



JUSTICE 2 COMMITTEE

AGENDA

28th Meeting, 2004 (Session 2)

Tuesday 26 October 2004

The Committee will meet at 2.00 pm in Committee Room 5.

1. **Declaration of Interests:** New members of the Committee will be invited to declare any relevant interests.
2. **Choice of Deputy Convener:** The Committee will choose a new Deputy Convener.
3. **Items in private:** The Committee will consider whether to take item 6 in private and whether to take in private any future consideration of the Fire (Scotland) Bill Stage 1 report.
4. **Subordinate legislation:** The Committee will consider the following negative instruments—

The Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2004 (SSI 2004/400); and
The Victim Notification (Prescribed Offences) (Scotland) Order 2004 (SSI 2004/411).

5. **Youth Justice Inquiry:** The Committee will consider written evidence received and consider how to proceed with the inquiry.
6. **Fire (Scotland) Bill:** The Committee will consider a draft Stage 1 report.

Gillian Baxendine / Tracey Hawe
Clerks to the Committee
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Agenda item 4 – Subordinate Legislation

Note by Clerk - [SSI 2004/400](#)

J2/S2/04/28/1

Note by Clerk - [SSI 2004/411](#)

J2/S2/04/28/2

Agenda item 6 – Youth Justice Inquiry

Note by the Clerk

J2/S2/04/28/3

Summary of written evidence received (previously circulated)

J2/S2/04/28/4

All written evidence received (previously circulated)

J2/S2/04/28/5

SPICe Briefing Paper (previously circulated)

J2/S2/04/28/6

[Scottish Executive Research Findings No. 77/2004 – The Hamilton](#)

J2/S2/04/28/7

[Sheriff Youth Court Pilot: The First Six Months](#)

Agenda item 7 – Fire (Scotland) Bill

Draft Stage 1 Report

J2/S2/04/28/8

(PRIVATE – JUSTICE 2 COMMITTEE MEMBERS ONLY)

- Report by the Subordinate Legislation Committee
- Report by the Finance Committee

Additional Written Evidence:

J2/S2/04/28/9

- Letter from Hugh Henry MSP, Deputy Minister for Justice, October 2004
- Letter from Jeff Ord, HMFSI for Scotland, 4 October 2004
- Letter from Stephen Fitzpatrick, COSLA to Ian Sneddon, Scottish Executive, 27 September 2004
- Letter from the Fire Officers' Association, 1 October 2004
- Letter from Alan Cuthbertson, Clerk, Strathclyde Fire Board
- Letter from Ian Tasker, STUC, 13 October 2004
- Letter from Ken Ross, Fire Brigades Union, 20 October 2004
- Letter from Frank Maguire, Thompsons Solicitors, 20 October 2004

Members are reminded to bring with them copies of the Fire (Scotland) Bill and accompanying documents.

The following documents are circulated for information only:

- Letter from the Minister for Justice on the further roll-out of Reliance Escorting Contract;
- Letter from the Minister for Justice on the Review of Police Grant Aided Expenditure;

The following documents have not been circulated but are available from the Clerk:

- Polmont Young Offenders Institution, Visiting Committee, Annual Report 2003-2004;
- Scottish Executive, Report by the Working Group on Hate Crime.

Forthcoming meetings:

- Tuesday 2 November – 2pm (Joint meeting with the Justice 1 Committee)
- Tuesday 9 November – 2pm
- Wednesday 10 November – 10am (Joint meeting with the Justice 1 Committee)

JUSTICE 2 COMMITTEE

28th Meeting 2004 (Session 2)

Tuesday 26 October 2004

The Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order
2004 (SSI 2004/400)
Note by the Clerk

The Instrument

1. The main purpose of the Title Conditions (Scotland) Act 2003 (“the Act”) is to clarify and reform the law relating to real burdens. A real burden is a form of obligation that either restricts an owner's use of his or her land, or obliges him or her to do something in relation to that land, and which benefits another piece of land in both instances.
2. Section 38 of the Act allows the creation of new conservation burdens. A conservation burden is one which preserves or protects, for the benefit of the public, the architectural or historical characteristics of the land or any other special characteristics of the land (for example flora, fauna or general appearance). The Act gives Scottish Ministers the power to designate a list of “conservation bodies” who will be able to enforce certain conditions in the title deeds of property that ensure it will be used with certain conservation objectives in mind.
3. Subsections (4) to (7) provide for the establishment by the Scottish Ministers of a list of conservation bodies. Subsection (4) provides for the Scottish Ministers to prescribe by subordinate legislation a list of conservation bodies who will be entitled to hold the right to enforce conservation burdens preserved or created in their favour.
4. Subsection (5) sets out the criteria for a body to be included on the list. The definition of the type of body which may be prescribed as a conservation body is intended to be broad enough to catch all the bodies who have a function or object of preserving or protecting for the benefit of the public the architectural, historical or other characteristics of land.
5. This Order adds five Trusts to the list of conservation bodies set out in SSI 2003/453 (which was considered by the Committee on 28 October 2003) in respect of whom it will be competent to create a conservation burden under the Title Conditions (Scotland) Act 2003.

Procedure

6. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 1 November.

7. The Subordinate Legislation Committee considered this instrument on 21 September 2004 and but did not draw attention to any matters. The instrument was laid on 16 September and comes into force on 1 October 2004.

8. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

21 October 2004

Clerk to the Committee

JUSTICE 2 COMMITTEE

28th Meeting 2004 (Session 2)

Tuesday 26 October 2004

The Victim Notification (Prescribed Offences (Scotland) Order 2004 (SSI 2004/411)
Note by the Clerk

The Instrument

1. Sections 16 and 17 of the Criminal Justice (Scotland) Act 2003 give the victims of certain crimes the right to receive information in relation to the release, temporary release, transfer, death in custody or escape of the person convicted of perpetrating the offence against them. This Order prescribes the offences for which a victim will be entitled to receive such information. The victim of such offences must also be given the opportunity to make written representations before any decision is taken to release that person on licence.

Procedure

2. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 8 November.

3. The Subordinate Legislation Committee considered this instrument on 5 October 2004 and no points of substance arose. The instrument was laid on 24 September and comes into force on 1 November 2004.

4. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

21 October 2004

Clerk to the Committee

JUSTICE 2 COMMITTEE

28th Meeting 2004 (Session 2)

Tuesday 26th October 2004

Youth Justice Inquiry
Note by the Clerk

Remit and Approach

1. Following the scoping seminar in Glasgow on 23 March 2004, the Committee agreed at its meeting on 28 April 2004 on the broad area for its youth justice inquiry. At its meeting on 12 May 2004 the Committee agreed its remit and approach to this inquiry. The twin aims of the inquiry are as follows:

- To review the effectiveness of multi-agency working in the youth justice field.
- To identify and assess the impact of gaps in service provision in the youth justice field.

Written evidence

2. At its meeting on 12 May the Committee agreed to issue a general call for written evidence on its website and through writing to key organisations. The Scottish Executive was also invited to provide a memorandum with its answers to the key questions set out by the Committee. The deadline for submissions was 13 September 2004.

3. All written responses received have now been circulated to Committee Members. A summary report of written evidence prepared by Fergus McNeil, adviser to the Committee, has also been circulated to Committee Members.

4. SPICe have also prepared a briefing paper to assist the Committee, covering recent policy developments in Scotland and other jurisdictions; characteristics of children and young people who offend; and what happens to children and young people who offend.

5. *Members are invited to comment on the written evidence received.*

Oral evidence

6. On page 17 of the summary report, the adviser has listed some suggested witnesses for oral evidence. There are about 5 meetings available between now and Christmas to hear evidence, assuming that Stage 2 of the Fire Bill is also completed before Christmas.

7. *Members are invited to consider who to invite to give oral evidence.*

Visits and informal evidence

8. Members agreed on 8 June 2004 to undertake a programme of visits in connection with this inquiry. The areas of interest identified were:

- a fast track children's hearing
- a non-pilot children's hearing
- 2 local authority youth justice projects
- 2 voluntary sector projects
- Hamilton Youth Court
- a police diversionary project
- a secure unit
- a special school

So far, four visits have been organised:

Wednesday 27 October	Edinburgh	Maureen Macmillan/Colin Fox
Monday 15 November	Falkirk	Annabel Goldie/Bill Butler
Friday 26 November	Dundee	Mike Pringle/Stewart Maxwell
Monday 6 December	South Lanarkshire	Jackie Baillie/Annabel Goldie

There are a number of areas of interest not included in this current programme, including a secure unit and a special school.

9. Members are invited to consider the timing and extent of further visits. The adviser can then identify specific locations and programmes.

Conclusion

10. In summary, the Committee is invited to:

- comment on the written evidence received
- agree who it wishes to invite to give oral evidence;
- consider what further visits to undertake.

Clerk to the Committee
October 2004

Justice 2 Committee

Youth Justice Inquiry

Tuesday 26 October 2004

Summary of Written Evidence

Introduction

1. Following a pre-inquiry seminar held on 23rd March 2004 (facilitated by Lesley McAra of the University of Edinburgh), the Justice 2 Committee established a Youth Justice Inquiry, issuing its call for evidence on 20th May 2004. The Inquiry has two aims: to review the effectiveness of multi-agency working in the youth justice field, and to identify and assess the impact of gaps in provision in the youth justice field.

2. The deadline for submissions of written evidence was 13th September 2004. In total, 40 responses were received. These included two from the Minister for Justice, 12 from local authorities (and their umbrella organisations), 12 from voluntary organisations, 7 from criminal justice agencies or criminal justice professionals' associations, 5 from other governmental agencies, one from Unison Scotland and one from a community group.

3. This summary report of the responses does not aim to represent all of the evidence contained in the submissions; rather it seeks to identify key themes emerging from the responses, noting areas of consensus and controversy. It begins by summarising the main issues emerging from the submissions, before discussing the responses in more detail. The report is structured around the key questions raised by the Inquiry.

4. The two submissions from the Minister for Justice provide helpful summaries of recent developments (and related funding initiatives) in the youth justice field, rather than directing themselves in detail towards the specific questions raised by the Inquiry. Although this summary makes some reference to specific comments from the Minister, committee members may wish to read the Minister's submissions alongside this summary.

Summary of key themes

5. Overall, the submissions suggested considerable progress in the development of **joint planning** mechanisms in youth justice, but some enduring problems. These problems include lack of clarity about the definition of the field; problems in sharing ownership, responsibilities and accountabilities between partner agencies (particularly those agencies for whom youth justice is not their core business); problems related to the engagement of different Executive departments in national planning; challenges in connecting youth justice strategies to other local strategies (to

minimise the demands on key local planners and to prevent confusion); difficulties created by the nature of youth justice funding; and local variations in the nature and extent of voluntary sector participation in planning.

6. In general, it seems that most areas are not delivering youth justice services through **operational multi-agency teams**, preferring to coordinate work across different agencies. However, this requires a high degree of commitment and understanding from staff at all levels in all partner agencies.

7. Factors **facilitating joint working** included clear national standards, shared local priorities, joint commitments to provide funding, strong leadership and commitment to partnership working in all agencies, clearly understood roles and responsibilities, integrated assessment frameworks, established protocols for information sharing, adequate funding, experienced staff, sharing of good practice and some co-location of services (or at least the provision of dedicated seconded staff). In many of these respects the Fast Track Hearings and Youth Court pilots were seen as exemplifying effective joint working.

8. Factors **hindering joint working** included the relentless pace of change in youth justice, lack of clarity about joint accountabilities, competing priorities and multiple demands on key players, various funding problems, inadequate monitoring and evaluation linked to the absence of clear data collection protocols, problems with information sharing (sometimes linked to anxieties about data protection), lack of trust between agencies (and sometimes between local and national levels), and unhelpful organisational structures and cultures.

9. With regard to gaps in provision, deficiencies in the extent and quality of the **information provided to victims and communities** (about both the processes and outcomes of youth justice) were noted.

10. In discussing **diversionary activities**, many respondents suggested that these measures were underdeveloped, under-valued and under-funded. Some noted a lack of evidence about 'what works' in this area. That said, many examples were provided of local initiatives which often evidenced positive feedback from young people about such services.

11. The needs of **young people in secure care/custody and leaving secure care/custody** were described as complex, diverse and varied. Some responses suggested weaknesses in the quality of secure/custodial provision in terms of lack of programmes, measures or services to tackle particular problems. Problems in delivering continuity of care (during and after periods in secure care/custody) were noted by many respondents, including significant difficulties in accessing key services required in the process of community reintegration.

12. Serious reservations about the extent, availability and quality of services for **young offenders with mental health problems and/or learning disabilities** were noted by many respondents. Problems in securing assessment, diagnosis and various forms of treatment were reported. These services were seen as being under-developed and under-funded. Some

submissions criticised health services for their perceived failure to prioritise addressing these needs.

13. The ongoing **shortage of qualified social workers** was seen as a major problem. Though recent initiatives have met with some significant success in this regard, some noted that recruitment and retention in core children and families social work services remain enduring problems with adverse effects on youth justice provision.

14. With regard to **services in rural areas**, a range of particular challenges were noted in seeking to deliver comprehensive, equitable and specialist services to dispersed populations. Particular problems of intolerance, isolation and stigmatisation affecting young people were noted by some respondents. Transport issues and the associated costs raised further problems. Some submissions noted that small urban authorities and large cities also face particular problems.

15. In terms of disseminating best practice, the work of the **Youth Justice Network** and of the **Criminal Justice Social Work Development Centre** was praised in many submissions. Several submissions stressed the importance of training events and conferences for their staff. However, problems in freeing up staff time both to reflect on their work and to attend networking events were noted.

The effectiveness of multi-agency working in the youth justice field

16. There was widespread consensus amongst the submissions about the importance of **joint planning** of services; no one agency was seen as able to provide alone the kinds of multi-faceted services required to address the complex needs of young people involved in offending. Though the submissions evidenced a wide variety of different arrangement for the composition and functioning of local youth justice strategy groups (with some differentiating between high-level decision making bodies and wider consultative forums), most respondents seemed to be relatively satisfied that these groups were working fairly effectively. That said, many noted that there was room for improvement. Some of the problems reported included the following:

- For many respondents, the lack of a clear **definition** of the youth justice field (for example, in terms of the upper age limit, in terms of the relationship between youth justice and anti-social behaviour, and in terms of the place of preventative work within the youth justice agenda) created difficulties for local planners.
- Some respondents noted problems arising from a lack of clarity about the youth justice **responsibilities of agencies** whose core business falls outwith the justice arena. This lack of clarity can make these partners difficult to engage, despite the importance of their contributions. The submissions from Barnados and NCH Scotland, for example, note difficulties in securing positive involvement of (and practical resources from) Health Services, Education Departments and

Leisure and Recreation, with Barnados describing their responses as typically 'weak or inappropriate'.

- Several submissions identified difficulties resulting from the involvement of different departments of the Executive in the wider youth justice agenda, sometimes leading to problematic joint **planning at national level** (ADSW, COSLA, Aberdeenshire).
- Many submissions noted that the different agencies involved have different priorities and targets and that **linkages to other policy initiatives** and requirements (for example, anti-social behaviour, community learning, community safety) can be complex and problematic, placing heavy demands on the time and availability of key individuals. Some submissions called for a rationalisation of the planning processes to create economies of time and effort and to ensure better articulation between the various plans (ADSW, Borders, Falkirk).
- Many submissions (from across all sectors) noted the difficulties created for local planners by the range of different **funding streams** involved in youth justice. The short-term, ring-fenced nature of much of this funding was seen by many as creating problems in securing continuity in service provision and the mainstreaming of best practice. These were major problems for both statutory and voluntary sector organisations. Barnados' submission suggested a need for combining different funding streams. UNISON Scotland's submission questioned the usefulness of periodic resource allocations for political initiatives which, they argued, had an adverse effect on core services and partnership arrangements. They described the voluntary sector as suffering from chronic under-funding and instability that adversely affects service planning. Some of the submissions from voluntary sector organisations noted that competition for funding can promote a desire to emerge as a primary service provider and that this hampers the sharing of best practice (Victim Support, Fairbridge).
- The submissions from Barnados and Sacro noted significant variations in the extent of **voluntary sector participation** in strategic planning groups. Barnados noted that whereas in some authorities they have a key role, in other localities (where there are many voluntary sector providers), local authorities take the view that involving only one or some of the voluntary sector providers in strategic planning would be in conflict with competitive tendering processes. Nonetheless, Barnados' view is that without joint planning joint practice becomes more difficult to sustain. Perhaps because of this, the submission from the Prince's Trust suggests that the current planning processes do not take full account of the range of available services from all sectors. They suggest that a lack of consistent integration of frontline delivery agencies excludes valuable expertise.

17. The submission from the Minister advises that the Executive have recruited PA Consultancy to work directly with the local strategy teams to improve their performance and improve outcomes. This consultancy work will focus on key aspects of the national standards.

18. Though some submissions provided interesting examples of **operational multi-agency teams** (for example, Edinburgh and Falkirk), such arrangements seem to be the exception rather than the norm. ADSW, for example, noted that in most authorities, the staff of different agencies operated in 'virtual teams' across separate organisations but bound by shared commitments to common objectives and joint working. Several submissions noted that these arrangements work best where there are joint assessment and joint planning processes, clear working agreements and commitment to shared objectives and joint reporting on outcomes.

19. ADSW suggested that operational multi-agency teams could be an inhibition or constraint to good practice. They argued that given the diversity of the needs of children and young people across the age range 8-18, different constellations of multi-agency support and expertise are required in different cases. They key to effective multi-agency working, ADSW suggest, is to have someone who can bring the relevant people together at the right time.

20. ADSW also stressed the importance of the strategic managers in each agency properly briefing their staff on their multi-agency responsibilities and ensuring adequate training and support. COSLA stressed the importance of fully understanding the multi-agency approach both at the corporate level and amongst individual staff.

21. Few respondents offered direct comment on the **effectiveness of multi-agency services** (other than anecdotally), some linking this to the absence of a common evaluation framework. Barnados' submission noted that the effectiveness of joint working is affected by the capacity of the local authorities to provide core services (court and panel reports, supervision of orders, etc.).

22. Sacro's submission noted considerable variation across the country in respect of multi-agency service delivery, adding that some local authorities seem slow to acknowledge that voluntary organisations may have developed greater experience or expertise in particular areas. Sacro suggest that this can lead to them 're-inventing the wheel' in order to keep services in-house.

23. In **assisting joint working**, submissions stressed the importance of:

- The focus provided by the national standards (Association of Chief Police Officers in Scotland) and clear strategic direction from the Executive (COSLA).
- Involvement of sufficiently senior staff from partner agencies in the planning process (Barnados, NCH Scotland).
- Clear, shared priorities under-written, where possible, by joint commitment to provide funding (ADSW, Renfrewshire, Falkirk).
- Shared accountabilities between partner agencies, expressed in common commitments to the pursuit of agreed outcomes and protocols for joint reporting of progress towards these outcomes (ADSW, COSLA, Falkirk). Angus' submission stressed the importance of taking an outcome-driven approach.

- Commitment to partnership working at all levels in the organisations concerned (COSLA). For NCH Scotland this meant strong leadership in the strategy groups committed to the corporate best interests rather than the vested interests of different departments and agencies.
- Clarity about roles and responsibilities (Angus, Barnados, Fairbridge, Falkirk).
- Linkages with the new multi-agency arrangements for broader Children's Services Planning.
- Integrated assessment frameworks and appropriate, agreed protocols for information sharing (ADSW, Renfrewshire, Angus, Barnados, Sacro, ACPOS, Law Society of Scotland, Falkirk).
- Adequate funding (COSLA, Edinburgh, Law Society of Scotland, Falkirk).
- Availability of experienced staff from partner agencies (ADSW, COSLA, Renfrewshire).
- Sharing of good practice through evaluating 'what works' (COSLA).
- Integrated inspection (COSLA).
- Strong inter-personal relationships and regular meetings between practitioners (Sacro)
- Greater co-location of services (Borders).
- In Edinburgh, locating the Youth Justice Coordinator within corporate services rather than social work was seen as enhancing communication between the agencies and departments involved.
- Edinburgh also suggested that the development of innovative seconded posts (a dedicated Youth Justice Police Sergeant and a dedicated Youth Justice Reporter) has greatly enhanced the quality of joint working and joint planning.
- Some of the submissions from more rural authorities (for example, Shetland) suggest that the small numbers involved in delivering services and their established relationships facilitate joint working.

24. Some submissions (including those from the Scottish Council Foundation, the Association of Scottish Police Superintendents, the Procurators Fiscal Society, the Law Society of Scotland and NCH Scotland) noted that **the pilots** of the Fast Track Hearings and of the Youth Court seemed to be demonstrating significant progress because of these forms of inter-agency cooperation and, critically, because of the provision of dedicated additional funding.

25. Glasgow's submission stressed the role of its '**case conference**' **approach** in dealing with young people involved in the most persistent offending. This involves bringing together information from the Reporter, Police, Social Work, Education, Culture and Leisure, Housing and local voluntary organisations. They suggested that this approach has enhanced understanding (across all agencies) of the complex needs of the young people concerned. Several other submissions detailed similar mechanisms. The Law Society of Scotland suggested that such mechanisms could be more widely utilised to assist in the formulation of effective multi-agency care plans.

26. Amongst the **barriers to joint working**, various submissions noted:

- The lack of a clear national definition of the youth justice field (Edinburgh, ADSW).
- The relentless pace of change in this field and the plethora of new initiatives (Aberdeenshire, Scottish Council Foundation).
- Lack of clarity from the Executive about the issue of joint accountability for youth justice (Aberdeenshire) and about the responsibilities of agencies other than social work (Borders, Angus).
- Competing priorities in general and the multiple demands that they make on key individuals within partner agencies in particular (ADSW, COSLA, Renfrewshire).
- Problems where there are no shared national objectives linked to effective joint planning mechanisms (ADSW, Prince's Trust) and unclear links between funding initiatives and the national standards for youth justice (Edinburgh).
- Lack of flexibility in funding mechanisms in general and problems with short term and ring-fenced funding streams in particular (ADSW, Renfrewshire, Borders, Aberdeenshire COSLA, Glasgow, Sacro, Falkirk).
- Barnados' response suggested that some local authorities needed to be clear that youth strategy monies are for the implementation of the strategy and not an add-on to local authority funding. They noted that some seemed to view to allocation of monies to the voluntary sector as taking money away from core services, describing this kind of thinking as 'divisive'.
- Sacro's submission noted that differences in costing bases between local authorities and voluntary organisations prevent accurate cost comparisons.
- The Prince's Trust's submission suggests that the lack of formal service agreements reduces the ability to develop and implement effective service delivery for young offenders on a multi-agency basis.
- Edinburgh stressed particular problems caused by the lack of flexibility to carry forward under-spends. The Prince's Trust noted problems associated with over-protectiveness of funding allocations.
- Lack of monitoring and evaluation, leading to a failure to build on what works (ADSW, Children 1st).
- Lack of national protocols to enable comparative analysis of offending statistics (Borders).
- Lack of quality integrated data systems limiting the available intelligence and data gathering in this area (Glasgow, Edinburgh, ACPOS). The Minister's submission notes ongoing work to address the need to ensure consistency of definitions and some way of establishing benchmarks using a recognised data source.
- Lack of trust and concerns about confidentiality and data protection inhibiting information sharing in practice (ADSW, COSLA, Glasgow, Children 1st, Barnados, Sacro, Scottish Association of Police Superintendents, ACPOS, Falkirk). The responses from Renfrewshire and the Scottish Association of Police Superintendents suggested that there was a need for clear and unequivocal national guidance in this regard.
- Lack of trust between agencies and between national and local levels (COSLA, Scottish Council Foundation).

- Problems of co-terminosity (that is, different partners working within different geographical boundaries) which can lead to duplication of and/or inconsistencies between procedures (COSLA).
- Limited resources within certain organisations (particularly social work) (Glasgow) and related problems in staff recruitment and retention (ADSW, Shetland, Scottish Council Foundation, NCH Scotland). NCH Scotland noted particular problems in recruiting health staff within the timescales dictated by the available finances, even where Health Boards agreed to contribute resources.
- Complex or hierarchical structures within organisations that inhibit joint working (Glasgow).
- Organisational cultures that inhibit out-of-hours working (Association of Scottish Police Superintendents)
- Over-reliance on personal contacts and networking (Victim Support).
- Sacro's submission notes a particular difficulty around different understandings of the term 'restorative justice', suggesting that the Executive could helpfully endorse their work to establish clear understandings along with agreed principles and standards of practice.

The extent and impact of gaps in provision in the youth justice field

General issues

27. The submission from Victim Support Scotland noted that until recently only a few youth justice strategy groups have recognised the role of victims in the youth justice arena. VSS also suggested that the **provision of information for victims** of youth crime represents a key gap in service, particularly given that lack of understanding of the procedures and working of the youth justice system may damage public confidence. In this regard, they noted the pioneering work of the VOYCE (Victims of Youth Crime) Project in Dundee and the SIVYC Project in the Forth Valley (both of these are sites for committee visits).

28. The Scottish Council Foundation noted that **communities similarly needed better information** and communication about youth crime and youth justice, so that they could be supported to better tolerate children learning to 'grow out of crime'. This implies a need for the routine provision of information to better engage communities and to better reflect the values of fairness, protection, honesty, accountability and clarity identified by the public and practitioners (in recent SCF research) as being important for justice.

Diversion

29. The submission from the Scottish Out of School Care Network suggests that it may not always be appropriate to fund only those services which bring together exclusively those young people involved in offending or at risk; **the role of universal services in youth crime prevention** needs to be recognised. Barnados' submission notes that young people themselves regularly highlight the lack of universal youth services. The submission from Children 1st placed a similar emphasis on early intervention in general and Family Group Conferencing in particular. The Scottish Association of Police

Superintendents questioned whether the Police were the right agency to deal with 'youths who gather in the streets', suggesting that perhaps the local authorities could have a greater role in this regard by targeting problem areas and providing **alternative diversionary activities**.

30. Interestingly, whereas the Minister's first submission makes clear that the Executive has prioritised the need to tackle persistent offenders because of the disproportionate effect of their behaviour on communities, her second submission, in stressing the scale of the Executive's expenditure on youth justice (£1.3bn in 2003-4), notes that much of this funding is for the provision of universal services. Though such services are intended to benefit all young people, the Minister explicitly notes their potential in reducing the risk of offending both now and in the future.

31. The Law Society of Scotland's submission noted that there is a **lack of uniformity** across the country in diversionary provision, that there are disparities in resourcing and that those schemes that do exist are not well publicised. They suggested a need for a central register of such services. Many other submissions agreed that diversion and early prevention are **under-developed areas of activity**. However, many respondents did note the recent progress that has been made in terms of restorative justice initiatives and in particular the introduction of the use of restorative cautions by the Police (ADSW). ACPOS noted that it is anticipated that all police warnings will be delivered in a restorative manner by April 2006.

32. COSLA suggested that there is a **lack of evidence** about 'what works' in terms of diversion, noting that there has, to date, been a focus on addressing offending rather than preventing it. They advised that they would welcome work by the Executive to establish a national evidence base on what works in preventing and reducing youth offending. NCH Scotland also made the point that inappropriate early intervention can increase the risk of further problems; they too suggested a need for further research to enhance understanding of the differences between effective early intervention and premature, ineffective intervention.

33. Several submissions provide interesting **examples of local developments** in this regard. Glasgow's submission discusses its multi-agency Restorative Justice Service which targets young people with up to three offence referrals to the Reporter involving them in restorative cautions (delivered by specially trained Police Officers), restorative conferences (involving young people, their families and victims) and short groupwork programmes aimed at addressing offending. Similar services exist in other areas, including some of the proposed sites for committee visits. Shetland's submission discusses both a similar restorative cautioning initiative and the establishment of a group for young women involving social work, community development and education) in order to address a particular local need. None of the young women involved went on to need a statutory service. Edinburgh's submission discusses various initiatives including one using intelligence-led policing to target problematic behaviour before it escalates ('Making a Difference').

34. In discussing **young people's views about diversion** schemes, the submissions from Falkirk, Edinburgh and Aberdeenshire did note some positive feedback about services. Angus' submission reported that they were exploring links with 'Dialogue for Youth' and the 'Young Scot' initiative in order to develop ways to engage young people and their families in outcome evaluation. In general, submissions from voluntary sector organisations provided greater user-feedback on their diversionary services. As well as providing qualitative evidence, Sacro, for example, suggested that the early indications are positive concerning reductions in offending following their restorative justice interventions. The submissions from the Scottish Arts Council, Artlink Central and Youth Link Scotland provided much positive feedback from young people who have used Artlink's services in HMYOI Polmont and HMP/HMYOI Corton Vale. Though these **creative arts based services** are not diversionary in the sense of working with those not yet involved in offending, they do suggest the importance of these approaches in developing self-esteem, social skills and constructive interests. The submission from the Scottish Arts Council also discusses a major initiative in England and Wales in 2002 (the Splash programme), involving partnership between Arts Council England and the Youth Justice Board to provide summer diversionary schemes for 'at risk' young people using music, dance, drama and crafts. This scheme involved 91,023 young people, 1,156 staff and 451 volunteers and was positively evaluated in terms of impacts on crime rates, fear of crime, skills development among the young people, and improved family relationships. Though the Scottish Arts Council would like to develop similar schemes exploring the potential for the arts in terms of crime reduction, they cite lack of funding as a major barrier.

35. The '**informal learning**' approach outlined in Fairbridge in Scotland's submission aims towards similar outcomes by involving young people (including some in custody) in new and exciting pastimes and experiences; this seems to elicit similarly positive feedback. The Prince's Trust's submission detailed similar work with young people in schools who are struggling, underachieving, isolated or in danger of truanting and exclusion; their work in establishing several youth cafes in the Highlands; and their ShaRed Road project in North Glasgow which fosters integration between the host population and refugees/asylum seekers.

36. The submission from the National Autistic Society notes that some people with **autistic spectrum disorders** (ASDs) may become involved in repeat anti-social/offending behaviour because some have difficulty in learning from their mistakes and they may have a tendency to do things repetitively. Early diagnosis is therefore crucial to the diversion of young people with ASDs, but this requires high levels of autism awareness from staff across the youth justice sector.

Secure Care and Reintegration

37. The Association of Scottish Police Superintendents submission argued that there was a need for more **secure provision**, in particular **short term provision** to contain young people in secure places of safety, where necessary, prior to Hearings being convened. The submission from the Save

Our Scheme Campaign argued that parents needed to be actively involved in parenting programmes and counselling with their children whilst they are in secure settings. They also noted that, at times, the removal of the most troubling young people was necessary in order to provide respite to local communities. Others, like NCH Scotland stressed the need to look at **alternatives to secure care**, including the kind of close support provided by their Intensive Supervised Structured Care (ISSC) Project in Dundee.

38. Most respondents suggested that young people in secure care and leaving secure care have **diverse and varied needs** (for example, many are both victims and offenders), although most accepted that their needs are often complex. The submissions from Aberdeenshire and Angus expressed concern that secure placements often failed to respond adequately to these complexities, sometimes offering little more than containment. (By contrast, Glasgow's response highlighted the development of **structured programmes to address offending** within the city's secure establishment at Kerelaw.) The Borders' submission noted the need for access to **detoxification and drugs counselling** services whilst in secure care. UNISON Scotland's submission expresses related concerns about the low status of residential work, inadequate staffing levels and over-dependence on overtime working. In considering the quality of secure care, it may be useful to note that the Care Commission (which regulates secure accommodation) indicates in its submission that it could provide oral evidence to the Inquiry.

39. Many submissions stressed both the importance of **continuity of care** for those in secure setting (and those leaving secure settings) and the difficulties in delivering this continuity. Evidently, young people leaving secure care often experience significant **problems re-integrating** into their families and communities. Glasgow's response identified coordinated follow-up as a gap in service, particularly in terms of following up structured programmes (delivered in secure care settings) in the community. They (and others) linked this to a lack of resources. Edinburgh's submission expressed disappointment about the failure of a bid for funding to develop programmes in secure care and to recruit throughcare staff. By contrast, the Prince's Trust's submission highlights that their Young Offenders Project provides just such a service through dedicated regionally based staff.

40. COSLA stressed the importance of looked after children having **access to universal services** and Glasgow stressed to importance of not viewing these children simply as offenders; suggesting rather that their needs as 'care-leavers' must be recognised. The Borders' response highlighted a lack of **supported-living provision** in the community for care leavers. The submission from Apex Scotland notes that sustaining positive change in a young person's life is usually associated with acquiring something of value that gives them a reason to re-evaluate their lives and resolve their difficulties. This underpins their emphasis on **employment training and supported employment** for young offenders.

41. Some disliked the use of the term 'release into the community' (for example, ADSW, Renfrewshire) because they preferred secure care to be considered as a support service and part of a **continuum of care** that might

need to be entered (and left) as needs and situations change. While ADSW recognised that the responsibility for **case management** rested with social work, they also suggested that other agencies (health, education, careers, housing, youth services) needed to understand their responsibilities to contribute to packages of care and support as part of the reintegration process (see also Renfrewshire's submission).

42. With regard to those leaving young offenders' institutions, Youthlink Scotland' submission (drawing on their experience of working with young offenders in HMYOI Polmont) noted that although section 71 of the Criminal Justice (Scotland) Act 2003 provides local authorities with a power to provide **voluntary assistance** to young people not subject to compulsory post-release supervision, the extent to which such services would be provided (let alone promoted) depended on the resources and staffing of the local authorities. This is problematic if the 'limited window of opportunity' provided by pre-release planning is to be best capitalised upon. Without swift and responsive support, young people released from secure and custodial settings are particularly vulnerable to re-offending. With this in mind, Youthlink Scotland have developed a **transitional support service** for such young people, in partnership with HMYOI Polmont, but this applies only to young people from some council areas. They suggest therefore that a more strategic and holistic approach to the reintegration of young offenders is required at the national level.

Mental Health Issues and Learning Disabilities

43. Submissions from across all sectors agreed that the needs of young people with mental health or learning disabilities are inadequately met under current arrangements. ADSW, for example, described these as **under-developed and under-funded services**. Recruitment and retention of specialist staff (from the disciplines of psychology and psychiatry) were noted as major issues. ADSW listed a range of problems:

- 'Totally inadequate' in-patient services.
- A particular lack of service to support emotional well-being and an associated need for non-specialist staff to be better trained in this respect.
- The lack of formal dual diagnosis services for young people with mental health and substance misuse problems.
- The lack of good health and housing support for young people with emotional and mental health problems striving to achieve independence in the community.

44. NCH Scotland expressed some frustration that although Health Boards seem to support involvement in youth justice practice, their support is often tokenistic and is not backed up by money and resources. They tend to favour other priorities.

45. COSLA noted particular problems for young people with mental health problems and learning difficulties in the **transition from children's services to adult criminal justice services**. The Borders' submission noted a related

difficulty where young people aged 16-18 fall between young people's services and adult services. They noted that adult mental health services often require a degree of self-motivation and commitment that young people cannot maintain. Fairbridge's submission also highlighted **inadequate provision in young offenders' institutions** in this regard.

46. Renfrewshire's submission noted that primary health care services are often poor at **identifying young people with such difficulties** and that secondary services are poorly resourced to deal with them. They also noted a **lack of expertise in delivering effective interventions** to young people with learning disabilities who are involved in offending. Aberdeenshire's response noted related difficulties with **long waiting lists** for specialist assessment, particularly in Child and Family Psychiatric Services. Some authorities reported seeking to recruit mental health specialists to their youth justice teams in order to address these difficulties.

47. Glasgow's submission notes the lead role taken by its unique **Forensic Child and Adolescent Mental Health Service** in addressing both youth offending and mental health issues for young people who offend. This service plays an important part in multi-agency screening processes set up to develop clear pathways for young people who offend, where mental health is also an issue. The service also has a broader role in playing a part (with others in the Programmes Steering Group) in the development, quality and evaluation of all structured programmes offered to young people in the city. It may be that the Consultant Clinical Psychologist leading this service should be invited to give evidence to the committee.

48. Sacro's submission notes that systems and services struggle to identify and then to respond to issues around **ADHD (Attention Deficit and Hyperactivity Disorder)**. They also note the evidence that many young offenders have had significant experiences of victimisation which may affect their mental health.

49. The submission from the National Autistic Society (NAS) provides valuable information about the range of **Autistic Spectrum Disorders (ASDs)** that affect 1 in 110 of the UK population. Evidently, people with ASDs can be involved in the youth justice systems as victims and/or offenders; in either event, their impairments require a sensitive and appropriate response both from decision makers and from service providers. One of the key conclusions of the NAS's submission is that youth justice staff groups urgently need autism awareness training.

50. The submission from Barnados suggests that two further specific areas of service require significant development; services for **young people with sexually problematic behaviour** and services for **those aged 16/17** at the transition between the two systems.

Social Work Staff Shortages

51. UNISON Scotland's submission focuses on this area, arguing that the shortage of qualified social workers is a **major factor in the current failings**

of the Hearings system. They advise that their members often encounter examples of the needs of young people not being met because of these shortages, arguing that recruitment, retention and training must be addressed in order to prevent the youth justice system continuing to fail some children. (The Law Society of Scotland's submission made a similar point.) UNISON suggest that additional funding must be secured to pay all social care staff a wage that reflects the true value of their work. They also suggest an expansion of the Fast Track recruitment scheme to allow experienced but unqualified staff to become qualified without leaving their jobs. Both UNISON and ACPOS noted that the various local initiatives to attract social work staff can be unhelpful in creating imbalances and severe problems for those authorities unable to match other's incentives.

52. COSLA suggested that the issue of recruitment is being addressed through various national and local initiatives, but ADSW noted that although the number of social workers working in Scotland has increased, the **proportion of workers working in children and families** social work has dropped from 70% to 42% (no dates are provided for these comparisons). Moreover, they noted that the many posts created by new initiatives have drawn workers out of children and family social work posts. As a result, despite the successes of new recruitment initiatives, many submissions noted that staffing problems in children and families teams have created **problems for their youth justice social workers**, leading them to be drawn into non-youth justice work, inhibiting the development of joint working. In Glasgow, new structures have been developed (including a clearer delineation of roles and tasks) to address this difficulty.

53. Some responses highlighted the need to creatively involve **unqualified staff**, mentors, volunteers and outreach staff in providing services (Renfrewshire, Borders). However, UNISON Scotland's submissions raises concerns about the use of unqualified staff to 'cover the gaps created by the shortage' of qualified social workers without corresponding increases in pay or training. They link these pressures to high levels of absence related to stress, violence, low morale and over-stretched resources.

54. Sacro's response noted that the lack of qualified staff increases the importance of and the need for **in-house training**, which adds to the cost of delivering services. The Scottish Social Services Council (SSSC) in its response notes its plans to work closely with **Skills for Justice**, the Sector Skills Council recently established to cover the Justice Sector. National Occupational Standards have specifically addressed the youth justice area and a number of specialist units have been imported into the new awards structures for practitioners at levels 3 and 4.

55. Others highlighted the need to radically change **the public image of social work**. NCH Scotland's submission, for example, highlighted the need to develop social work into an attractive and reasonably well-rewarded profession.

Issues for Services in Rural Areas

56. Several submissions noted that there are great difficulties in delivering **comprehensive, equitable and specialist services in rural areas** and that young people in such communities may face particular problems of **intolerance, isolation and stigmatisation** (ADSW, Shetland, Borders, Aberdeenshire). NCH Scotland noted that young people in rural areas seeking to change their behaviour may struggle because of the lack of any alternative peer groups or activities, and because of the negative reputation that they may have developed. **Transport issues and access to services** were often mentioned, with several rural authorities stressing the additional costs (in terms of both finances and time) created by delivering services across significant distances. Some felt that these additional costs were inadequately reflected in funding formulae. Moreover, staff in rural areas are often required to practice across different specialisms, creating problems in developing the right mix of specialist skills. Finding appropriate locations for work in rural areas can also be difficult.

57. Shetland's submission noted that **central demands for statistical returns** (for example in the 'mapping exercise') are often ill-fitted to the rural context, for example, seeking data on the number of group places provided when rural services more often have to provide services on an individual basis.

58. Several responses noted specific problems raised by the **location of secure units**, often leading to young people from rural communities being placed far from home, leading to difficulties maintaining family contacts and increasing the costs of maintaining continuity of contact with fieldwork staff.

59. ADSW noted that similar problems exist in **small authorities** that are essentially urban but which contain separate small communities. Low numbers of referrals create difficulties in using resources efficiently, particularly where, for example, territorial rivalries limit the potential to bring sufficient numbers together to implement group programmes.

60. Glasgow's submission stresses that **urban areas** can also suffer disproportionate needs, noting for example that Glasgow has 12% of Scotland's population but 20% of recorded crime and that the city accounts for 25% of all referrals to the Reporter on offence grounds. This is perhaps unsurprising given that it also has 70% of the most deprived neighbourhoods in Scotland.

Disseminating Best Practice

61. Most respondents noted the positive contributions of the **Youth Justice Network** and the **Criminal Justice Social Work Development Centre** (based at the University of Edinburgh) in this regard. COSLA also welcomed the Executive's decision to employ consultants to assist those involved in multi-agency strategic planning at the local level.

62. Orkney's response noted that **locally appropriate adoption and adaptation** of best practice is more useful than 'blanket' roll-out arrangements, given the great diversity of related problems and needs (and available services) throughout Scotland.

63. Several submissions suggested that the major barriers to the sharing of good practice relate to **freeing up staff time** to reflect on their work and to participate in networking events. Staffing shortages also impact adversely in this regard.

64. Glasgow's submission stresses the importance of **investing in training** to develop skills in the youth justice field and to promote practice based on the available evidence about 'what works'. It also notes the need to bring together practitioners, managers and strategists. UNISON Scotland suggested that it would be beneficial to create greater obligations on the part of local authorities to share resources by establishing partnership training initiatives with other agencies. The submission from Perth and Kinross highlighted the need to establish a **practitioners' forum** for youth justice workers.

65. Renfrewshire's submission suggests that a **clearer national evaluation framework** would assist in identifying and promoting effective interventions.

Some suggested questions for visits (focussed mainly on strategic managers and frontline staff)

On joint planning and joint working:

- How do the chairs of the strategy groups seek to build joint ownership of the youth justice agenda? Which agencies is most difficult to engage and why? How involved are voluntary sector organisations? What central action (from the Executive or the Parliament) could assist in this regard?
- Where visits are to co-located multi-disciplinary teams – what are the benefits and problems associated with this? Where visits are to 'virtual' teams, how do they ensure sufficient coordination and involvement in care planning and service delivery?

On gaps in provision:

- What kinds of routine contacts do youth justice workers (in all agencies) have with victims of youth crime? How do they ensure that appropriate information is supplied to victims and communities?
- What kinds of diversionary activities exist in each locality? How effective are these? How are they accessed? How do agencies ensure that they don't intervene too early and do more harm than good?
- What are the main practical challenges in delivering continuity of care to those moving through secure care and custody? How available and effective are throughcare (or reintegration) services? How do rural authorities cope with the challenges created by distance?

- How do workers identify mental health issues? How do they access mental health services for young people? What are the main difficulties in this regard? What particular services have been developed locally and what difference have these services made?
- What difficulties are posed by staffing problems?
- How do workers access information and evidence about best practice? When are they able to reflect upon and evaluate their work? What might help them to do so?

Some suggested witnesses for oral evidence

- Chairs of Youth Justice Strategy Groups (from different agencies and representing different kinds of formulations of these groups).
- PA Consultancy.
- Representatives of Health Boards (to respond to criticisms above).
- Experts on the effectiveness of youth crime prevention measures.
- Bill Whyte, Director, Criminal Justice Social Work Development Centre.
- John Marshall, Consultant Clinical Psychologist, Forensic Child and Adolescent Mental Health Service, Glasgow.
- Director of the Scottish Institute for Residential Child Care (and perhaps other academic experts involved in related research).
- Heads of Secure Units (regarding continuity of care and reintegration).
- Representative of Who Cares? Scotland.
- Care Commission (regarding their inspections of secure establishments).
- HM Inspector of Prisons (regarding re-integration issues).
- Scottish Executive staff (regarding recruitment/retention initiatives)
- Staff of Scottish Children's Reporters Administration (regarding work on data reporting).
- Minister for Justice.

**Prepared by:
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1st October 2004**

Briefing on Youth Justice for the Justice 2 Committee
Graham Ross
SPICe

The following briefing has been prepared as an aid to the Justice 2 Committee's Inquiry into Youth Justice in Scotland. The briefing will cover recent policy developments in Scotland and other jurisdictions; characteristics of children and young people who offend; and what happens to children and young people who offend.

Policy developments in Scotland and other countries

In recent years, youth justice and related areas within the criminal justice system have been the focus of political attention and policy review, not only in Scotland but also in England and Wales, and other European countries. There is a considerable body of research about the different options used for dealing with offenders, and their relative effectiveness in reducing offending. Effective options are commonly described as 'what works'. This research shows that prison is one of the least effective and most costly methods for reducing offending, although it is highly effective in protecting the public from dangerous offenders. Sentencing policy and practices vary widely across Europe and other countries. Scotland and other UK countries have a higher percentage of under 21's in prison than many other European countries. While comparative data on young people in prison is rather difficult to find, the table below shows the position across a number of countries in 1994 – the most recent data available showing the number of under 21's in prison.

Countries	Percentage of prison population under 21 years of age, 1994
Ireland	27.5%
Northern Ireland	19%
England and Wales	17.5%
Slovak Republic	14.9%
Russia	14%
Scotland	12.5%
Netherlands	12.5%
France	10.1%
Cyprus	9.9%
Belgium	8%
Turkey	6.25%
Norway	5.75%
Portugal	5%
Hungary	5%
Luxembourg	4.9%
Sweden	4.9%
Finland	4.9%
Greece	3.75%
Canada	3%
Spain	2.5%

(Source: Council of Europe, Prison Information Bulletin, figures at September 1994).

Youth crime was, during the period covered by the first session of the Scottish Parliament, an issue of particular concern to the Scottish Executive. An Advisory Group on Youth Crime was established to consider ways of reducing youth crime through a combination of prevention, early intervention, and effective services and programmes. The recommendations of the Group were accepted by the Scottish Executive and were the subject of an action programme: Scotland's Action programme to Reduce Youth Crime 2002 (Scottish Executive 2002).

Young offenders under the age of 16 are generally dealt with through the Children's Hearings System which is sponsored by the Scottish Executive Education Department (amongst its broad responsibilities in respect of children and young people). Recent research on Children's Hearings (Lobley, Smith and Stern 2002) indicated a lack resources in terms of effective programmes and services to which young people could be referred. The Executive has stated that it is committed to increasing the range of interventions available in relation to Children's Hearings and, more generally, to early intervention in the lives of young people who get into trouble with the law in order to reduce offending and increase community safety.

The Advisory Group on Youth Crime also recognised that the point of transition between the Children's Hearings system and the adult criminal justice system (the latter deals with most young offenders aged 16 and over) is difficult and abrupt as young offenders move away from a system focused largely on their welfare needs. The range of disposals available to the courts which are tailored to the particular needs of young offenders are limited.

Research commissioned by the Scottish Executive has indicated that the effectiveness of certain disposals and programmes with young people are critically affected by the lifestyles of those young people. (Levy and McIvor 2001). For example, a pilot of the use of the supervised attendance orders at first sentence with 16 and 17 year olds was abandoned because of the high breach rate and the limited options available on breach. However, research indicates that programmes for young offenders based on evidence of what works can be effective in reducing the rate and seriousness of re-offending, as shown, for example, in the evaluation of Barnardo's Freagarrach programme for persistent juvenile offenders (see Lobley, Smith and Stern 2002).

In June 2002, Ministers published a 10-Point Action Plan which included: proposals for a Youth Court feasibility project; Fast Track Children's hearings; a review of the potential for using Restriction of Liberty Orders; Anti-Social Behaviour Orders and Community Service Orders for persistent offenders; consideration of a Scotland wide system of police warnings; and national standards for tackling youth crime.

Fast Track Children's Hearings were introduced as pilot schemes on 31 January 2003 in Dundee, Ayrshire, and East Lothian and Borders. These

hearings were aimed at a hard core of young offenders responsible for an estimated one-third of youth crime in their communities. It was envisaged that these hearings would deal with the eight per cent of offenders under the age of 16 who commit five or more offences (mostly vandalism, breach of the peace and car-related crime).

A commitment to review the Children's Hearings system was made in the Partnership Agreement. The Scottish Executive launched a review of the Children's Hearings system in April 2004 with the publication of 'Getting it Right for Every Child' (Scottish Executive 2004). The consultation sought views on; the principles and objectives of the Children's Hearings system, expected outcomes, scope for specialisation, links with child protection, evaluation, influence over parents and community involvement. Responses were sought by 21 July 2004. It is intended that an analysis of responses and an outline of Phase 2 will be published by the Executive in autumn 2004. Phase 2 of the review will look at how to achieve the principles and outcomes agreed during the first phase. It is anticipated that further work on Phase 2 will be announced in winter 2004.

The Scottish Executive also set up the Youth Court Feasibility Group which was chaired by Sheriff John McInnes and reported to the Deputy First Minister at the end of December 2002. It concluded that the establishment of a pilot Youth Court was feasible under existing primary legislation. The country's first youth court, a two-year pilot based at Hamilton Sheriff Court, became operational on 2 June 2003. The model contained three distinctive features:

- a fast track process to deal with young offenders;
- a group of designated sheriffs for the youth court;
- disposals especially designed for the young offender age group.

A recent report on the Youth Court stated that the operation is running effectively. The report, published today by the University of Stirling, has found that 'there was almost universal agreement that the early phase of the pilot was working effectively'. In particular one of the main strengths was found to be the fast-track process, where offenders appear in court generally no later than ten days after charge.

The pilot Youth Court is targeted at alleged offenders aged 16 and 17 years who are resident in North and South Lanarkshire and who have had three separate incidents of offending in the previous six months. Between June and December 2003 a total of 147 referrals were made.

The research found that, because of the fast track process and the rolling up of all offences under one complaint, most young offenders referred to the Youth Court were tendering early guilty pleas and taking responsibility for their actions.

The pilot was extended to Airdrie Sheriff Court last month to test the effectiveness of the Youth Court approach on a wider basis.

On 9 July 2004, Justice Minister Cathy Jamieson commented:

"Tackling youth crime effectively requires a range of different approaches. We introduced the Youth Court pilot to deal with a particular group of offenders - to deal with them swiftly and to provide some respite for their beleaguered communities. Today's report shows that it has made a promising start, that it is dealing with offenders quickly and that offenders are more readily taking responsibility for their actions.

"I am particularly pleased to see the widespread support for the objectives of the Youth Court and the constructive way in which the different agencies are working together.

"As would be expected, the first few months of the project have revealed areas for improvement but the benefit of a pilot scheme is that refinements can be made, procedures improved and lessons learned without impacting greatly on the operation of the Court. And it was because we wanted to see if there were wider lessons to be learned that we extended the pilot to cover Airdrie from last month.

"Last month also saw the first anniversary of the Youth Court at Hamilton and while it is still too early to properly evaluate its effectiveness in reducing re-offending, today's report suggests that the structure is sound. This is largely due to all those involved - including the Hamilton Sheriffs - who have committed to the Youth Court from day one.

"If it also proves it is making a significant contribution to delivering a safer, stronger Scotland we will not hesitate to consider extending its coverage to other parts of the country."

The objectives of the pilot Youth Court are to:

- reduce the frequency and seriousness of offending by 16 and 17 year olds (and some 15 year olds) through targeted and prompt disposals with judicial supervision and continuing social work involvement
- promote the social inclusion, citizenship and personal responsibility of the young offenders while maximising their potential
- establish fast-track procedures for those young offenders appearing before the Youth Court
- enhance community safety by reducing the harm caused to victims of crime and provide respite to those communities which are experiencing high levels of crime
- examine the viability and effectiveness of existing legislation in servicing a Youth Court and to identify whether legislative and other changes may be required

Over the last few years, several countries have also revised their policies in relation to youth crime and sentencing. For example, Finland has demonstrated that national policy changes can affect sentencing practices. In the 1950's, Finland had a prison population proportionately four times higher than its immediate neighbours. This was thought by the government at the time to be socially and financially unacceptable, especially in the light of evidence showing that while prison was a very costly option it had no positive effect on re-offending. Over the last 40 years, Finland's policy changes have led to a reduction in their custody levels to match other Nordic countries. Since 1960, they have reduced the young offender prison population by 90%. At the same time, their overall crime levels have remained comparable to their neighbouring countries. This has been achieved by increasing the use of 'conditional sentences' where the imprisonment is suspended, conditional upon completion of probation. Unconditional sentences for those under 18 may only be used in extraordinary cases.

(Source: 'Regulating the Prison Population', National Research Institute of Legal Policy, Helsinki 1998).

Characteristics of children and young people who offend

In order for youth justice systems to deal effectively with offenders it is necessary to understand the extent of offending, and the factors which lead to offending behaviour. There are policy issues surrounding both the age of entry into the youth justice system, 8 years of age, and, subsequently, entry into the adult system, 16 years of age. It is notable that Scotland has early entry into both systems in comparison with other European countries.

There are about 920,000 young people aged 8-21 in Scotland which constitutes around 18% of Scotland's total population of 5.1 million. A 'snapshot' in March 2001 showed a total of over 76,000 recorded offenders under 21 (including those with pending cases) in Scotland. This represents 8% of 8-21 year-olds, one in 12 young people. In 1999/2000, over 14,000 children were referred to the Children's reporter for offences, and 27,000 males and 3,000 females under the age of 21 had a charge proved against them in the courts.

Gathering reliable information on the numbers of children going through the Children's Hearings and adult justice systems over a period of time is problematic; some agencies count cases rather than individuals (for example, numbers of referrals to the Children's Reporter, numbers of reports to the Procurator Fiscal, number of probation orders, etc), and some young people commit more than one offence and so can go through the systems several times in a year.

A few young people commit a large number of offences. Of the people under 21 who had a charge proved in court in 1999, 8% had more than ten previous convictions. The number of young people who commit multiple offences is also increasing. The Scottish Children's Reporter Administration compared patterns of offending over the last ten years and found that the number of children dealt with for one to three offences had remained almost constant,

the number who had offended on between four and nine occasions rose by over 10%, but the largest change was in those who had committed in excess of ten offences.

One British study found that 3% of young offenders were responsible for 26% of all offences. If that model was applied to Scotland, it would mean that fewer than 2,300 young people were responsible for over a quarter of all crime in Scotland. In contrast, a large number of offenders enter the system once and then show no sign of re-offending. There are over three times as many recorded male offenders as female offenders in the 8-21 age band. The table below shows that peak offending ages vary by gender and type of offence.

Peak offending ages by crime and gender

Crime Type	Males	Females
Property Offences	20	15
Violent Offences	16	16
Expressive Offences*	14	15
Drug Offences	20	17

(*Expressive offences include crimes such as vandalism and arson against property).
(Source: 'Young people and Crime' Graham and Bowling, 1995).

There are a number of risk factors which affect offending behaviour. Risk factors identified by many studies which have been undertaken in this area include:

- poor housing standards;
- drug/alcohol misuse by the young person or within their family;
- low income;
- health, personality and behavioural problems;
- family breakdown;
- low educational achievement;
- socialising with offenders.

The following example illustrates these factors in a Scottish context.

Glasgow has high levels of both risk factors and crime:

12% of the Scottish population, but 30% of the Scottish homeless population.

The incidence of injecting drug abuse in Glasgow is five times the national average, with over 1,000 children dealt with in Glasgow by social work as a result of parental drug misuse. Over half the drug users takes opiates and over 80% of these do so on a daily basis.

The number of families reliant upon income support is 42% as opposed to the Scottish average of 25%.

Above average levels of deprivation, unemployment, mortality and chronic illness.

The Scottish Executive has an index of 'family stress' combining data relating to disadvantaged children. The index ranges in score from the council with the lowest 'family stress' at -111 up to +221 for Glasgow, with an average of +34. A high value indicates high levels of family stress.

These factors translate into higher crime rates. In 1999, the average number of crimes recorded per 10,000 population in Scotland was 851; for Glasgow, the figure was 1,431, almost 70% above the average.

(Source: Glasgow City Council Youth Crime Review Consultation Response to the Scottish Executive, 2000).

While young people may not form a large group of those convicted of drug offences, drug and alcohol abuse affect youth crime in a variety of ways. For example, by causing problems in the home of a young person if their parents misuse drugs or alcohol, or being a motivator for offences such as theft, when the offender is the user. Prisoners are drug tested on admission to Scottish prisons and 70% are found to have used drugs.

All these factors combine to produce chaotic lifestyles for the majority of offenders, which provide challenges for the design and implementation of effective processes and interventions for them. They may change address frequently, making contact difficult, or may not attend court or social work appointments, making any progress difficult.

A theme contained in many studies is that young people not only account for a large number of offenders, but a similarly large number of the victims of crime are also young and male. One study found that 75% of young people who had been convicted of serious offences and assaults and held in secure care or custody, had been the victims of physical, sexual or emotional abuse. In a survey of young prisoners, 17% of males and 49% of females said they had been abused.

Young offenders, then, often have complex needs which have to be addressed in order to improve their life chances. Equally, their 'deeds' – the offences they have committed – have to be dealt with in order to protect society and so that the young person learns that offending behaviour is unacceptable.

What happens to children and young people who offend?

There are two quite different and distinct processes in Scotland for dealing with young people who have been charged with an offence. Young offenders under 16 are generally referred to the Reporter to the Children's Panel, while those over 16 charged with an offence are usually reported to the Procurator

Fiscal and go through the adult justice system. However, the Children's Hearing system may also deal with young people aged 16 and 17 in certain circumstances, including cases of children who are already subject to a requirement made by a Children's Hearing in relation to compulsory measures of supervision. Anyone, including local authorities, the police, school teachers and relatives can refer a child to the Principal Reporter if they think that a child may be in need of compulsory measures of supervision. A child can also self-refer though this is rare.

Section 52 of the Children (Scotland) Act 1995 sets out the grounds for possible referral to the Reporter. These include both offence and non-offence grounds. In 2002-03 the largest number of children, 37,727, were referred to Reporters since the Children's Hearing system began. The balance of referrals to the Children's Hearing system has changed over the years with the majority of children now being referred on non-offence grounds. While the number of children reported for offending has remained fairly steady, the number of non-offence referrals has more than doubled since 1992. During 2002-03;

- a total of 14,404 children (aged eight or over) were referred to the Reporter on offence grounds
- a total of 27,096 children were referred to the Reporter on non-offence grounds.

The above figures include 3,773 children who were referred on both offence and non-offence grounds. Most of the offence referrals concerned boys (11,177 boys and 3,227 girls) whilst non-offence referrals were much more evenly split between the sexes (14,092 boys and 13,004 girls). The increase in the number of referrals on non-offence grounds over the years may be related to a greater awareness of such issues as domestic violence, drug and alcohol abuse and the impact of family breakdown. However, others would suggest that the inability to access adequate resources elsewhere may have an impact. An inquiry into the Children's Hearing system held by the children's charity, NCH, reported that the Hearings system has become the only route of access to services for children in need of care and protection. They claim this is because of deficiencies in the systems responsible for identifying children in need and providing appropriate voluntary support and effective responses to the problem of child poverty in Scotland (NCH Scotland 2004).

A small amount of overlap exists between the two systems, in that under 16s who commit serious crimes may be reported to both the Procurator Fiscal and the Reporter, and over 16s who are already under compulsory supervision from a Children's Hearing may continue within the Hearings system until they are 18 (or they may be dealt with in court but remitted to the Reporter for disposal). (Sentencers can remit anyone under the age of 17.5 to the Hearings for advice and/or disposal, even if there is no existing supervision, though this is rare). However, in the main, the two systems operate independently from each other. There are parallel decision-making processes in the two systems, in that the Reporter's role in the Children's Hearings

system is to decide whether or not the child should be referred to the Children's Panel for a hearing, and the Procurator's Fiscal's role is to decide whether the case should be proceeded against in court. A hearing, unlike a court, will not determine guilt. In the majority of cases, the Reporter takes actions following the child's acceptance of the offence. Where the offence is disputed, it is referred to a sheriff for proof. The role of the Children's Hearing and of the courts is then to make legally-binding decisions on what should happen to the child or the young offender, taking into account the contents of the social work report on the young person and the suitable options.

However, the underlying principles of the Children's Hearings and the adult justice system are different. For the Procurator Fiscal, "*the ultimate criterion for the exercise of his discretion [whether to prosecute the offender] is the public interest*". For a hearing or a court to deal with a child "*the welfare of that child throughout his childhood shall be their or its paramount consideration*". In the Children's Hearings system, the primary focus of decision-making is the best interest of the child. Decision-making in the adult justice system more explicitly balances the respective interests of rehabilitation, punishment, deterrence and public protection.

While the statutory frameworks and funding arrangements of these two systems are different, both seek to address the needs and deeds of the offender, as this will in the long run lead to a reduction in offending. There are, however, similarities in the processes of the two systems:

- Both are multi-agency in nature, with different bodies having legal responsibility for different stages of the process
- For all ages, the police are the main agency for identifying the suspected offender, gathering evidence, and referring the young person on to either the Reporter or the Procurator Fiscal (or in some cases, both)
- For all ages, social work services are responsible for implementing many of the decisions of the Children's Hearing or the courts, and in providing a range of programmes for voluntary diversion at earlier stages in the different systems
- Both processes include different stages where key decisions are made about individuals, and where there are a number of options available to the decision-makers

The multi-agency nature of the delivery of youth justice, whether through the Children's Hearings or the adult justice system, presents a challenge in terms of ensuring the overall process operates efficiently and effectively. First, there is potential for inconsistency in policies and practices within the statutory agencies, which deliver services on a regional or local basis, and may be subject to local democratic control. Second, the impact of these differences may be compounded when agencies with different remits, objectives and cultures have to work together to deliver services. There is a considerable

amount of research evidence on the types of interventions which are effective in reducing offending behaviour, and how those interventions should be applied in practice. 'What works' principles need to be applied in the design of programmes and interventions, at the point when decisions are made about an individual offender, and subsequently, during the implementation of those decisions. To complement this evidence, there is burgeoning interest in a relatively new form of criminological research into 'desistance from crime' – i.e. how criminal careers come to be terminated. The following section of the briefing on desistance is taken from a paper prepared by Fergus McNeill and Susan Batchelor at the University of Glasgow.

Increasingly, policy makers, managers and practitioners in adult and youth justice have come to recognise that understanding the needs, deeds and characteristics of people involved in persistent offending is vital in responding to the challenges that their behaviour and their problems represent. However, while 'criminal careers' research around persistent offending has become increasingly well-known, the related research around 'desistance' – that is ceasing offending – has emerged only more recently and, as yet, has had a more muted impact on policy and practice. Given that desistance is such an important aspect of what youth justice agencies are increasingly charged with achieving, this might seem like something of a paradox (McNeill and Batchelor, 2003).

McIvor et al (2000) explored desistance and persistence amongst three groups of young people aged 14-15 (the peak age for recruitment into offending for boys), 18-19 (the peak age of offending) and 22-25 (the age by which many would be expected to grow out of crime). They paid particular attention to gender differences in their study which was based on interviews with a total of 75 'desisters' (43 male and 32 female) and 109 young people (59 male and 50 female) who were still offending or had done so recently.

McIvor et al discovered some age related differences concerning desistance. In the youngest age group, desistance for both boys and girls was associated with the real or potential consequences of offending and with growing recognition that offending was pointless or wrong. Young people in the middle age group similarly related their changing behaviour to increasing maturity. This was often linked to the transition to adulthood and related events like securing a job or a place at college or university, or entering into a relationship with a partner or leaving home. For the oldest group, 'desistance was encouraged by the assumption of family responsibilities, especially among young women, or by a conscious lifestyle change'.

In general, the young women tended to attribute their decisions to desist to the assumption of parental responsibilities, whereas the young men focussed on personal choice and agency. Amongst persisters, girls and young women were more often keen to be seen as desisters, perhaps reflecting societal disapproval of female offending. McIvor et al speculate that:

'Assigning the offending to the past rather than acknowledging it as a current or future reality may enable young women to better cope with

the tensions that may arise when, on the one hand, society encourages gender equality and, on the other, continues to double condemn young women who step beyond their traditional gender roles’.

Graham and Bowling’s (1995) earlier study of young people aged 14-25 had found similar gender differences. They noted a clear association between the life transition from adolescence to adulthood and desistance from offending among young women. Young men, in contrast, were less likely to achieve independence and those that did leave home, formed partnerships and had children, were no more likely to desist than those that did not. Failure to desist among young men seemed to be best explained by three sets of risk factors: a high frequency of prior offending, continued contact with delinquent peers and heavy drinking and controlled drug use. Graham and Bowling speculate that life transitions

‘only provide *opportunities* for change to occur; its realisation is mediated by individual contingencies. Males may be less inclined to grasp, or be able to take advantage of such opportunities, as females’.

More recent studies have revised this conclusion to some extent; suggesting that similar processes of change do indeed occur for (some) males but that they seem to take longer to ‘kick-in’; the assumption of responsibilities in and through intimate relationships and employment does make a difference but this difference is more notable in men aged 25 and over (Farrall and Bowling 1999, Flood-Page et al 2000, Uggen and Kruttschnitt 1998). Thus, it seems that young men take longer to grasp the opportunities for change that these life transitions provide.

In Graham and Bowling’s study, only two factors seemed to be positively associated with desistance for males in the 16-25 age range: firstly, their perception that their school work was above average, and, secondly, continuing to live at home. It may be that continuing to live at home is associated with desistance because of relatively positive relationships with parents and, as a result, spending less time with delinquent peers.

5.4 Attitudes, Motivation and Desistance

Returning to McIvor et al’s (2000) study, it is also important to note that ‘persisters’ in the youngest age group were more optimistic about their ability to desist whereas:

‘for older respondents, who may have become more entrenched in patterns of offending and drug use, desistance was rarely considered to be an immediate or achievable goal’.

The significance of this finding is underlined by Burnett’s (1992, 2000) study of efforts to desist amongst 130 adult property offenders released from custody. She noted that whilst most, when interviewed pre-release, wanted to ‘go straight’ (eight out of 10), six out of 10 subsequently reported re-offending post-release. Burnett (2000) noted that, for many, the intention to be law-

abiding was provisional in the sense that it did not represent a confident prediction; only one in four reported that they would definitely be able to desist. Importantly, Burnett discovered that those who were most confident and optimistic about desisting had greatest success in doing so. For the others, the 'provisional nature of intentions reflected social difficulties and personal problems that the men faced'.

On the basis of her interviews, Burnett delineates three categories of *persisters*, though she notes that these categories are neither fixed nor mutually exclusive. 'Hedonists' were attracted by the feelings of well-being gained through criminal involvement, whether in terms of the 'buzz' at the time, the emotional high afterwards or the place of the financial rewards of crime in funding lifestyles sometimes associated with alcohol and drugs. The 'earners' varied in their enthusiasm for crime, but regarded it as a viable money making enterprise. The 'survivors' were generally dependent on substances and unhappily committed to persistent property offending to fund their substance misuse.

The *desisters* also fell into three broad categories. The 'non-starters' adamantly denied that they were 'real criminals' and, in fact, had fewer previous convictions than the others. For the 'avoiders', keeping out of prison was the key issue. They appeared to have decided that the costs of crime outweighed the benefits. The 'converts', however, were:

'the most resolute and certain among the desisters. They had found new interests that were all-preoccupying and overturned their value system: a partner, a child, a good job, a new vocation. These were attainments that they were not prepared to jeopardize or which over-rode any interest in or need for property crime'.

Burnett notes that simply classifying the men as persisters or desisters 'misrepresents the switching, vacillating nature of desisting from offending'. Most were ambivalent towards crime and, in consequence, desisting seemed like a protracted 'back and forth' or 'zigzag' process.

Bringing these studies together, the research on factors associated with desistance is neatly summarised in Farrall's (2002) account, which stresses the significance of the relationships between what we might term 'objective' changes in the offender's life and his or her 'subjective' assessment of the value or significance of these changes:

'... the desistance literature has pointed to a range of factors associated with the ending of active involvement in offending. Most of these factors are related to acquiring 'something' (most commonly employment, a life partner or a family) which the desister values in some way and which initiates a re-evaluation of his or her own life...'

In some senses, this characterisation of desistance marries the three theoretical perspectives above; desistance resides somewhere in the interfaces between developing personal maturity, changing social bonds

associated with certain life transitions, and the individual subjective narrative constructions which offenders build around these key events and changes. It is not just the events and changes that matter; it is what these events and changes *mean* to the people involved. Some of the existing research studies exploring the relationships between intervention and desistance offer some important insights concerning how practitioners can work with and through these critical interfaces to support change.

5.5 Interventions, Relationships and Desistance

Burnett (2000) suggests that identifying the mind-set of offenders could assist practitioners in reinforcing or shifting offenders' views and intentions. Although she does not make the point, her work also redirects intervention towards addressing the attendant social and personal problems that might hinder efforts at desistance (a theme addressed further below). This is the context of the ambivalence that she suggests practitioners need to work with and through. Crucially, Burnett notes that '...for influence to be exerted in interventions, good communication built on empathy and the establishment of trust are needed'.

While Burnett's suggestions about intervention approaches are necessarily speculative, some more recent research studies have directly examined desistance amongst those who have been the subject of probation interventions. Such studies have produced further evidence both about processes of change and about the characteristics of effective working relationships with people involved in offending behaviour. Evidently, listening to what those previously involved in offending tell us about 'assisted desistance' seems essential in seeking better ways of working to promote such desistance.

Rex's (1999) research addresses the features of probation relationships and how they come to exert positive influence. Her research involved interviews with 21 probation officers and 60 of their probationers, 11 of whom were aged under 21. One quarter of the sample was women. While her research methodology did not enable her to determine whether the offenders that she interviewed had, in fact, desisted, they provided considerable insights into the role of probation in their reported processes of change.

Those that attributed changes in their behaviour to probation supervision described it as *active* and *participative*. Probationers conveyed the sense of being engaged through negotiation in a partnership. Given their recognition both of the need to *sustain* a decision to desist and of the possibility of relapse, probationers seemed more willing to 'embark' on desistance where they felt committed to and engaged in the supervisory relationship. In turn, 'this engagement seemed to be generated by the commitment, both personal and professional, shown by workers'. The 'mechanism' by which some probationers come to accept probation officers as role models, Rex suggests, may rely on 'the sense of obligation which the probation officers' support and encouragement seem to generate in probationers'. She found that as many as

half of the probationers she interviewed revealed feelings of *personal* loyalty and accountability towards their supervisors.

In their experiences of supervision, probationers could discern and appreciate efforts to improve their *reasoning and decision-making*. However, attempts to exert influence through cognitive approaches had to 'carry conviction in their eyes if they were to be effective'. This conviction depended on the personal and professional commitment from workers discussed above. Furthermore, attempts to address cognitive skills seemed likely to be insufficient alone. Probationers also valued guidance concerning their personal and social problems at least as often. Rex summarises this aspect of work as *strengthening social ties*. Significantly in this context, younger men trying to establish independence also sought practical help, whereas women and other male probationers were keen to receive problem-solving advice so that they *themselves* could resolve such difficulties.

Reinforcing pro-social behaviour was another prominent feature of probationers' accounts of positive supervision. Probationers could identify advice in this regard as evidence of concern for them *as people*, and 'were motivated by what they saw as a display of interest in their well-being'. Notably in this context, such encouragement seemed especially important for younger people involved in recidivist offending. Previous research in Scotland by Ditton and Ford (1994) has similarly suggested that persistent young offenders might need to be 'won over' by persistent workers to change their behaviour. In this regard, Rex (1999) found some evidence that probationers were more willing to accept guidance than probation officers were to be directive, so long as the former could understand the latter's direction as evidence of concern expressed within an engaging relationship.

Though it does not draw directly on desistance research, perhaps the best-known model of intervention focussed on the supervisory relationship, rather than on the features of a given intervention programme, is that developed in Australia by Chris Trotter (1999). Many aspects of Trotter's 'pro-social modelling' will be familiar to social work staff from other related methods. Its central principles include:

- **Role clarification:** involving frequent and open discussions about roles, purposes, expectations, the use of authority, negotiable and non-negotiable aspects of intervention and confidentiality
- **Pro-social modelling and reinforcement:** involving the identification, reward and modelling of behaviours to be promoted and the identification, discouragement and confrontation of behaviours to be changed
- **Problem solving:** involving the survey, ranking and exploration of problems, goal setting and contracting, the development of strategies and ongoing monitoring
- **Relationship:** involving the worker being open and honest, empathic, able to challenge and not minimise rationalisations, non-blaming, optimistic, able to articulate the client's and family members' feelings and problems, using appropriate self-disclosure and humour.

Trotter's (1996) empirical research tested the hypotheses (formed on the basis of earlier research) that clients of probation officers who made use of these principles would be more likely to experience reductions in their problems and would be less likely to offend. Trotter trained 12 probation officers in the approach and followed up 104 of their clients. He compared the outcomes for this experimental group with outcomes for a control group of 157 probation clients. Clients in the experimental group were subsequently significantly more likely to report that their problems were reduced and their re-offence rates were also significantly lower than those in the control group. Among the principles, the use of pro-social modelling was most consistently, strongly and significantly correlated with lower offence and imprisonment rates. The model was *most* effective with young, high-risk, violent and drug-using offenders.

Despite the familiarity of the principles described above, Trotter's (1999) model is important for three reasons. Firstly, although it would be possible to conceive of pro-social modelling as a form of individualised programme, it is perhaps better described as a style of or approach to practice. He demonstrates therefore that we can conceive of styles and approaches and not merely specific programmes as being evidence-based and effective. Secondly, Trotter's research and his model directs attention to workers' qualities as well as being about the characteristics of specific programmes. In this regard, Trotter (2000) has also produced evidence to suggest that among staff working in community corrections in Australia, those with a social work background were more likely than those with other occupational backgrounds and qualifications to learn and make use of pro-social modelling and, in turn, to produce lower rates of reconviction. In line with Rex's (1999) findings, Trotter (1996, 2000) suggests that this might be about possession of the social work skills and qualities required to achieve genuinely collaborative problem solving¹. The third reason for the importance of Trotter's (1999) model is that, perhaps by accident, through its focus on effective relationships and processes, it represents work at the interface of the rehabilitation and desistance literatures and attests to the value of exploring this interface.

September 2004

Sources:

Audit Scotland (2001). *Youth Justice in Scotland: A baseline report*. Edinburgh. Audit Scotland. Available at: www.audit-scotland.gov.uk

Berry, K and McCallum, F (2004) *Children's Hearings*. SPICe Briefing 04-53. Edinburgh: Scottish Parliament. Available at: <http://www.scottish.parliament.uk/business/research/subject/criminal.htm>

Levy, L and McIvor, G (2001). *National Evaluation of the Operation and Impact of Supervised Attendance Orders*. Edinburgh: Scottish Executive Central Research Unit. Available at: <http://www.scotland.gov.uk/cru/kd01/green/sao-00.asp>.

Lobley, D, Smith, D and Stern C (2002). *Freagarrach: an Evaluation of a Project for Persistent Juvenile Offenders (Crime and Criminal Justice Research Findings No 53)*. Edinburgh: Scottish Executive Central Research Unit. Available at: <http://www.scotland.gov.uk/cru/resfinds/crf53-00.asp>.

McNeill, F and Batchelor, S (2003). *Youth Justice Briefing Papers*. Glasgow: Department of Social Policy and Social Work, University of Glasgow.

Scottish Executive (2002). *Scotland's Action Programme to Reduce Youth Crime 2002*. Edinburgh: Scottish Executive. Available at: <http://www.scotland.gov.uk/library3/justicesapt-00.asp>.

Scottish Executive (2003). *Fast Track Children's Hearings Pilots – Guidance Booklet*.

Scottish Executive (2004) *Getting it Right for Every Child*. Edinburgh: Scottish Executive. Available at: <http://www.scotland.gov.uk/consultations/education/chhp-00.asp>



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4 October 2004

Dear Sir/Madam

JUSTICE 2 COMMITTEE MEETING – 21 SEPTEMBER 2004 FIRE (SCOTLAND) BILL: STAGE 1

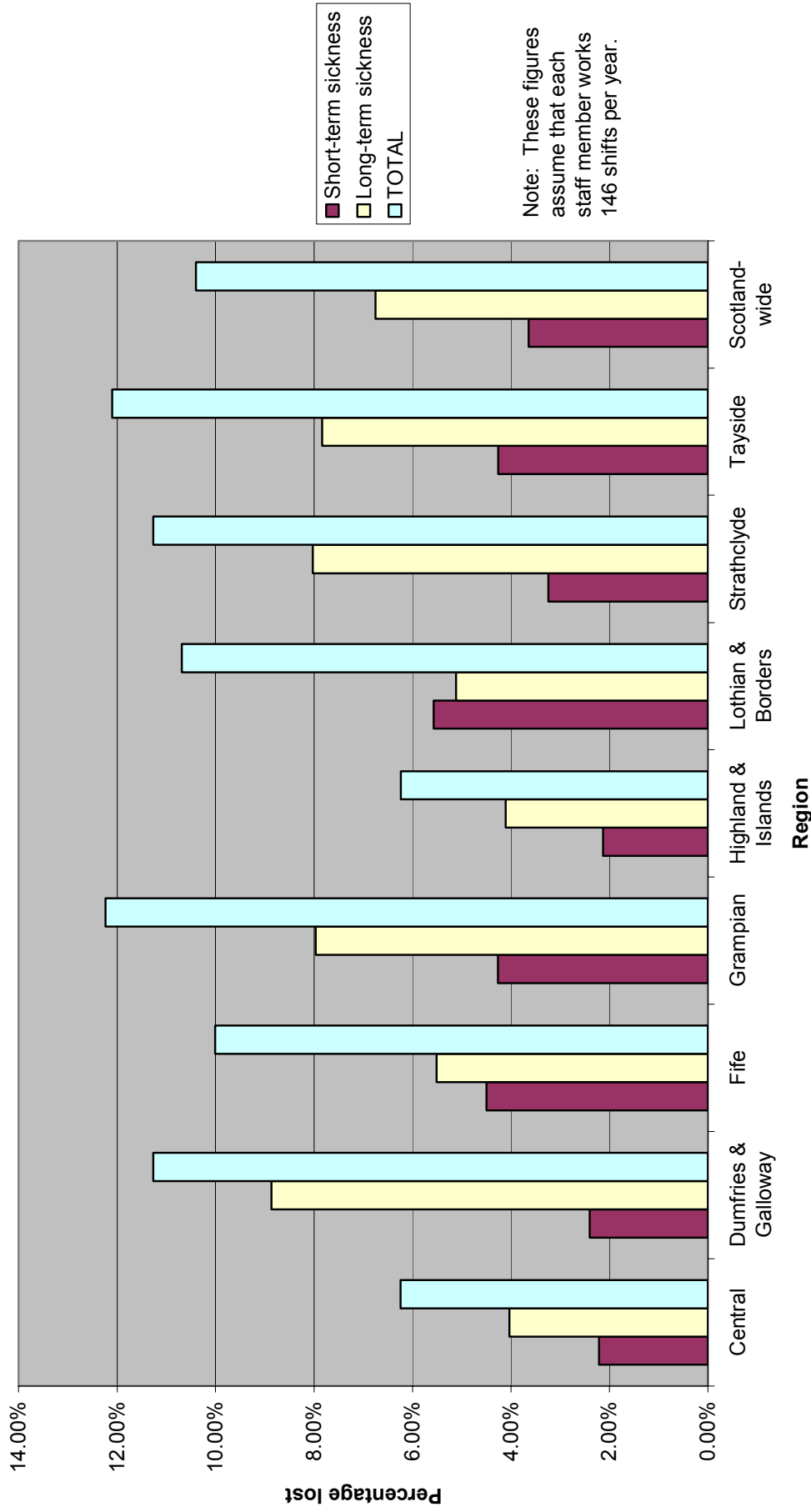
At my recent opportunity to submit oral evidence and answer questions to the above Committee, a Member of the Committee indicated that they believed sickness and absence levels in the control room in Strathclyde were higher than control rooms elsewhere in the Scottish Fire Services and perhaps the reason was that the control room was so large and handled such a large volume of calls. I responded that I did not believe that to be accurate and I was not aware that the sickness levels were any higher than elsewhere in control rooms across Scotland. I now attach the returns from the 8 Fire Brigades across Scotland for absence levels in their control rooms for the financial year 2003-04. I hope Members will be able to see clearly from these figures that Strathclyde is by no means the highest amongst those with absence rates due to sickness.

I trust you find this information useful.

Yours faithfully

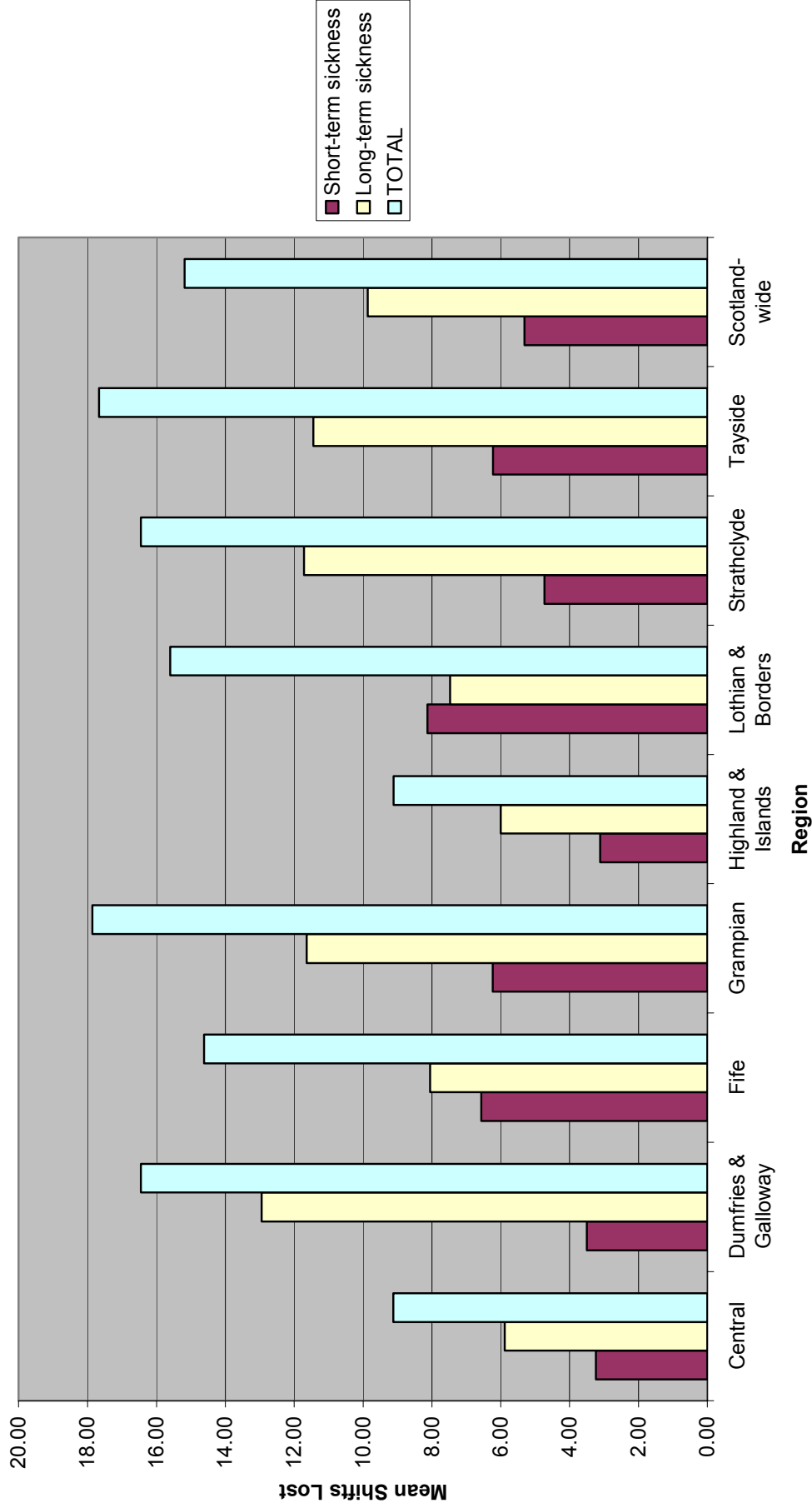
JEFF ORD
HM Chief Inspector of Fire Services

Control Room Staff: Percentage of Shifts Lost to Sickness in 2003-04



Note: These figures assume that each staff member works 146 shifts per year.

Control Room Staff: Mean Shifts Lost per Staff Member in 2003-04





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Our ref: WJM/3/9/1

October 2004

FIRE (SCOTLAND) BILL

When I appeared before the Committee last week to give evidence on the Fire (Scotland) Bill, I indicated that I would reflect further on some of the issues raised. I thought it might be helpful to set out where we are in respect of these considerations.

Section 67(2)

My officials wrote to the Committee on 24 September and confirmed that it was not our policy intention that industrial action per se should be an offence under the Bill and we do not believe that the Bill makes such a provision. I think that the matter is clearly set out in the letter of 24 September, and having had an opportunity to consider whether the wording of the Bill requires clarification, we have concluded that it does not.

Section 47 – Prohibition of Employment of Police

It is clear that there is a difference of opinion between the main stakeholders here. Whilst ACPOS and the FBU favour the status quo, CFOA and CoSLA are keen to see this section removed from the Bill. I am keen to see if there is a way forward which balances the views expressed. I will therefore ask my officials to go back to the main stakeholders and explore possible solutions. If a resolution can be agreed we would bring forward a Stage 2 amendment.

Part 3 – definition of employer/employee

The Committee were concerned that the definitions of employer and employee were too vague and did not reflect the full range of ‘working relationships’ within the workplace. I am satisfied that the approach remains consistent with the Health and Safety at Work etc Act 1974 as well as with EC law in implementing the necessary Framework Directives and at this stage see no reason to amend the position in the Bill. I do however note the concerns of the Committee.

Local Government (Overseas Assistance) Act 1993

My officials indicated during their evidence session that if Strathclyde Fire Brigade, whom I understand raised this issue, were able to clarify what their specific concerns with the Local Government (Overseas Assistance) Act 1993 were, that we would be happy to look at this further.

Subject to clarification of the Brigade’s concern – which we will seek - I am content that the provisions of that Act, which apply to fire authorities and joint boards in Scotland, are sufficient to ensure that advice and assistance can be provided to overseas local government activities.

I hope this information is of help to you and the Committee

HUGH HENRY