERHEAD

The difficulties of re-settling prisoners from Peterhead to the central belt are well known, therefore, there is an argument for relocation. To facilitate effective resettlement it is better for prisoners to be located near the area to which they will be released, so that social workers and others who will assist with the process can link with prisoners effectively and plan their throughcare. Moving them elsewhere towards the end of their sentence could accommodate this.

SACRO has always emphasised the importance of family visits for prisoners but in the case of Peterhead, this cannot apply to all prisoners. While the location does not assist family visits, prisoners and visitors seem to feel safer in the current location, than if the sex-offenders were located with other prisoners. For this reason, we believe that, if it is to be relocated, the facility should not be attached to another prison but should stand-alone and there may be an argument for building on the land at the present prison because the local community has accepted its use as a sex-offender facility.

It is clear that better physical conditions are required than are currently available at Peterhead prison. There is some dispute as to whether the buildings are “at the end of their useful life”. (HMCIP Follow-Up Inspection Report April 2002.) If, however, the existing buildings are unsuitable it is important the whole entity is relocated, to retain the consistent approach found by the members of the Justice 1 Committee on their recent visit and reported in the Parliamentary debate on 18 April 2002. We would need to be sure, however, not only that the STOP programme can be run as effectively with adequate numbers of existing trained and experienced staff to ensure continuity but also, that the jail in which the programme is run has the ethos and culture to ensure the programme is supported, and not undermined, outwith the STOP sessions.

CONCLUSION

Scottish Executive Summary of Conclusions

Paras 135 and 136 SACRO does not accept the assumptions underlying the Scottish Executive’s prisoner population projections and does not accept the need to build additional prison places. The proposal is to spend £619M NPV on 3 new prisons that will provide significantly, an additional 900 prison places. (Obviously there can be no quarrel with the need to provide new or refurbished places to end slopping-out as quickly as possible and to replace the poor accommodation at Low Moss, while resulting in no increase in the overall total of prison places.)

Para 137 SACRO agrees slopping out should end as quickly as possible and by the most cost-effective means.
Para 138 SACRO questions the investment of substantial sums proposed in planning to build prisons which could otherwise be available to provide preventative services in the criminal justice system, new hospitals, new schools, or better healthcare. We also question whether prisons should be privately run.

Para 139 SACRO argues strongly in this paper against the need for 3 new prisons. This is not an effective way to tackle recidivism.

Para 140 SACRO is pleased to note “NO decisions have been taken” and that “The Executive wishes to consider thoroughly the views of all those who respond to this consultation document.”

Scottish Executive Proposals: Summary

New Prisons

This SACRO paper challenges the assumptions underlying the Scottish Executive’s prisoner population projections and the need for additional new places. SACRO agrees, however, that slopping out should be ended as soon as possible and otherwise unsatisfactory parts of the estate replaced or refurbished.

SACRO has concentrated on analysing the prisoner population projections and has not focussed on the issue of privatisation. New build should be by the most cost-effective method but we question whether prisons should be privately run for profit.

HMP Barlinnie

SACRO agrees with the proposals.

HMP Low Moss

SACRO agrees with the proposals.

HMP Peterhead

Prisoners and visitors seem to feel safer in the current location, than if the sex-offenders were located with other prisoners. For this reason, we believe that, if it is to be relocated, the facility should stand-alone.

There may be an argument for building on the land at the prison because the local community has accepted its use as a sex-offender facility.

If the prison is to be relocated it is important this is done as an entity, to retain the consistent approach, the ethos and culture that appears to ensure the STOP programme is fully supported by all staff.

Para 141

SACRO cannot stress strongly enough, for the reasons given above in this response, that the proposal to increase prisoner capacity in Scotland is not “a logical and prudent way forward”.
Clive Fairweather Esq OBE
HM Inspector of Prisons
Room M1/7
Saughton House

26 April 2002

Dear Clive,

**HMCIP INTERMEDIATE INSPECTION OF KILMARNOCK**

1. Thank you for sending me your follow-up inspection of Kilmarnock. This letter contains a few general points and a detailed response (grouped by issue) to your report.

2. As this is only a follow-up report it does not follow the process applying to full inspection reports in which SPS formally comments on the recommendations. You have on a number of cases of intermediate or follow-up reports kindly invited our comments and I thought we should comment in this case because unlike the other recent cases, we do not think that parts of this report fully take account the specific circumstances of HMP Kilmarnock.

3. SPS makes no apology for the fact that the contract is a tightly drawn legal document which safeguards the interests of all parties concerned and informs the expectations of what is to be delivered. As such, SPS sees no need to initiate a re-negotiation of the contract. Ron Tasker, interim Director at Kilmarnock, and a man who is widely respected for his professionalism in public and private sector prisons agrees that the contract provides a very clear framework within which there is sufficient freedom for management to produce the required outputs efficiently and cost-effectively. Other than the application of the performance measures, it is not the contract that drives the day to day operation of the prison. Rather, it is the working relationship based upon the mutual expectations derived from the contract framework.

4. Kilmarnock has a full-time Controller who with his team operates a 50-category performance monitoring system superior to that elsewhere in our system. As a result we have higher quality management information on the main outputs delivered by Kilmarnock than we yet have for any other of our other prisons. We are working on improving the performance management systems throughout the service and are finding the experience gained at Kilmarnock very helpful in this respect.

5. You produced with our help a table at the back of this report which seeks to compare all the prisons on a number of counts. The figures in this are the best that are available but even at that they are not particularly helpful to either us or the interested reader. A number of the categories do not compare like with like eg staffing, costs. They take no account of the differences in purpose, prisoner mix, building or other features and should be read with a very
serious health warning. In Kilmarnock for example, we do not know if they have a complement as we would understand it, nor whether staff turnover or sickness figures are calculated on the same basis as ours. We do know that the cost per prisoner is not on a comparable basis. Nor does the alleged overcrowding figure seem right. It will be helpful I think for us when responding to future requests on this table to spell out in detail the many areas where it is likely to be unhelpful or misleading as in the examples given.

6. It might be more meaningful to construct a table based on the Kilmarnock performance management system showing the outputs for every prison. This would be a considerable task but one that would be worth doing. This would show a truer picture on the much more important issue of what outputs are actually being achieved by each establishment and how sure we can be that what we are planning is being carried through.

7. There is a danger that the effort going into developing quality programmes, approved activities and the accreditation process is causing people to lose sight of the importance of industries and work in prison regimes. Industries play a vital role in rehabilitation through promoting employability as well as providing purposeful activity with all its beneficial effects. This lack of recognition of the importance of industries as a contributor to correctional excellence is probably the major area where your report lacks balance.

8. SPS Operating Standards were one of the key drivers of the Kilmarnock contract. Nowhere else in the system is closer to achieving these Standards, than Kilmarnock. For example, nowhere else are prisoners out of their cells for as long as they are at Kilmarnock. We are trying to increase it elsewhere but the key comparator prisons to Kilmarnock (Edinburgh and Perth), as the prisoner survey and other data show, despite improvements still have some way to go. Having prisoners out of their cells, with an expectation that they work, increases some risks eg refusing to go to work, drug trafficking and various forms of misdemeanour. If prisoners are locked up for much of the day, which sadly is too common in some of our prisons, they get less chance to create mischief, but by the same token they are not then being engaged in purposeful work activity. Many prisoners have never had a job in their lives and most of them did not go to school regularly - so inculcating regular habits and particular work habits is a vital task for us if we can manage it. In this respect, Kilmarnock is at the forefront not at the back of correctional excellence which we intend to roll out through the Service over the next few years.

9. Programmes are in some ways new and how best to deliver them whether by officers, psychologists, social workers, teachers or a mixture of all of these is something which can be endlessly debated but we do not have any evidence that one system of delivery is necessarily better than another. We probably need to experiment: Kilmarnock which does it slightly differently than in most other places is a useful experiment in Scottish circumstances and therefore "a good thing". There is nothing in the contract which dictates the system of delivery nor is the present system at Kilmarnock or indeed that in the public sector necessarily that which will prevail in the future.

10. Finally, you noted in the report that your team was rather larger than would have been normal at a follow-up inspection. I noticed that 5 of the 7 people supporting you were all SPS or ex SPS. It may be more challenging when doing equivalent inspections of SPS run establishments to have significant representation from those working in the private sector. The strengths, stability and competence of SPS staff is not in doubt but the nature of our business is "conservative" and we are apt to rely on well tried and tested methods and the “SPS ways” of doing things. This is of course a matter for you but hopefully you will see it as a comment worth considering.
11. Finally, I take this opportunity to thank you for note to me concerning the Newsnight programme of 10 April which alleged that you described Kilmarnock as a ‘failed experiment’. I was not aware of you having said it and am grateful for your assurance that this quote was certainly not from you and that you ‘do not think Kilmarnock is a failed experiment’. Please do not take the comments in this letter as being anything other than a wish to pursue continuous improvement across the entire prison estate.

13. I am copying this letter to Elaine Bailey, Chief Executive, KPSL and Ron Tasker, Director, HMP Kilmarnock.

Yours sincerely,

MIKE DUFFY  
Director of Operations (South and West)
HMP KILMARNOCK: INTERMEDIATE FOLLOW-UP INSPECTION:
14-15 MARCH 2002

This paper provides a commentary on the report by issues and reference to the report’s paragraph numbers.

CONTRACT ISSUES

Paragraph 2.2
‘Inspections …. have always been foreshadowed by the “contract” which …. would seem to be relatively inflexible.’

SPS take the view that the “contract” is tightly drawn to safeguard the interests of all parties in the event of a breakdown in the working relationship . SPS view the day to day operational control of the prison as being informed and guided by the expectations arising from the contract and in particular by the performance measures rather than by direct reference to the contract. This system is flexible and response to changing requirements including correctional requirements is in general speedier and marked by less resistance than elsewhere. In the event of major changes beyond the scope of the day to day working relationship the contract contains straightforward mechanisms for effecting these changes.

Paragraph 4.1
‘In the previous intermediate inspection, ... reference was made to the lack of flexibility arising from a static set of performance measures and indicators as these appeared to be restricting management from developing new opportunities for prisoners.’

We see no inflexibility arising from the set of performance measures nor does the report give any evidence that they are "static" or that they inhibit further development of the already high quality correctional services at Kilmarnock. The trigger point for performance decreases each year requiring continuous improvements in outputs.

CORRECTIONAL EXCELLENCE

Paragraph 2.3
‘A balance has to be struck between participation in work and in offending behaviour programmes. Thus, a contract which is centred on an “industrial model” could start to be at odds with the rest of the SPS estate which has started to pursue correctional excellence.’

SPS agree that a balance has to be struck between participation in work and in offending behaviour programmes. We are, however, of the view that work and the work ethic are vital components of the correctional agenda and that it would be a mistake to allow this to be overshadowed by the effort required to increase programme development and delivery. We would not therefore agree with the assertion that the establishment has "an industrial model" nor that, on present plans, it is likely to "start to be at odds" with the focus of the rest of the SPS estate. On the contrary, the starting point for any successful regime is the availability of means which allows constructive time out of cell – a point made by you frequently in the past. In this respect Kilmarnock has an unrivalled record with a 9.45pm lock up 7 days of the week, and a fuller basic working week for a higher percentage of prisoners than comparable establishments as shown below.
ESTABLISHMENT | WORKING WEEK | % OF CONVICTED PRISONERS
--- | --- | ---
Edinburgh | 26.25hrs | 43
Perth | 29.5hrs | 70
Kilmarnock | 35hrs | 92

Time out of cell of course carries risks. Prisoners cannot attack each other if they are locked up but Kilmarnock’s record in meeting and indeed exceeding SPS Operating Standards with regard to time out of cell places is on a par with the best of the SPS. Your concerns that Kilmarnock might lag behind in the delivery of programmes designed to influence offending behaviour are overly pessimistic. The challenge is to our other establishments to begin to report on the 50 or so performance measures which Kilmarnock already has to meet.

**Paragraph 4.11**

Comparisons that are made in this paragraph between for example Peterhead and Polmont with Kilmarnock are not appropriate in relation to programmes. The establishments differ fundamentally in their objectives, one being a prison for long-term sex offenders, one a Young Offenders Institution and Kilmarnock a mixed prison with remand and both long and short term convicted. What is more important is that the specific risks and needs of the individual establishment’s prisoners are met.

There is no evidence that programmes delivered by particular groups of staff are more effective than those delivered by others. The SPS has, as a matter of faith, believed that involving prison officers in the delivery of programmes is a useful way forward but this is not universally accepted as other prison systems behave differently. Either way it is in our view important at the moment, in the absence of evidence suggesting that one system is better than the other, to keep an open mind on these issues.

The Inspectorate report also makes the point that courses being delivered by psychologists rather than custody officers may limit further important interaction on offending behaviour between prison officers and prisoners in the residential wings. This is no different from public sector prisons where these interventions are commonly carried out by specialist programmes officers rather than residential officers.

**Paragraph 4.12**

‘Kilmarnock was only to be allocated 1 new Cranstoun Drug Service Worker (compared with 2,3, or 4 elsewhere).

Provision for drug work is already explicitly provided and paid for in the contract. It would be inappropriate to spend public money twice for this service. Prisoners at Kilmarnock will benefit from the Cranstoun Initiative from the improved throughcare links with community drug workers.
Paragraph 4.13

SPS disagree with the assertion that the regime development at Kilmarnock will be restricted. This is based on the following arguments already developed:

a. taking into account the importance of establishing regular work patterns, the correctional agenda is at present to be as challenging for prisoners as anywhere else in our system; and

b. the reporting mechanism gives better evidence of what is being delivered than we have anywhere else and is independently checked by our controller's team. In essence there is no need in the right areas, to make adjustments to the contract, which seems flexible enough. However, you have not produced evidence to the contrary but if this was forthcoming from any party then we would examine it.

STAFF ISSUES

Paragraph 4.2 - 2nd indent

This paragraph commends the reduction in staff turnover and hopes for further reduction. The implicit assumption is that SPS rates of turnover are more desirable than those at Kilmarnock. There is no evidence given in the report that the rates of staff turnover have an adverse effect on the achievement of the required outputs. Additionally this argument takes no account of the fact that SPS rates of turnover especially among residential staff (the largest staff group) are low, possibly unhealthily so, leading to chronic over-manning and restrictive practices which have been a feature of the Prison Service over the last 50 years. However, this is still not comparing an equivalent group of SPS staff with Kilmarnock – turnover is higher, for example, in the early years of service with SPS as it is for them.

Paragraph 4.2 - 6th indent

SPS does not accept that Kilmarnock was 'operating 13 staff under complement' as claimed. There had been 13 vacancies but these had been filled and 15 staff were undertaking basic training at the time of the inspection prior to starting on operational duties in the week commencing 22nd April. We do not use the use of the word "complement" in relation to Kilmarnock. The use of staff complements by SPS is solely to arrive at a financial budget. It is no more than that. Comparing staff complements across SPS establishments is itself fraught with difficulty given their different purposes, buildings, working arrangements and so on and we generally do not attempt it. The concept of a complement at Kilmarnock may be similar or different, we do not know. It is the financial budget which the company sets which determines its quantum of operations over the year of which staffing is but one. There is no any evidence led in the report that the staffing situation is "far from generous". Any comparison of staffing levels needs to take a number of factors into account including building design, technology, hours and patterns of staff attendance, different grades and the flexibility of working practices.

Paragraph 4.4

We are unsurprised by the claims that staffing levels could at times be dangerously low. They are also made, with much greater force, in SPS despite the higher staffing levels at SPS run prisons. The job of management is to balance these understandable assertions with a range of other considerations to provide an appropriate level of staffing. In this context, it is important to
note that while SPS regrets that any staff are assaulted, there is no significant difference in terms of KPI assaults at Kilmarnock than elsewhere. To keep Kilmarnock in context 37% of the staff at Edinburgh and 29% at Perth indicated that they felt unsafe at work in 2001 Staff Survey.

Annex 1

Staff Training

SPS are pleased to note that the core competencies are being properly maintained and that NEBS training is now being provided for a significant group of managers.

Industrial Relations

This is a matter for employer and employee to resolve if there is indeed a real difficulty in industrial relations. However, the following points are noted from Annex 1 in terms of industrial relations:

- that relationships with management are perceived to be good;
- that turnover is reducing;
- Kilmarnock has had little difficulty in general recruitment [Note: the difficulty in nurse recruitment is shared with the public sector]; and
- that the prison was considered to be one of the better paid areas of employment locally.

SPS and its constituent unions have recently established a Voluntary Industrial Relations Agreement but after a year that has seen the first Industrial Action for decades, SPS is aware that there is probably a greater level of staff frustration about industrial relations within the public sector.

ORDER ISSUES

Paragraph 4.2 - 5th indent

‘It was apparent that a large number of orderly room appearances centred around prisoner refusals to work.’

The report would be more helpful if it included some consideration of the reasons for the high number. One such is the requirement for far greater numbers of prisoners to participate in the work regime and an unwillingness to accept that they can opt out. As recorded earlier the challenge to prisoners to work is higher, inevitably resulting in greater refusals. This is an indicator of a greater accent on the correctional agenda. The Orderly Room is an understandable by-product of that achievement.
HEALTHCARE

Paragraph 4.2 - 7th indent

We agree with the comments concerning the Health Centre but feel that it may well have been appropriate to add 2 points from your own summary on healthcare (Annex 2 Page 20) namely:

‘basic primary healthcare … is being provided’; and

‘The healthcare team deserves praise for the way it has carried out its work in difficult circumstances.’.

DEATHS IN CUSTODY

Paragraph 4.3

The very small numbers quoted here do not permit any sound conclusions to be drawn on the basis of statistical analysis. To set the figures in context, there have been 7 deaths in custody in the three years of operation: though Fatal Accident Inquiries have still to be held for the most recent deaths, it would seem that two were from natural causes with five apparently being self-inflicted. In relation to the apparently self-inflicted deaths, the prisoners’ survey indicates less negative feelings amongst prisoners overall in Kilmarnock than in comparable prisons (Perth and Edinburgh) in the public sector (see Annex 2).
### KILMARNOCK

**Within the PAST 4 WEEKS while in THIS PRISON, Please indicate how often you have felt the following?**

<table>
<thead>
<tr>
<th></th>
<th>Daily</th>
<th>5-6 times a week</th>
<th>3-4 times a week</th>
<th>1-2 times a week</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>You were bothered by things that don’t usually bother you</td>
<td>17</td>
<td>4</td>
<td>10</td>
<td>28</td>
<td>42</td>
</tr>
<tr>
<td>You did not feel like eating, your appetite was poor</td>
<td>14</td>
<td>5</td>
<td>17</td>
<td>30</td>
<td>34</td>
</tr>
<tr>
<td>You had trouble keeping your mind on what you were doing</td>
<td>14</td>
<td>3</td>
<td>15</td>
<td>32</td>
<td>37</td>
</tr>
<tr>
<td>You felt depressed</td>
<td>14</td>
<td>6</td>
<td>9</td>
<td>28</td>
<td>43</td>
</tr>
<tr>
<td>You felt hopeful about the future</td>
<td>31</td>
<td>5</td>
<td>17</td>
<td>23</td>
<td>24</td>
</tr>
<tr>
<td>You talked less than usual</td>
<td>15</td>
<td>3</td>
<td>14</td>
<td>30</td>
<td>38</td>
</tr>
<tr>
<td>Your sleep was restless</td>
<td>23</td>
<td>11</td>
<td>16</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>You thought your life had been a failure</td>
<td>15</td>
<td>5</td>
<td>6</td>
<td>23</td>
<td>52</td>
</tr>
<tr>
<td>You felt unhappy</td>
<td>16</td>
<td>7</td>
<td>11</td>
<td>40</td>
<td>26</td>
</tr>
<tr>
<td>You felt lonely</td>
<td>19</td>
<td>5</td>
<td>8</td>
<td>26</td>
<td>41</td>
</tr>
</tbody>
</table>

### EDINBURGH

**Within the PAST 4 WEEKS while in THIS PRISON, Please indicate how often you have felt the following?**

<table>
<thead>
<tr>
<th></th>
<th>Daily</th>
<th>5-6 times a week</th>
<th>3-4 times a week</th>
<th>1-2 times a week</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>You were bothered by things that don’t usually bother you</td>
<td>25</td>
<td>5</td>
<td>14</td>
<td>27</td>
<td>29</td>
</tr>
<tr>
<td>You did not feel like eating, your appetite was poor</td>
<td>11</td>
<td>6</td>
<td>17</td>
<td>32</td>
<td>34</td>
</tr>
<tr>
<td>You had trouble keeping your mind on what you were doing</td>
<td>23</td>
<td>7</td>
<td>16</td>
<td>19</td>
<td>35</td>
</tr>
<tr>
<td>You felt depressed</td>
<td>21</td>
<td>5</td>
<td>12</td>
<td>29</td>
<td>33</td>
</tr>
<tr>
<td>You felt hopeful about the future</td>
<td>29</td>
<td>6</td>
<td>12</td>
<td>22</td>
<td>31</td>
</tr>
<tr>
<td>You talked less than usual</td>
<td>20</td>
<td>8</td>
<td>11</td>
<td>24</td>
<td>38</td>
</tr>
<tr>
<td>Your sleep was restless</td>
<td>33</td>
<td>9</td>
<td>19</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td>You thought your life had been a failure</td>
<td>21</td>
<td>6</td>
<td>12</td>
<td>15</td>
<td>46</td>
</tr>
<tr>
<td>You felt unhappy</td>
<td>29</td>
<td>8</td>
<td>15</td>
<td>29</td>
<td>19</td>
</tr>
<tr>
<td>You felt lonely</td>
<td>32</td>
<td>6</td>
<td>10</td>
<td>18</td>
<td>34</td>
</tr>
</tbody>
</table>

### PERTH

**Within the PAST 4 WEEKS while in THIS PRISON, Please indicate how often you have felt the following?**

<table>
<thead>
<tr>
<th></th>
<th>Daily</th>
<th>5-6 times a week</th>
<th>3-4 times a week</th>
<th>1-2 times a week</th>
<th>Never</th>
</tr>
</thead>
<tbody>
<tr>
<td>You were bothered by things that don’t usually bother you</td>
<td>19</td>
<td>6</td>
<td>14</td>
<td>30</td>
<td>31</td>
</tr>
<tr>
<td>You did not feel like eating, your appetite was poor</td>
<td>13</td>
<td>6</td>
<td>18</td>
<td>27</td>
<td>35</td>
</tr>
<tr>
<td>You had trouble keeping your mind on what you were doing</td>
<td>19</td>
<td>5</td>
<td>18</td>
<td>27</td>
<td>32</td>
</tr>
<tr>
<td>You felt depressed</td>
<td>16</td>
<td>4</td>
<td>15</td>
<td>28</td>
<td>38</td>
</tr>
<tr>
<td>You felt hopeful about the future</td>
<td>31</td>
<td>5</td>
<td>12</td>
<td>25</td>
<td>27</td>
</tr>
<tr>
<td>You talked less than usual</td>
<td>18</td>
<td>6</td>
<td>10</td>
<td>30</td>
<td>36</td>
</tr>
<tr>
<td>Your sleep was restless</td>
<td>28</td>
<td>9</td>
<td>21</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>You thought your life had been a failure</td>
<td>15</td>
<td>2</td>
<td>10</td>
<td>20</td>
<td>54</td>
</tr>
<tr>
<td>You felt unhappy</td>
<td>24</td>
<td>7</td>
<td>12</td>
<td>33</td>
<td>25</td>
</tr>
<tr>
<td>You felt lonely</td>
<td>22</td>
<td>5</td>
<td>9</td>
<td>26</td>
<td>38</td>
</tr>
</tbody>
</table>
Thank you for sending me the report of the latest intermediate inspection of HMP Peterhead.

As this is only a follow-up report it has not been through the process that applies to full inspection reports, in terms of which SPS formally comments on the recommendations. However, you have in the past invited our comments on a number of intermediate or follow-up reports. Although you did not do so in this case, I thought that we should comment on this latest report as there are a number of points on which we feel that it does not fully take into account the circumstances pertaining at Peterhead.

I attach a detailed response to the points raised in the report. However, I thought that it would be helpful also to offer some more general comments and these are set out below.

**Effectiveness of Peterhead**

I am naturally pleased with your comments on the general effectiveness of Peterhead. However, it is regrettable that you have accepted as factual some dubious and completely unsubstantiated data on recidivism. The figures to which you refer were not collected in an appropriate or professional manner and we do not regard them as either complete or soundly based. Nor are they a measure of recidivism, as they refer only to offenders who are known to have come back into SPS custody.
Recidivism rates are a key concern not just for SPS but for the whole of the Scottish Criminal Justice System. In particular, quality data should enable us to develop tight measures on the effectiveness of our interventions and programmes. Indeed we need to do this if we are to demonstrate that our programmes actually work. However, the publication of partial and unsubstantiated data does not help us to do this. We would therefore advise against making reference in future to the figures that you quote in the report.

**Maintenance of service**

There are various references throughout the report to staffing issues. SPS have pursued and promoted a range of initiatives in relation to Peterhead, such as a local review by the Deputy Governor of staff redeployment to ensure efficient use of staff resources. All of these initiatives have been personally led by myself, with appropriate cases being submitted to the SPS Executive Group for approval. To date all of my proposals have been accepted by the Executive Group, who have clearly recognised the need to sustain the level of service at Peterhead. It is regrettable that none of these relevant points were mentioned in the report.

I note the assertion that access to night sanitation could be provided by redeployment of staff at no extra cost. Since you report this as a fact in your report I assume that you have evaluated it, in which case I would be interested to see your assessment of what the implications and costs would be. I have to say that we do not find this credible, especially since this is described as being achievable through provision of an increased complement at night. I am not aware of there being surplus staff who could be diverted from other duties for this purpose, and so it follows that extra staff would need to be employed at Peterhead for this purpose even if the proposal was sensible and desirable – which we do not think it is.

**Board support**

It is unfortunate that the report repeats without any evaluation of their accuracy comments from various sources with regard to the alleged lack of Board support sometimes without the standard “distancing” preamble. I have always indicated in my regular visits to Peterhead, that I would keep the Peterhead staff directly informed whenever there were developments. This level of Board input was clearly evidenced when both Peter Russell and I visited Peterhead on 21 March 2002 to lead 3 presentations for over 70% of the staff on the Estates Review. We even went to the extent of videoing my first presentation, which was made available to those who were unable to attend in person. It is perfectly understandable that staff are concerned at the possible implications for their personal circumstances; but our main focus has to be on how best to provide an effective and efficient prison system on behalf of the people of Scotland.
Transferability of programmes

Your report has been interpreted as suggesting that the programme work at Peterhead cannot be carried out effectively in other prisons. Any such suggestion is, of course, not true, given that programmes and training for staff are designed to ensure that the programmes can be delivered in any prison in Scotland. I would point out that a number of other establishments have already proved that they can run fully accredited programmes. For instance, Glenochil has now achieved full accreditation for four programmes.

Safe prisoner environment

There were a number of references in your report to prisoners having stated they feel unsafe in mainstream prisons and that no safer environment that Peterhead is available. As an experienced Governor I certainly recognise that prisoner safety is a real and legitimate concern. However, I do not accept that having a prison that is devoted entirely to sex offenders is the only, or necessarily the best, way to achieve this. It is perfectly possible – and it is widespread practice across the world - to set up discrete units within mainstream prisons wherein prisoners undergoing, say, the STOP 2000 programme can be held safely. As you know, many sex offenders are already held in establishments other than Peterhead.

Location issues

The maintenance of contact with family and friends is generally recognised world-wide as a crucial issue for any prisoner group, and, while I recognise that for some individual sex offenders family contact may be inappropriate, like other prisoners sex offenders in general need to sustain and maintain family contact to maximise their chance of a successful reintegration into society. Most of the prisoners in Peterhead are a substantial distance from their families. Indeed, I have received representations from one prisoner from Dalkeith complaining about this very problem.

Family contact is not the only issue as regards location. The maintenance of effective throughcare for prisoners before and after release is crucial for all prisoners, but most of Peterhead’s prisoners will live in places far from the prison after release and this can significantly disrupt the continuity of throughcare.

Physical facilities

I have to say that the Annex on physical facilities comparing Peterhead’s fabric favourably with some of the worst of the estate in England is hardly persuasive. It does not provide a sound basis for important and expensive investment decisions. I also note that the report lists a number of items as being sub-standard, all of which are significant and some extremely so (such as fire precautions).
The gross floor area of the cells at Peterhead range from 6.1m² up to 7.4m², making them too small for integral sanitation to be included. There is no access to night sanitation, electrical power in cells or in cell fire detection system. The windows are below the SPS security standards and are non-compliant with the current building regulations in terms of daylight factor and natural ventilation. Existing small doorframes make the retrofit of doors compliant with SPS security standards impossible. The report agrees that the existing windows, electrical power in the cells, facilities for disabled and windows are all sub-standard. The report also states that the existing cell call system, the officer alarm system, the lightning protection system and heating are all sub-standard. The report recognises that the site services for electricity, gas, water and drainage are at full capacity, indeed at times overloaded, or in need of replacement. The term ‘state of exhaustion’ used in the Estates Review is a summary of all of these factors.

There is no suggestion that the buildings are in imminent danger of collapse. Rather, the very robustness of the structure makes refurbishment an extremely difficult option and one which would lead to a building that would still be a long way from being fit for purpose. It is not feasible in terms of value for money to refurbish the existing accommodation halls and hence new build is the only viable option. The potential longevity of the buildings is not the issue. Many old hospitals were strongly built, but that did not suggest that the health service should refurbish them – rather, it was rightly decided to abandon them for new build.

The key issue is that the buildings at Peterhead are not fit for modern purposes, nor can they be made so by refurbishment. That is to say, they are not fit for the purpose of housing prisoners in satisfactory conditions that enable effective delivery of rehabilitation programmes. Refurbishment of the existing buildings to address that issue could only be done at massive cost, far exceeding that of building a new prison under the proposed PPP (Private Sector Build/Private Sector Operate) option, and I see nothing in the report which refutes this. Nor is there any recognition of the fact that it is not only capital costs which have to be funded in an investment decision but also running costs; in other words whole life costs must be taken into account.

A refurbishment of Peterhead would cost a lot in capital terms; and the far greater running costs of continuing with such unsuitable buildings, not just the houseblocks but the rest of the buildings, would also have to be factored in. In our firm view expenditure on refurbishment would not deliver value for money to the taxpayer.

PETER WITHERS
Operations Director
SPS COMMENT

On

HMP Peterhead

Follow Up Inspection

25-26 March 2002
The following are extracts from the HMCIP Follow Up Inspection of 25-26 March 2002 with SPS comments added in italics. The numbering and Annex headings correspond to those of the HMCIP Report.

MAIN REPORT

Background

2.5 “... in September 1999, we were told that the SPS Board had approved a major project to erect new accommodation in the vacant space contained within Peterhead’s extensive perimeter, at a projected cost of £14.5 million. However, the rationalisation of the SPS estate, which had taken place in Autumn 1999, followed weeks later by the creation of an Estates Review, had prevented progression of either of these two projects.”

Comment: £14.5m was the projected cost for a houseblock alone and this would not have solved the problems of infrastructure or the remainder of the buildings.

2.6 “The intermediate inspection of July 2000 had reported that staff were angry at what they perceived to be a betrayal by the SPS Board. Staff pointed out that they had already incorporated changes in attendance patterns, reduced staff absence and improved the throughput of prisoner programmes. In addition, they had reduced the annual cost per prisoner place by some £14,000 and there were plans for further reductions. They were also proud that Peterhead had become recognised as a world class centre of excellence for the management of sex offenders.”

Comment: Changes in attendance patterns were being incorporated in all SPS establishments. The reduction over a period in time in costs per prisoner place was from a relatively high base and one of the main factors was increasing the number of prisoners at Peterhead.

4.1 “The previous intermediate inspection of July 2000 had concluded that any major decision about the future of Peterhead should be predicated by its impact on the integrity and effectiveness of the STOP programme and other interventions aimed at reducing the number of future victims of crime. The report also observed that the key question was whether the STOP programme at Peterhead could be successfully transferred elsewhere, and that this should involve wide consultation with organisations concerned with the management of sex offenders, such as the Parole Board of Scotland, Social Work Services Inspectorate, Victim Support Scotland, APEX and SACRO etc.”

Comment: SPS took full account of the Social Work Services Inspectorate Report, “Managing the Risk” (2000) and the Report on the Expert Panel on Sex Offending (Cosgrove Report) “Reducing the Risk”. Both of these reports indicate that there is a need to extend the custodial provision for sex offenders in particular to encompass more short-term prisoners. SPS maintain that the primary focus must be to not only maintain but to continuously improve the delivery of the sex offending programme and all other programmes. To this end the work of the Accreditation Panel with a majority of non-SPS personnel who are highly respected in their fields is crucial for the integrity of the delivery of the programme.
4.2 “On this latest occasion we were encouraged to find that despite the recent announcement, staff were in remarkably good heart and were, commendably, determined to continue with as professional an approach as possible: indeed it would be hard, currently, to find as resolute a group of prison officers anywhere in Scotland. We were not surprised to find that the prison had recently been awarded BEACON site status, as part of the ‘Modernising Government Initiative’.”

**Comment:** SPS has at all times stated that the Estate Review proposals are no reflection on any staff in any site and concurs with the Inspectorate view that Peterhead staff are to be congratulated on such significant achievements. It should, however, be noted that BEACON status also reflects the way in which the management processes at Peterhead have used the Business Excellence Model to drive continuous improvement.

### Safety

4.6 “There were relatively few incidents of violence and the prison felt safe – with both staff and prisoners confirming this. Bullying is not a feature either (whereas the levels of bullying encountered when this type of prisoner was last dispersed throughout Scotland could be severe, as were restrictions on the type of regime that could be run).”

**Comment:** The Inspectorate Report noted that the age range/average age was considerably higher than in mainstream jails and this is one factor in reducing the incidence of violence/bullying within the prison. SPS accept that in the past there have been difficulties with vulnerable prisoners but modern design and improved practices assist in the management of such prisoners.

### Decency

4.8 “The prison was very clean and tidy, whilst its buildings were assessed as being in good condition.”

**Comment:** SPS do not accept that the buildings are in good condition. The infrastructure in terms of electricity, gas, water, and sewerage are all under strain and in need of replacement already. Whilst the buildings are not unsafe or unstable the shuttered concrete is beginning to degrade. In any case, the structure of the buildings, thickness of walls, and size of cells does not permit either integral sanitation or division into groups to allow electronic night sanitation. SPS concurs with the conclusions that there are major infrastructure deficiencies.

4.8 “… a novel solution was suggested to us by staff. This would involve a redeployment of officers so that prisoners would be able to gain access to lavatories through the provision of an increased complement at night.”

**Comment:** SPS do not accept that this could be done without extra financial cost for additional night staff or, alternatively, by depletion of the day staff. Even if this were to be done at extra cost as an interim measure it would not provide a long-term solution to the provision of night sanitation.

4.9 “Very few prisoners raised the distance involved in visits as an issue.”
Comment: Nevertheless, Peterhead prison previously conducted a survey (for their own information) which showed that 24% of those who are not visited cite this as being due to distance. (This is 11% of total population)

4.14 “The STOP programme is targeted at addressing sex offending behaviour in a very focused and intensive way, and Peterhead has been acclaimed by many sources as a centre of excellence. Of 167 prisoners who have participated in this programme and subsequently been liberated we were told that six had been re-convicted for a further sexual offence and that six had been recalled for a breach of licence conditions.”

Comment: This is NOT a formal measure of recidivism e.g. it does not include other prisoners who have passed through Peterhead but not completed the programme. It is a local record that has been kept to ensure that full information is available in the event of re-offending coming to light. It also covers only those who have been reconvicted and re-incarcerated in Scotland. Research has recently been conducted in England into re-offending sex offenders which shows that the level suggested by the Peterhead figures is in line with that of sex offenders generally. (Home Office Research, Development, and Statistics Directorate “Findings 164” Professor Hood et al.)

Summary

4.17 “Arrangements for access to night sanitation are, however, unsatisfactory. Nevertheless, these could be resolved in the near future by a redeployment of staff, and at no extra cost.”

Comment: See comment on 4.8

ANNEX 2 - STAFFING

Human Resources

“We were told that 30 staff members had left the service in the last year and recruitment was problematic, largely due to the uncertainty surrounding the future of the establishment and competition from other attractive employment opportunities (the majority of leavers had joined Grampian Police Force).”

Comment: Peterhead has had problems recruiting at various times outwith the Estates Review and shares the problem of Police recruiting from our ranks with a number of other establishments.

“Peterhead is the only establishment that has been allowed to continue with the provision of ex gratia payments. An attempt to obtain detached duty staff, particularly from Noranside, so far has had limited success and falls well short of the establishment’s requirements. Meanwhile an allowance was offered to individuals from the north of England to encourage them to move to Peterhead, but this too had largely been unsuccessful.”

Comment: (a) The ex-gratia payments continuation demonstrates the commitment of the SPS Board to Peterhead and the work currently being carried on there.
(b) SPS offered to pay transfer costs for recruits from the North of England on previous occasions of staff shortages (approximately 5 years ago) but has not been actively recruiting outwith Scotland currently.

POA(S)

“Local Branch officials of the Prison Officers Association (Scotland) asked to see us during the course of our inspection. They wanted to underline the impact which the Estates Review consultation paper had had on Peterhead staff. They said that staff were already leaving SPS employment and seeking jobs elsewhere. It was proving impossible to recruit staff locally and there was no sign from SPS Headquarters that staff recruited elsewhere would be assigned to Peterhead.”

Comment: See comment above about continuation of ex-gratia payments scheme.

“.it was not just uniformed officers who were leaving, but also administration and other staff, as jobs became available locally.”

Comment: Current staffing figures show NO vacancies for administrators.

“They said that if the decision to close Peterhead was confirmed it might prove impossible to continue the programme work aimed at reducing the number of victims of crime (innocent lives would then be put at risk if prisoners were released without having addressed their offending behaviour).”

Comment: SPS is disappointed to see this scaremongering comment being given credence in an official report. SPS is putting considerable effort and resources into extending the STOP 2000 programme.

“The main requirement now for Peterhead staff was a clear statement from SPS Headquarters as to how and when it planned to close the prison…”

Comment: SPS is well aware of this need and, in the event of closure, will follow similar procedures to those that were successfully followed with previous closures.

Staff Perceptions

“…those who spoke to us said that it would be possible now, to consider operating a system of access to night sanitation through the redeployment of staff during periods of lock up and at no extra cost - provided that the establishment was brought fully up to complement.”

Comment: See comment on Para 4.8

“To emphasise their views, staff cited some of their achievements; very little violence between prisoners, no staff assaults, very low illegal drug misuse and a remarkably low rate of re-offending from those who had completed a STOP programme.”

Comment: (a) very little violence noted amongst older prisoners generally; (b) very few had drug habit prior to coming into prison; (c) we are pleased to note this validation of the programme.
“Staff discussed the three scenarios outlined in the Estates Review consultation paper…the private sector had no experience in working with sex offenders or delivering a holistic approach to reducing recidivism with this type of prisoner.”

**Comment**: This scenario does not feature in the Estates Review Consultation Paper

“it would be negligent to disperse this type of prisoner throughout the public sector prison estate because of the greatly increased chance of abuse or assault.”

**Comment**: Dispersal throughout the system is not a recommended option in Estates Review, although there is a recognition that there are already several centres in operation.

“it would be very difficult to transfer prisoners to a Central Belt prison as it had taken years to reach the present culture and buy in.”

**Comment**: SPS would build upon experience already gained and note that Peterhead has pointed out that the programme was successful in its early years before this level of buy-in achieved.

“They disputed the number of staff competent to deliver this programme and said that this included some who had been trained some time ago but never actually delivered.”

**Comment**: SPS will ensure that those delivering the programme are competent and notes that there is an increase in the numbers of staff delivering this programme over the past year.

“Staff claimed that they sometimes suffered abuse from other prison staff because of the type of work they were required to do, and felt that many officers in the Central Belt would not be willing to accept the work because of the possibility of similar abuse from colleagues.”

**Comment**: Experience at Barlinnie and Polmont does not support this view.

“They were clear that it had taken them at least five years to create the present atmosphere “of safety and staff buy in”.”

**Comment**: SPS do not accept that it would take 5 years to recreate the current atmosphere as there is a considerable body of training and experience now built up which was less available previously.

**Annex 10 - Prisoners’ Perceptions**

“Most prisoners in the groups had discussed the issue of distance from their homes with their families, but recognised that long journeys were an acceptable price for their safety. They also said that they had longer visits to compensate for this and some relatives stayed for several days to take consecutive visits. (Both groups recalled in some detail how they and their visitors had previously been abused and assaulted in other prisons.)”

**Comment**: This is discordant with information previously supplied by the prisoners that 11% were disadvantaged by reasons of distance.
“Both groups said that the provision of in-cell sanitation and EPIC were not, on balance, as important as safety and the positive impact of programmes and work. They said that although they did not like the arrangement with porta-potties, it was compensated for by an environment in which they could eat, without fear that their food had been contaminated and where they did not suffer abuse (as might occur at other establishments).

Comment: SPS is committed to working towards the creation of an “Ideal Estate” and achieving this by the most effective means possible to ensure that the highest standard of delivery of the Correctional Excellence agenda can be delivered throughout the estate.
JUSTICE 1 COMMITTEE

The Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002

Note by the Clerk

Background

This instrument proposes to prohibit the manufacture, sale, hire and importation of knives that are disguised to look like everyday objects that can be carried on the person in hand luggage, e.g. comb, lipstick, etc. The Scottish Executive’s Note (attached) states that the aim of this instrument is to assist with security measures at airports, sports grounds, night clubs and courts where screening arrangements might not detect such knives.

The instrument is made in exercise of the powers conferred by section 141 (2) of the Criminal Justice Act 1988. Section 141 (1) of the Criminal Justice Act 1988 provides that any person involved in the manufacture, sale or hire of an offensive weapon shall be guilty of an offence and if convicted liable to up to six months imprisonment and/or a fine of up to level 5 (£5000). The Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 details the weapons currently regarded as “offensive”. This Amendment proposes to add disguised knives to this list.

Members should note that this Order applies only to Scotland, and that an instrument consistent with the provisions of this one is being introduced by the UK Government for the rest of the UK. Due to different procedures for introduction of instruments in the UK Government, the Scottish instrument will come into force before its UK counterpart but the Executive is confident that this time gap will be short, e.g. a few weeks.

The Scottish Executive states in its Executive Note that ‘as disguised knives appear to have no legitimate purpose, it is undesirable they should be freely available for purchase by the public’. However, it is possible that an individual might have a legitimate purpose for carrying disguised knives, e.g. self defence, martial arts, etc, and such individuals will have to prove that they have lawful authority or reasonable excuse to be carrying such a weapon if this instrument comes into force.

The two UK instruments were introduced following calls for action against such knives from the airports industry to Home Office Ministers following the terrorist attacks of 11 September 2001 in the USA. The airports industry expressed concerns that these knives present a great risk to airport security being easy to carry and conceal. A decision was taken that although public consultation over such a measure was usual, due to the urgency of the situation and the need to address the threat to airports and airlines widespread consultation would unnecessarily and unacceptably elongate the process. Therefore a Home Office led working group was set up to look at the issue which consisted of representatives of the DTLR, DTI, the Association of Chief Police Officers and Her Majesty’s Customs and Excise. The
Scottish Executive was not represented on the working group, but Ministers fully supported moves to legislate on disguised knives as a priority following 11 September 2001.

Although the Executive states that there has been no consultation in their Executive Note, the Home Office working group mentioned above has a suitably wide range of membership organisations. In addition, representatives from the UK wide trade organisations (who were not involved in the working group) have been informed by the Home Office of the proposed action since the laying of the Order in England and were asked to make their members aware of the measure. The Scottish Executive wrote to all Chief Constables, the Chief Executives of Dumfries & Galloway Council and Fife Council and the Clerks to the Joint Police Boards when the draft SSI was laid to bring the matter to their attention. The Scottish Executive has not received any replies to date from these police organisations.

The Subordinate Legislation Committee initially considered the Instrument on Tuesday 21 May. As a result of concerns raised at this meeting, the Executive accepted the structural difficulties identified by the Subordinate Legislation Committee and subsequently relaid an amended Instrument. The Subordinate Legislation Committee considered the amended instrument on Monday 27 May and satisfied that the Scottish Executive had taken on board its earlier concerns, had no further comment to make. The Subordinate Legislation Committee’s comments on the initial version of the instrument and the subsequent Scottish Executive response are attached below in Annex A.

Procedure

The instrument was laid on 23 May 2002 and is due to come into force on 31 August 2002. Under Rule 10.6, the draft Regulations being subject to affirmative procedure, it is for the lead committee to recommend to the Parliament whether the instrument should come into force. The Deputy Minister for Justice has, by motion S1M-3177 (set out in the Agenda), proposed that the Committee recommends the approval of the Regulations. The Deputy Minister for Justice will attend to speak to and move the motion.

At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation.
Annex A

Subordinate Legislation Committee, extract from 26th report, 2002

Appendix 3

The Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002, (Draft)

On 21 May 2002 the Committee requested an explanation of the following matters:

The Committee notices that the preamble refers to the Criminal Justice Act 1998. There appears to be no Act of this name and the Executive is asked to indicate if the correct reference should be to the 1988 Act so that the powers can be correctly cited.

A further point is that while the Order is made under an UK statute and amends a UK SI there is no extent provision in the Regulations. The Committee believes that an extent provision does make the territorial limitation clear on the face of the instrument. The Executive is asked to consider, as a general point, whether it considers that in circumstances where an instrument is made under a UK/GB Act or amends for Scotland a UK/GB SI, the instrument should contain an extent provision. The Executive Note with the instrument confirms that due regard has been taken of the Technical Standards Directive. The Committee feels that perhaps there are arguments that a total ban on "disguised knives" should have been notified under the Directive and asks the Executive to advise if it has any other comments to make on compliance with the Technical Standards Directive and how contravention has been avoided.

The Scottish Executive Justice Department responds as follows:

1. The Executive confirms that the correct reference in the preamble should be to the Criminal Justice Act 1988. The view is taken that this is clearly a typographical error. As the Committee note there is no Criminal Justice Act 1998. That the reference in the preamble should be to the Criminal Justice Act 1988 is made clear by the relevant footnote to the instrument which correctly refers to 1988 c.33.

2. In general where an instrument is made under a UK/GB Act the practice has been adopted of including an extent provision for the assistance of the reader. Whilst the Executive do not consider that it is essential to do this (since the limitation on extent is in any event read in by virtue of section 101 of the Scotland Act) the Executive will take the opportunity to insert an extent provision when re-laying a fresh draft instrument, as explained in paragraph 4 below.

3. As regards the matter of notification under the Technical Standards Directive, the Executive confirms that it takes the view that the Directive does not apply to the instrument. It follows that it is not accepted that there is any issue of contravention having been avoided. The Executive's position is that there has been no contravention because no obligation to notify arises in the circumstances. As
indicated in the Executive Note accompanying the instrument the view is taken that the Directive is concerned with measures that affect the intrinsic characteristics of a product. It is not considered to be concerned with instruments of a public order character in which a product is identified by reference to its technical characteristics for the purposes of prohibiting a particular act involving that product.

4. The Executive is grateful to the Committee for the pointing out the typographical error in the preamble. As indicated the Executive does not consider that this error would be fatal to the instrument. However since the instrument is laid in draft they would take the opportunity to withdraw the earlier draft and substitute a fresh draft with the typographical error corrected. They would also take the opportunity to include an extent provision. It is considered on balance that there would be particular merit in doing so on this occasion having regard to the provisions of section 141 of the 1988 Act and in particular subsections (4) and (7) of that section. Arrangements have therefore been made to withdraw the earlier draft and lay a fresh draft with these alterations but otherwise in the same terms as the draft considered by the Committee at its meeting on 21 May.

Scottish Executive Justice Department
May, 2002
Background

The purpose of this instrument is to increase the disposable capital limits for eligibility for advice and assistance under the legal aid scheme.

This instrument was implemented due to the recommendation in paragraph 40 of the Committee’s 8th report, 2001 on its legal aid inquiry which stated:

‘The Committee is concerned about the current position with respect to eligibility and means testing and recommends that as a matter of urgency the lower capital limit should be uprated in line with inflation since 1983 and uprated on an annual basis thereafter. The Committee further recommends that the Executive gives serious consideration to the introduction of a tapering of financial eligibility and reports to the Committee on its findings.’

The Scottish Executive proposes that it is appropriate to change these limits at the same time as increasing the disposable capital limits for eligibility which form part of the financial test for civil legal aid (see J1/02/25/8).

The instrument proposes to increase the disposable capital limit in assessing financial eligibility for advice and assistance from £1,000 to £1,300.

The Subordinate Legislation Committee considered this instrument at its meeting on 27 May 2002 and agreed that no points arose.

Procedure

The instrument was laid on 17 May 2002 and is subject to annulment under the Parliament’s standing orders until 25 June 2002. Under Rule 10.6, the draft Regulations being subject to affirmative resolution, it is for the lead committee to recommend to the Parliament whether the instrument should come into force. The Deputy Minister for Justice has, by motion S1M-3178 (set out in the Agenda), proposed that the Committee recommends the approval of the Regulations. The Deputy Minister will attend to speak to and move the motion.

At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation.
JUSTICE 1 COMMITTEE

The Civil Legal Aid (Financial Conditions) (Scotland) (No 2) Regulations 2002

Note by the Clerk

Background

The purpose of this instrument is to increase the disposable capital limits for eligibility which form part of the financial test for civil legal aid.

This instrument was implemented due to the recommendation in paragraph 40 of the Committee’s 8th report, 2001 on its legal aid inquiry which stated:

‘The Committee is concerned about the current position with respect to eligibility and means testing and recommends that as a matter of urgency the lower capital limit should be uprated in line with inflation since 1983 and uprated on an annual basis thereafter. The Committee further recommends that the Executive gives serious consideration to the introduction of a tapering of financial eligibility and reports to the Committee on its findings.’

The instrument proposes to increase the lower and upper disposable capital eligibility limits from £3,000 to £6,000 and from £8,560 to £10,000 respectively.

There does not appear to be any provision in the instrument for uprating these limits on an annual basis as recommended by the Committee. The Committee may wish to ask the Deputy Minister whether the Scottish Executive plans to uprate these limits annually.

The Subordinate Legislation Committee considered this instrument at its meeting on 27 May 2002 and agreed that no points arose.

Procedure

The instrument was laid on 17 May 2002 and is subject to annulment under the Parliament’s standing orders until 25 June 2002. Under Rule 10.6, the draft Regulations being subject to affirmative resolution, it is for the lead committee to recommend to the Parliament whether the instrument should come into force. The Deputy Minister for Justice has, by motion S1M-3179 (set out in the Agenda), proposed that the Committee recommends the approval of the Regulations. The Deputy Minister will attend to speak to and move the motion.

At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation.