The Committee will meet at 2.00 pm in Committee Room 6.

1. **Subordinate legislation:** The Committee will consider the following instruments—


   The draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006

2. **Police, Public Order and Criminal Justice (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 Report.

Tracey Hawe/Gillian Baxendine
Clerks to the Committee
Papers for the meeting—

Agenda Item 1

Cover Note (including SSI) J2/S2/06/1/1
Cover Note (including SI) J2/S2/06/1/2

Agenda Item 2

Draft Report (PRIVATE PAPER) J2/S2/06/1/3
Briefing from SPICe (PRIVATE PAPER) J2/S2/06/1/4
Letter from Deputy Minister for Justice (PRIVATE PAPER) J2/S2/06/1/5
Letter from SE Justice Dept (PRIVATE PAPER) J2/S2/06/1/6
Petition PE980 on a Police Complaints Commission J2/S2/06/1/7

The following documents are circulated for information only—

Finance Committee Supplementary Response to Subject Committees on Stage 2 of the Budget Process


Letter from Minister for Justice to Education Committee on the Report by Fife Council and Fife Constabulary on Colyn Evans, including Executive Summary of Report.

Letter from Minister for Justice on Appointment of Members to the Parole Board for Scotland.

Letter from Clerk to the Audit Committee to Tony Cameron, Scottish Prison Service.

Letter from Convener to Minister for Justice on Scottish Prison Complaints Commissioner.

Members may also wish to note that a consultation on draft guidance for core paths plan local inquiries has been published by the Scottish Executive. A copy is available here: http://www.scotland.gov.uk/Publications/2005/12/0995202/52030

Forthcoming meetings—

• Tuesday 17 January 2006, 2pm
1. The Subordinate Legislation Committee’s 48th Report 2005 brings the attention of the Justice 2 Committee to the instrument on the grounds of defective drafting.

2. The Subordinate Legislation Committee asked the Scottish Executive to provide clarification of the drafting of article 16(6) and in particular the use of the word “or” on the first occasion it appears. The Committee was concerned that, as drafted, the order could be read as obliging the court to cancel a registration of the forfeiture order or an application by the Lord Advocate or another affected person.

3. The Executive has acknowledged that this is a typographical error and that “or” should read “on”. In its reply to the Committee the Executive states that:

“It is considered unlikely, however, that this error will cause difficulties for users of the Order. It is the Executive’s view that a reading of article 16 in its entirety discloses the correct meaning of this paragraph. Notwithstanding this, the Executive will endeavour to amend article 16(6) to rectify this error at the next available opportunity.”
4. If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible.
1. Members may recall that the Justice 2 Committee considered the Firefighters Pension Scheme Amendment (Scotland) Order 2005 (SSI 2005/566) at its meeting on 6 December 2005.

2. As well as seeking to transfer certain functions to the Scottish Ministers in relation to animal feedstuffs and feed additives, the above affirmative instrument allows Scottish Ministers to make amendments to the firefighters pension scheme in relation to the position of civil partners.

3. The Justice 2 Committee has been designated as secondary committee and the instrument is circulated to Members to make any comment to the lead committee. The Health Committee has been designated lead committee as the more substantive part of the order falls within that Committee’s remit.

Clerk to the Committee
16 December 2005
Public Petitions Committee – a template for e-petitions

Should you wish to submit an e-petition allowing signatures to be gathered on-line on the Public Petitions Committee e-petitioner web pages please complete the template below. Before submitting your e-petition please consult the Guidance on submission of public petitions for advice on what is and is not admissible. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

Details of principal petitioner:
Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to.

James A. Mackie
3 Braehead
Lornshill Park
Alloa
Clackmannanshire
FK10 2EW

Text of petition:
The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.
The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

Petition by James Mackie calling for the Scottish Parliament to support the creation, within the forthcoming Police Bill, of an independent police complaints commission (as agreed by the partnership) to ensure that complaints against the police by members of the public are properly investigated and acted upon and that any investigative powers should be retrospective.

Period for gathering signatures:
Please enter the closing date for gathering signatures on your petition, which we would usually recommend is a period of between 4-6 weeks

Closing date: 26 September 2005
Additional information:

Please enter any other information relating to the issues raised in your e-petition, including the reasons why the action requested is necessary. The text entered in this field should not exceed 2 pages. However, you may wish to provide further sources/links to background information.

The Petitioner is a former police constable, former Inspector of Fisheries, a private investigator, former Chairman of a Community Council, Co-ordinator of a Neighbourhood Watch Scheme and a former researcher to an MSP.

Police officers are public servants, paid for from the public purse but apparently answerable to no one. Under current procedures there is no vehicle to investigate the operational role of the police where there is clear evidence a force is inefficient, has poor management and police officers appear to be insufficiently trained, inexperienced and not properly supervised. The current role of Her Majesty’s Chief Inspector of Constabulary would appear to be just to check systems are in place, not how they are operated and what final service is available to the public. If the police, under the current system, refuse to take a complaint from the public – whether it is against a police officer or a member of the public, there is no mechanism for that unaccepted complaint to be investigated. It would appear that the role of the Police Board is to appoint senior officers and to agree the annual budget for that force. Under the current system, where such complaints as above are not investigated the standing of the police in the local community is much lower than it should be. This encourages antisocial behaviour while giving the police an over valuation of their own abilities. Bad policing stops honest citizens from reporting crime and confiding in the police thus aiding those who have antisocial behaviours. Bad policing encourages vigilantes.

It used to be the procedure that police officers were promoted through the ranks because of their street experience and knowledge. Modern policing overly relies on departments specialising in every aspect of policing, social life and activity. Most ranks would appear to be promoted within or through departments that are removed from front line police duties. This process leaves far too few police constables and ranking officers actually on the street to deal with all issues. It also means that senior police officers have few skills in policing and are becoming system managers. An example of such departments is a “Collision Prevention Unit” of the Traffic Management Department.

This has a number of bad effects. Police officers are inexperienced because there is no senior constables to tutor them, there are fewer on the street seen by the public and available to speak to the public. Fewer constables on the beat mean that fewer complaints are attended to by the police. I have details of complaints where it took the police over three days to attend 1) an assault and 2) a housebreaking where property was stolen. Such delays infuriates the public, makes them hostile towards the police who then react in a similar vein. The fewer complaints/problems the police officer deals with the less experience they get.

This causes a break down in communication between the public and the police force thus a reduction in the amount of information given to the police. Published crime statistics can no longer be relied on to show a true reflection of what is actually happening. If there is no police officer for an individual to make a complaint to, there is a chance they will not bother to report it. With Scottish Police Forces moving over to call centres manned by civilians to take calls from the public, the public are less willing to make complaints to these centres. Many of these call centres are at a great distance from the location of the caller. For example calls to the police in Elgin are answered in Aberdeen, a distance of over 60 miles. If it is a serious incident, remote call centre operators do not know the locality and waste valuable time trying to get a location while at the same time infuriating and distancing the complainer from the service.

There appears to be two systems of logging complaints. One system logs the complaint in a way that gives a crime report number for the complainer to give to the insurance company while not logging it as an “actual” crime for sake of the statistics. The other system seems to only log complaints where there is a chance of tracing an offender. Statistics are used for publicity purposes by police forces to try and impress a sceptical public and politicians. Senior police officers now appear to play to the gallery rather than the needs of the community. Central Scotland Police boasts in its publicity that 95% of nonessential calls to the police are answered within 10 seconds. What they do not say is that the calls are answered by an automated system and it can take three or more minutes to speak to somebody – a civilian. I am told that the people that answer the telephone call do not have access to a police radio therefore have to note full details before passing them to another to pass on
to a police officer. To put this system in operation, the Chief Constable pulled all police office clerks out of local police stations as well as closing all police stations, including police headquarters, to the public between 12 midnight and 8 am. This surely must be one of the best ways ever to stop people making complaints of any kind to the police. It is the experience of many people when they go to a police station and ask to see an officer of the rank of inspector or above, these ranks refuse to speak to the public. After being questioned by a civilian the member of the public is lucky if they get to speak to a constable. This would not be tolerated in any other part of Great Britain and/or Northern Ireland.

The Petitioner requests that:

That there should be a completely independent body to investigate complaints against the police service;

The proposed Police Commission be predominantly lay members, not retired police officers, and have the powers to investigate and rectify:

Complaints of illegal acts by police officers;

The refusal by the police service to take complaints of any kind;

Major operational changes being made by police forces that affect the police’s ability to work within a community e.g. call centres and closing of stations;

To examine that a police force is delivering an efficient and effective service to the public and that there is sufficient police officers on the beat to interface with the public;

That a police force is not becoming top heavy with high ranking officers and unnecessary departments.

A review of the practice of “fast tracking” police officers through the ranks.

Additional information (continued...)
Action taken to resolve issues of concern before submitting an e-petition:

Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern, by for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MSPs. Details of those approached should be entered.

Correspondence with HM Chief Inspector of Constabulary, Cathy Jamieson MSP, Brian Montieth MSP, Clerk to the Central Scotland Joint Police Board, Central Scotland Police Force, members of the legal profession and local councillors.

Comments to stimulate on-line discussion:

Please provide at least one comment to set the scene for an on-line discussion on the petition, not exceeding 10 lines of text.

Police forces are public servants. Under current procedures there is no vehicle to investigate the operational role of the police where there is clear evidence that a force is inefficient, has bad management and police officers are untrained, inexperienced and not properly supervised. The current role of Her Majesties Chief Inspector of Constabulary would appear to be just to check systems are in place, not how they are operated and what final service is available to the public. If the police refuse to take a complaint from the public, there is no mechanism for that complaint to be investigated. It would appear that the role of the Police Board is to appoint senior officers and to agree the annual budget for that force. Where complaints are not investigated the standing of the police becomes lower than it should be. Bad policing stops honest citizens from reporting crime and confiding in the police thus aiding those who have antisocial behaviours as well as encouraging vigilantes.

Petitioners appearing before the Committee

The Convener of the Committee may invite petitioners to appear before the Public Petitions Committee to speak in support of their petition. Such an invitation will only be made if the Convener considers this would be useful in facilitating the Committee's consideration of the petition. It should be noted that due to the large volume of petitions it has to consider, the Committee is not able to invite all petitioners to appear before the Committee to speak in support
of their petition.

Please indicate below if you do NOT wish to make a brief statement before the Committee when it comes to consider your petition.

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For advice on the content and wording of your e-petition please contact:

The Clerk to the Public Petitions Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP  
Tel: 0131 348 5186  
Fax: 0131 348 5088  
e-mail: petitions@scottish.parliament.uk

Note  
Completed e-petition forms should also be sent to petitions@scottish.parliament.uk
1. As occurred last year, subject committees again made a number of recommendations regarding budgetary information to their respective Ministers which are the overall responsibility of the Finance Minister and the Finance Committee. The Finance Committee's responses to these points are noted below.

2. Firstly, the Justice Committees' report the absence of change to targets for crime reduction which they highlighted last year. The practice is for targets to be reviewed and revised in Spending Review years only. This avoids any suggestion that targets are being changed for political advantage. Any changes to the targets will therefore be made in 2007.

3. Secondly, the Environment and Rural Development Committee asked the Minister to explore ways in which both expenditure and outcomes can be more clearly reported across portfolios. The problem here is that the Finance Minister has advised the Finance Committee that it is impossible to map accurately the sums spent on the cross-cutting themes as spending programmes can have multiple objectives. However, the previous practice of publishing “Closing the Opportunity Gap” and “Sustainable Development” spending plans in a single document merits reconsideration by the Executive and the Finance Committee will raise this in its discussions regarding information for SR 2007.

4. Thirdly, the Education Committee recommends that “irrespective of whether it complies with the agreed pan-departmental approach to the presentation of the Budget, details of the National Priorities Action Fund below Level 3 should be made explicit in the Education and Young People section of the Draft Budget”. The agreement with the Executive is that financial data to level 3 will be provided in the Draft Budget and is monitored by the Finance Co-ordination department at that level. Date below Level 3 is not required for budgetary approval and would greatly expand the size of the Budget documents (there are 80 lines below Level 3 in the Justice chapter alone). This would not be consistent with the Finance Committee's agreement with the Executive to seek to reduce information overload in budget documents. However, if the Education Minister is willing to provide this information to the Education Committee in a supplementary paper outwith the Draft Budget, then that would be consistent with the Budget Agreement. It is a matter between the Education Minister and the Education Committee.

5. Fourthly, the Local Government and Transport Committee states that “under the agreed protocol between the Executive and the Finance Committee, the Executive is not required to provide a specific response to this report”. This is not the case. The position is that the Finance Committee must ensure that any issues raised by Committees which relate to budget documentation and issues as a whole are dealt with by
the Finance Committee and the Finance Minister. Matters which relate
directly to a ministerial portfolio should be dealt with by the appropriate
Minister.

6. In its report last year, the Finance Committee dealt with this problem in
paragraphs 38 and 39. It stated that when an issue requires changes
to the Budget documentation as a whole, then it would deal with them
either by including the issue in its report or in correspondence with the
subject committees. However where “an issue raised can properly be
dealt with by the appropriate Minister directly, ie, it does not have wider
implications, then the issue is left for resolution between the Minister
and the Committee.”

7. Other committees did receive ministerial responses to portfolio issues
last year and so there is no reason why a direct response to such
issues should not have been made to the Local Government and
Transport Committee.

8. Finally, the Communities Committee refers to the Finance Committee’s
recommendation in its report on the 2005-06 Draft Budget for a further
reduction in process-based targets and notes that, nevertheless,
targets remain unchanged. As explained earlier, it will be after SR2007
before any further changes occur. However, the Finance Committee
agrees with the Communities Committee that such targets should be
reduced and output/outcome based targets provided for the portfolios.
Deputy Minister for Justice
Hugh Henry MSP

Miss Annabel Goldie MSP
Convener
Justice 2 Committee
The Scottish Parliament
Edinburgh
EH99 1SP

St Andrew’s House
Regent Road
Edinburgh EH1 3DG

Telephone: 0845 774 1741
scottish.ministers@scotland.gsi.gov.uk
http://www.scotland.gov.uk

Our ref: «Ourref»

23 November 2005

Dear Annabel

«IMPLEMENTATION OF THE VULNERABLE WITNESSES (SCOTLAND) ACT 2004

When I wrote to you in February I updated you on the progress being made to implement the first phase of the Vulnerable Witnesses (Scotland) Act 2004 relating to child witnesses in High Court, Sheriff Court solemn cases and Children’s Hearings court proceedings.

I also indicated that implementation of the special measure of taking evidence by a commissioner would be delayed to allow for further work on technical and procedural issues to be carried out. Much of that work has now been completed and I am pleased to say that we have now issued guidance for practitioners.

However, in the course of this preparatory work it became apparent that it would be inadvisable to make this available at the present time to witnesses in a criminal case involving sexual offences or to child witnesses under 12 in criminal cases involving sexual offences or in offences involving certain types of violence. This is due to the fact that when using this special measure certain protections provided for in such circumstances in the Criminal Procedure (Scotland) Act 1995 would not be available to them.

Similarly in Children’s Hearings court proceedings taking evidence by a commissioner cannot apply to sexual offence cases because the witness could not be afforded the protection offered by section...
68A of the Children (Scotland) Act 1995 which restricts the use of questioning designed to elicit
evidence about the witness’s character and behaviour.

While steps are being taken to remedy these issues through the use of suitable legislative vehicles
over the next 18 months, I have agreed that the special measure should be partially implemented for
use in cases, other than in the type of cases I have mentioned above, from 30 November.

I would also take this opportunity to alert you to another issue which has been identified in the Act.
This relates to section 16 which as it stands means that a witness would have to complete their own
child witness notice if they and the Reporter are party to the proceedings. Clearly this was not what
was intended and steps are also being taken to remedy this through a suitable legislative vehicle.

Arrangements for commencing the Act in respect of adult vulnerable witnesses in High Court,
Sheriff Court solemn cases and children’s Hearings court proceedings with effect from 1 April 2006
are in hand and are currently on track.

Yours sincerely,

Hugh Henry

Hugh Henry
Dear Miss Goldie


Regulations designating the Criminal Injuries Compensation Authority (CICA) as the single body responsible for acting as an “assisting authority” for the UK for the purposes of the above Directive have now been laid in the UK Parliament. I enclose a copy of the Regulations for your information.

I am copying this letter to the Conveners of the Subordinate Legislation Committee and the European and External Relations Committees.

Yours sincerely

MISS ANNA COSSAR
Dear Iain

REPORT BY FIFE COUNCIL AND FIFE CONSTABULARY FOLLOWING CONVICTION OF COLYN EVANS FOR THE MURDER OF KAREN DEWAR

I wrote to Robert Brown, then Convenor of the Education Committee, on 16 June following publication on 10 June of a report by Fife Council and Fife Constabulary into the circumstances surrounding management of Colyn Evans by police and social services. Evans had been sentenced to life imprisonment on 10 June for the murder of 16 year old Karen Dewar in Tayport.

I set out in my letter of 16 June a number of actions commissioned by Ministers. In particular we had instructed the Social Work Inspection Agency (SWIA) and Her Majesty’s Inspectorate of Constabulary (HMIC) to scrutinise the report produced by the Fife authorities, identify any issues not fully covered in that report or which required further examination, and then to work with Fife Council and Fife Police to address those issues and update the report to reflect that work. We had also instructed them to examine arrangements for the management of young people involved in sex offending.

I am writing now to draw your attention to the attached report by SWIA and HMIC which is being published today.

The overall conclusion in the report is that the escalation of Colyn Evans’ behaviour to the point where he committed murder could not have been predicted. However, a number of areas for action are identified and recommendations are made to the Fife authorities, to all Local Authorities and Police Forces and to the Scottish Executive. I also attach the initial response of the Executive. For the most part, that response indicates that action is already underway to address the issues raised in the report, and underlines our commitment to that work. However, it also describes two major new pieces of work: to develop advice on the transition from the Children’s Hearings to the adult justice system, and on the management of adolescent sex offenders.
You will also be interested to note that the group developing guidance on the handling of Child Death and Significant Incident Reviews is extending the scope of its work to cover cases such as this one, and is on track to deliver draft guidance early in 2006.

I hope this is helpful.

I am copying this letter to the Convenors of the Justice 1 and 2 Committees.

CATHY JAMIESON
The recommendations in the report are pulled together in Chapter 8. This is reproduced below, together with an indication of the proposed Scottish Executive response.

8. SUMMARY OF ISSUES IDENTIFIED FOR FURTHER ACTION

Many of the issues identified in this case involve more than one agency and are also part of a complex national agenda. In this section we provide a summary of all the matters we have identified for further action. These are grouped under five headings: matters for Fife Council, for Fife Constabulary, for Fife Council and Fife Constabulary, for service providers across Scotland (mainly local authorities and police forces), and for the Scottish Executive. The Review Team welcome the fact that Fife Constabulary and Fife Council are already taking action on many of the areas of concern highlighted in this report. In practice, service providers across the country will wish to consider the implications for them of the recommendations made for the Fife agencies.

Matters for Fife Council

1. Fife Council should review its policy and practice in relation to work with young people with sexually problematic or aggressive behaviour to ensure that risk assessments are integral to ongoing care planning rather than a separate activity. It is essential that issues of risk management are taken into account in managing any case where there are potential public protection issues. Regardless of the route of referral, a risk management plan should be agreed with all those involved in the case and implemented. The plan should be regularly updated. (Report Issue no. 1, see page 13)

2. Fife Council should review the training needs of the staff involved in work with young people exhibiting inappropriate sexual and aggressive behaviour. This is a highly specialist area which requires high levels of training and support. Managers providing oversight and support also need to have specialist training and knowledge and, if this is not possible, then staff must have access to outside expertise for advice. (Report Issue no. 6, see page 22)

3. The decision by Fife Social Work Services to establish a case manager for all cases where more than one social work team is involved is appropriate. This role should incorporate overall responsibility for the management of that case as well as the need to ensure effective information sharing. (Report Issue no. 8, see page 23)

4. Fife Council should continue to review its supervision and recording policies and ensure that case records reflect important decisions that are discussed and agreed with supervisors. (Report Issue no. 9, see page 23)
Matters for Fife Constabulary

1. Fife Constabulary should ensure that all decision making procedures and processes are documented and continue to review the manner in which it manages Non-registered Sex Offenders. (Report Issue no. 3, see page 16)

2. Fife Constabulary should continue to address the data management issues highlighted in this report. (Report Issue no. 11, see page 26)

Matters for Fife Constabulary and Fife Council

1. Fife Constabulary and Fife Council Social Work Service and should build on current areas of best practice in relation to case conferences and produce a structured action plan for implementation as part of their Standard Operating Procedures, to ensure such best practice is used in all appropriate circumstances. (Report Issue no. 10, see page 24)

Executive response to recommendations to Fife Council and Constabulary

The Minister for Justice and Deputy Minister for Education and Young People met with the Leader and Chief Executive of Fife Council, and the Chief Constable of Fife Constabulary. The Fife Authorities have taken action in response to the recommendations in their own internal report, and prepared an action plan to respond to the issues raised in the report by SWIA and HMIC. The implementation of that action plan will be scrutinised by the Council’s Community Safety Committee, and a progress report will be send to update Ministers by 30 June 2006.

Ministers recommend that all Local Authorities and Police Forces consider the extent to which their existing practice in consistent with that recommended to Fife Council and Constabulary.

Matters for Service Providers in Scotland

1. The development of VISOR’s interface with SID and ANPR, together with the work currently ongoing in respect of giving other relevant agencies access to the system, should continue to be progressed. (This work should be taken forward in conjunction with issue number 13). (Report Issue no. 12, see page 26)

2. Work should be progressed nationally through the ACPOS Sex Offenders Working Group and VISOR Implementation Team to see if standardised working throughout the 8 Scottish Forces is achievable and within what timeframes. (This should be progressed in conjunction with Report Issue no.12) (Report Issue no. 13, see page 30)

Executive comment:

The Executive recognises the importance of the police and partner agencies being able to share intelligence on sexual and violent offenders throughout the UK and continues to support the roll out of ViSOR across Scotland. Investment announced
by the Executive in October will enable forces to speed up the addition of intelligence to the database.

3. Consideration should be given at a national level to reviewing the processes currently in place between the Care Commission and purchasers of services to ensure that there are clear lines of responsibility and accountability for sharing of information about the quality of arrangements at residential schools and about individual placements. With inspection reports now being publicly available, local authorities should actively seek and consider inspection reports when making or reviewing decisions to place a young person in a registered service.  
(Report Issue no. 15, see page 32)

Executive comment:

Ministers are committed to ensuring that users of services, including those purchasing services on behalf of individuals, have access to reliable information about the quality of provision, and can be confident that services are evaluated against clear, demanding standards based on the need to secure improved outcomes for young people. This is being delivered through the regulation of care by the Care Commission, the development of a Quality Improvement Framework for children's services, the introduction of joint inspections led by HMIE, and the publication of information about the quality of services being provided. It is for those commissioning services to make use of that information to help them select the most suitable services for young people, and to engage in informed dialogue with service providers about the quality of services being provided.

Matters for the Scottish Executive

Adolescent sex offenders

1. Action should be taken at the national level as a matter of urgency, to provide public agencies with a framework to assess adolescent sexual offenders that can be used consistently across Scotland.  
(Report Issue no. 2, see page 15)

2. Consideration should be given at a national level to ensuring that those specialist services that are available for young people displaying inappropriate sexual behaviour are delivered to meaningful and rigorous standards and that staff working in the field have access to consistent specialist support and advice.  
(Report Issue no. 7, see page 22)

3. Discussions should take place at the national level, drawing on the experience of the Colyn Evans case, with a view to developing a national strategy for meeting the needs of young people displaying sexually problematic or aggressive behaviour.  
(Report Issue no. 14, see page 31)

4. Specialist programmes designed to be delivered to young people displaying sexually problematic or aggressive behaviour should be subject to robust external quality control
measures which ensure that they are designed and delivered effectively. (Report Issue no. 16, see page 32)

5. Juvenile sex offenders cannot just be cared for, the risks their behaviour presents must be effectively managed. It is essential that arrangements are put in place to ensure that the future management of juvenile sex offenders is based on their perceived threat to others. (Report Issue no. 17 see page 33)

Executive response to recommendations on adolescent sex offending

The Executive is already taking action, through Getting it Right for Every Child, to ensure that the needs of all children, including those involved in offending, are addressed. As part of this, the Executive has developed proposals for a single, inter-agency, integrated assessment, plan and record. This framework includes the assessment and management of risks and the action agencies need to take to resolve matters of concern for the child or young person and to protect the public. We are developing a quality improvement framework, supported by inspection, and clear systems for governance and accountability, to ensure that action is being taken as required.

We have also established the Youth Justice Improvement Group to bring forward strategic advice on how best to take forward the youth justice agenda, and to provide national leadership to ensure effective delivery. One element of the work of that Group will be to prepare advice for Ministers on the transition from the Children’s Hearing system into the adult system by young people involved in offending.

However, we recognise the particular challenges around dealing with adolescent sex offending. We will, therefore, recruit a team of professionals with relevant expertise who will work with service providers, and develop a package of advice and tools, to secure:

- measures to improve the identification, risk assessment, planning for and management of young sex offenders
- the provision of specialist programmes to address offending, both within the community and in residential settings
- ensuring those working with young sex offenders have sufficient expertise for their work
- the arrangements needed to ensure the continued support and oversight as young people move into the adult system
- the arrangements needed to ensure appropriate information is transferred from the children’s to the adult system
- identifying those young people most at risk of becoming serious offenders in later life
- all supported by robust quality assurance systems.

A steering group will be set up (involving the Executive and key national agencies) to provide advice to Ministers (through the Sex Offender Programme Board to be chaired by Robert Gordon), and to steer the work of the team of experts. They will provide Ministers with a draft strategy by April 2006.
6. The Scottish Executive should review the current guidance on the issue of the management of Non-registered Sex Offenders to provide a greater clarity and consistency of approach across Scotland. (Report Issue no. 4, see page 16)

Given the roll out of ViSOR; the agreement of the National Concordat on information sharing; the provisions of sections 9 and 10 of the Management of Offenders etc. (Scotland) Act; and the recommendations of the Irving report the Executive and ACPOS are currently giving consideration to the management of non-registered sex offenders and the sharing of risk assessment information, with a view to agreeing a common policy (in the form of a national Standard Operating Procedure) in respect of the recording of non registered offenders on ViSOR and how the management of offenders not subject to the Sexual Offences Act 2003 is best achieved on a consistent basis across Scotland.

7. The resourcing of Offender Assessment Units and the contribution made by social work to joint assessment of sex offenders should be reviewed at a national level, given the findings of this Review, and the recommendations on resourcing contained in Professor Irving’s report Registering the Risk. (Report Issue no. 5, see page 17)

Issues of resourcing and increasing the profile of sex offending monitoring within the police service is currently being considered by ACPOS.

8. Consideration should be given to introducing Standard Operating Procedures to replace existing local guidelines on the management of sex offenders, partnership working and information sharing. (Report Issue no. 18, see page 34)

Legislative provision has been made in the Management of Offenders etc (Scotland) Act 2005 to establish joint arrangements between the police, local authorities and the Scottish Prison Service to assess and manage the risk posed by sex offenders. As part of the implementation programme, the Executive’s guidance on the setting up of multi-agency public protection arrangements from April 2006 will bring a standardised approach to local arrangements. This is in line with the recommendation in the Irving report, Registering the Risk.

The National Concordat which was produced by the Information Sharing Group on Sex Offending and signed by the key agencies working with sex offender in March 2005 represents a positive commitment to share information within a nationally agreed framework for safeguarding the safety of the public.

The Executive and ACPOS is currently giving consideration to the management of registered sex offenders and the sharing of risk assessment information, with a view to agreeing a common policy (in the form of a national Standard Operating
Procedure) in respect of how the management of offenders subject to the Sexual Offences Act 2003 is best achieved on a consistent basis across Scotland.

9. The Review Team stress the importance of the definition of a Non-registered Sex Offender and strongly urge the Scottish Executive, with ACPOS, to pursue a comprehensive and agreed definition that provides clarity. (Report Issue no. 19, see page 34)

   The National Concordat sets out agreed definitions of a range of terms, including “Non-Registered Sex Offenders.” Signatories to the Concordat which include ACPOS, SOLACE, CoSLA, ADSW and the Scottish Prison Service have agreed to use the agreed definition.

10. It is strongly suggested that an inter agency delivery unit is created to make the necessary changes happen. The unit would develop and lead training, and create and disseminate the necessary protocols and standard procedures and monitoring mechanisms to improve practice across Scotland. (Report Issue no. 20, see page 34)

   The Tripartite Group with membership from the Association of Directors of Social Work, the Scottish Prison Service and ACPOS already provide a national forum to discuss the range of issues relating to the implementation programme for the provisions in the Management of Offenders etc (Scotland) Act 2005 on assessing and managing the risk posed by sex offenders. The Tripartite Group will prepare guidance which will result in a framework of Multi-Agency Public Protection Panels across Scotland from April 2006. These will work within the areas covered by Community Justice Authorities and will submit an annual report on the discharge of their statutory functions under the Act to the CJAs and upwards to Scottish Ministers. This is in line with the recommendation in the Irving report, Registering the Risk.
Dear Annabel

I am writing to advise you that Mrs Anne Carpenter and Ms Jeane Freeman have accepted my offer of appointment as members to the Parole Board for Scotland. These appointments will run from 1 January 2006 to 31 December 2011. Both positions are classed as ‘lay’ and attract a daily fee of £182.

Mrs Carpenter has been appointed to replace the psychologist Board member who steps down at the end of December. While not a statutory requirement, I consider that having a psychologist on the Board makes a valuable contribution to the work on risk assessment.

Mrs Carpenter is a Consultant Clinical/Forensic Psychologist employed at the Directorate of Forensic Mental Health in Glasgow. In addition to this, she has prior experience of working within a prison background, having spent time as a clinical psychologist at HMP Cornton Vale women’s prison. Mrs Carpenter holds no other public appointments and has undertaken no political activity during the past 5 years.

Ms Freeman has been appointed to fill the statutory requirement that the Board must have a member who has ‘made a study of the causes of delinquency or the treatment of offenders’. This requirement is met currently by the Chair, Professor J. McManus. However, as you know, he will demit office on 31 December. Sandy Cameron will succeed him as Chair.

Ms Freeman is a Public Policy Consultant. She has experience and knowledge from working in Scotland’s Criminal Justice system, having worked as Director of Apex Scotland and from serving on the McLean Commission on Serious Violent and Sexual Offenders and the Cosgrove Expert Panel on Sex Offending.

Ms Freeman served as a member of the Parole Board for Scotland from 1995-2000. In addition to this, she also brings experience from having served on the Criminal Justice Advisory Committee to the Secretary of State (1996-1999), the Scottish Police College (1996-2000), the Scottish New Deal

Ms Freeman was involved in the 2003 election campaign for the Scottish Parliament Elections when she worked in the Labour Party Scottish HQ.

Both appointments were made in accordance with the Office of the Commissioner for Public Appointments in Scotland’s Code of Practice.

I have also attached a short note of relevant figures from this appointments process. I trust you will find this helpful.

Bel wishes

Cathy

CATHY JAMIESON
Supplementary Information

1. Applications
   (a) Number of applicants: 28
   (b) Female: 19
   (c) Male: 9
   (d) Ethnic minorities: 1
   (e) Disability declared: 2

2. Interviews

   6 candidates were invited to interview: 2 for the psychologist post and 4 for the criminologist post.

3. Selection Panel
   (a) Mrs Valerie Macniven, Head of Criminal Justice Group – Chair
       Professor Alexander Cameron (who takes over as Parole Board Chair from 1 January 2006)
       Mr John Anderson, Independent Assessor
   (b) Date of interviews: 31 October 2005
Dear Pauline,

I am writing to advise you that Mrs Anne Carpenter and Ms Jeane Freeman have accepted my offer of appointment as members to the Parole Board for Scotland. These appointments will run from 1 January 2006 to 31 December 2011. Both positions are classed as 'lay' and attract a daily fee of £182.

Mrs Carpenter has been appointed to replace the psychologist Board member who steps down at the end of the December. While not a statutory requirement, I consider that having a psychologist on the Board makes a valuable contribution to the work on risk assessment.

Mrs Carpenter is a Consultant Clinical/Forensic Psychologist employed at the Directorate of Forensic Mental Health in Glasgow. In addition to this, she has prior experience of working within a prison background, having spent time as a clinical psychologist at HMP Compton Vale women’s prison. Mrs Carpenter holds no other public appointments and has undertaken no political activity during the past 5 years.

Ms Freeman has been appointed to fill the statutory requirement that the Board must have a member who has 'made a study of the causes of delinquency or the treatment of offenders'. This requirement is met currently by the Chair, Professor J. McManus. However, as you know, he will demit office on 31 December. Sandy Cameron will succeed him as Chair.

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Both appointments were made in accordance with the Office of the Commissioner for Public Appointments in Scotland’s Code of Practice.

I have also attached a short note of relevant figures from this appointments process. I trust you will find this helpful.

Best wishes

CATHY JAMIESON
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    Mr John Anderson, Independent Assessor

(b) Date of interviews: 31 October 2005
Dear Mr Cameron

ALTERNATIVE DISPUTE RESOLUTION

Thank you for your response dated 28 October on the subject of new prisons. The Committee considered this response at its meeting on 29 November and I attach an extract of the Official Report meeting for your information.

The Committee notes that final negotiations on the prison procurement process are in progress and a completion date for the Addiewell prison will not be known until the contract is awarded. The Committee also notes that procurement of the Bishopbriggs prison is on hold pending the outcome of the appeal process. The Committee would be grateful if you could inform them when the Addiewell contract is awarded and also, in relation to the Bishopbriggs development, when the outcome of the appeals process is known.

The Committee notes the SPS’s 2004-05 accounts show an increase of £18 million in provision to £44 million and a reduction of £112 million to £24 million in the contingent liability. The Committee has noted the information in relation to the proposed new prisons at Addiewell and Bishopbriggs and, in light of the fact that it will be some time before the new prisons will be operational, the Committee seeks reassurance the reduced current contingent liability is adequate.

I would be grateful for a response by 6 January 2006.
Yours sincerely

Shelagh McKinlay
Clerk to the Committee
cc Robert Gordon, Head of Justice Department
"The 2004/05 audit of the Scottish Prison Service"

11:37

The Convener: Agenda item 3 is consideration of responses on "The 2004/05 audit of the Scottish Prison Service". Members will recall that we asked for responses from the Scottish Prison Service and the Scottish Executive following the report. We have, in response to our requests for information, received letters from the chief executive of the Scottish Prison Service, Tony Cameron, and Robert Gordon, who is head of the Scottish Executive Justice Department, which we will consider.

Members will recall that we asked for information about the timeline for delivery of two new prisons. Tony Cameron's letter covers that issue. The planning application for a prison at Bishopbriggs was made in July 2003 but was not fully processed until August 2005. The application was rejected. However, the application for a prison at Addiewell was made some six months later, in December 2003, and was processed by June 2004. Planning permission was granted for that prison, on which Tony Cameron's letter states:

"Final negotiations are in-progress with a view to awarding a contract in due course."

We are therefore not a great deal further forward in knowing what the completion date for the prison at Addiewell will be. The application for a prison at Bishopbriggs is subject to a planning appeal, so a decision on whether its construction will go ahead is even further away than we might have hoped.

On Robert Gordon's letter, members will probably find the most helpful information—on workshops, Executive guidance and so on—on its second page.

I invite members to comment on the letters and to say whether they wish to take action other than simply to respond to Robert Gordon and Tony Cameron by sending them copies of the Official Report of the meeting, which will include our comments on their letters.

Mr Welsh: The Scottish Prison Service's response was that one new prison has no completion date until the contract is awarded "in due course", and that one new prison is now under the planning appeal process, which could take some considerable time. When I ally that to the fact that the SPS has reduced the contingent liability for possible court cases, I am led to wonder whether that is sensible financial planning, given the further delays. Is £68 million reasonable, given the on-going situation and possible court costs, and will the alternative dispute resolution system, if it is introduced, be effective?

Scottish ministers have proposed a scheme for settling personal injury cases out of court, but is that alternative system mandatory or optional, and who would choose? What is the strategy behind it? I am also concerned about the Scottish Executive's reply, which states that matters are in the process of development by the SPS
regarding the preferred option of alternative dispute resolution, but will that not also be a prisoner’s option? That leads me to question whether the financial contingency is adequate. The Scottish Executive’s action consists of one workshop having been completed and one that is planned for next year, and it is offering guidance on procurement contracts.

I wonder, too, about the research mediation project—following the English example—which has a working group that is due to report "sometime in 2008", and will hold roadshows over the next few weeks. To my mind, that is an admission that more needs to be done. I am concerned about whether the action has been adequate and I think that the matter should be explored further.

**Margaret Jamieson:** The letter from Robert Gordon makes it quite clear that he and his officials are quite happy to come to the committee if we want more information on ADR. Having heard Andrew Welsh’s comments, I think that it would benefit us to have such a discussion with Robert Gordon and/or his officials.

However, on the two new prisons, there can obviously be no discussion on Addiewell because of commercial confidentiality, and the Bishopbriggs situation is now subject to an appeal, so I do not think that we or the SPS could comment on it. The SPS is caught between the devil and the deep blue sea—it cannot move forward on any of its developments, because doing so is not in its gift.

**The Convener:** Although I appreciate the concerns that Andrew Welsh and Margaret Jamieson have voiced, I remind members that we agreed not to take evidence or to produce a report on those matters. I say that because we have, given the schedule for our future meetings, probably lost the window of opportunity to have done that, simply because of the time that it takes to get witnesses to come before us. We would be in great difficulty with regard to Audit Scotland’s publication schedule and other reports that I am pretty certain members will want to take up. I wanted to remind members of that background. Although concerns spring from the responses, we need to think about the best way to address them. Robert Gordon’s letter explains that he would be pleased to provide further information, so we need to think carefully and, perhaps, take a step back before deciding whether to call witnesses. If more information is required, let us consider how we can access it.

11:45

**Susan Deacon:** As you say, there are clearly questions and concerns raised by the responses. It is right and proper that we note those concerns, but I do not think that it follows that we should pursue the matters further at this time.

I am conscious that these issues, which we have only touched on, are part of a much wider picture. They are important in the on-going debates about the future of the Scottish Prison Service, the prison estate and a host of related matters. It is appropriate that the Parliament continue to keep a close watch on those important matters, but I am not convinced that this committee is best placed to do that. I confess that I do not know the work programmes of other committees and what they are doing with regard to the Scottish Prison Service. I sincerely hope that one of our
justice committees, for example, has the SPS on its agenda. It might be more effective for us to relay our considerations and concerns to the appropriate policy committee so that it can weave our thoughts into its thinking on the broader issue of the SPS and its future operation.

**The Convener:** I can help you there. We have been copying both justice committees' clerks into our requests for information and the responses that we have received. We will certainly keep them informed of any action that is decided today. We are practicing what we preach by using joined-up thinking and action.

Although I am disappointed by Tony Cameron's letter, I am more disappointed that we are not yet clear about what is happening in Addiewell and do not know when there will be closure on the subject. However, the position in Bishopbriggs is beyond the SPS's determination because the process is slowing development down. I had hoped that we could have had more information about Addiewell; the committee might want to know when a decision on it is taken so that it can be noted.

I get the sense from Robert Gordon's letter that the Executive recognises that ADR has benefits that can be shared; it is finding those benefits itself and is trying to roll them out. I wonder whether doing anything further would be asking it to run before it can walk. That is not to undermine Andrew Welsh's important question about contingent liability. Rather than the committee doing some sort of accounting test, an eye has to be kept on that to see whether the amount is right. We were all shocked with the original amount, and we will now want to see that the current liability is deliverable in its reduced form.

**Mr Welsh:** Mediation is the chosen strategy, but it is obviously in early development. I am concerned that the original problem will remain in the meantime. I refer to the fact that the SPS has reduced contingent liability from £112 million to £24 million. I would like assurances, perhaps in writing, as to what will happen while the SPS solves the original problem.

**The Convener:** That approach would be more conducive to the committee's getting closure on the issue. The committee is also concerned not to end up in permanent correspondence—I suggest that members think about that. In the meantime, would the Auditor General or any of his team like to comment on the responses?

**Mr Black:** The matter was first raised in my report to the committee in which we drew attention to the provisions and contingent liabilities. We will monitor those through the audit process, and the committee will have the opportunity to revisit the matter next year and thereafter.

**The Convener:** I suggest that we copy Tony Cameron into the record of our discussion and ask that we be informed when decisions about the awarding of a contract and resolution of the planning issue are known. Is that sufficient?

**Mr Welsh:** Perhaps we should also be assured that the contingent liability sum is adequate for the purpose.
The Convener: I was going to mention that separately. Is the suggestion about Tony Cameron's letter fine? In regard to contingent liability, is it most appropriate for correspondence to go to Tony Cameron or to Robert Gordon?

Mr Black: Such correspondence would go to the Justice Department.

The Convener: Okay—we can draft those letters and issue them accordingly with the Official Report.
Dear Ms Jamieson,

Scottish Prison Complaints Commissioner

You are probably aware that on 6 December the Justice 2 Committee took evidence from Vaughan Barrett, the Scottish Prison Complaints Commissioner. I enclose for your information a copy of the official report of that meeting.

The Committee agreed that I should write to you about the Commissioner’s proposal that his office should be put on a statutory basis. I understand that this has been under consideration by your department for almost a year but that you indicated to Mr Barrett a few months ago that you saw this as a longer term issue and that this proposal needed to be included in wider considerations.

I would be grateful if you would update the Committee on the progress of your consideration, whether you are sympathetic to the proposal and what the wider considerations are which need to be taken into account in progressing it.

It would be helpful to have your response by 25 January 2006.

Yours sincerely,

Miss Annabel Goldie MSP
Convener, Justice 2 Committee