



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

**Northern Ireland Prison Service Exit
Scheme and New Target Operating Model**

8 March 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Seán Lynch
Mr Alban Maginness
Ms Jennifer McCann
Mr Peter Weir
Mr Jim Wells

Witnesses:

Mr Roger Downey	Northern Ireland Prison Service
Mr Ronnie Armour	Northern Ireland Prison Service
Mr Michael Cowan	Northern Ireland Prison Service
Ms Jane McBratney	Northern Ireland Prison Service

The Chairperson: I welcome Ronnie Armour, director of human resources and organisational development; Jane McBratney, head of resourcing; Roger Downey, head of financial planning; and Michael Cowan from the staff exit unit of the Northern Ireland Prison Service (NIPS). Again, the session will be recorded by Hansard, and the transcript will be published on the Committee webpage. I will hand over to you, Mr Armour, to update the Committee on the position with regard to the Prison Service voluntary retirement scheme. I am sure that members will then raise some questions.

Mr Ronnie Armour (Northern Ireland Prison Service): Thank you, Mr Chairman. I am grateful for the opportunity to update the Committee on the progress to date in relation to the Prison Service voluntary early retirement scheme, which, as you know, we launched on 8 November 2011. With your agreement, Chairman, I will also say something about how the recruitment campaign for custody officers is going and our plans for the coming weeks in relation to that competition.

When I last briefed the Committee on the exit programme, we had just launched the scheme. On that occasion, I outlined the objectives of the scheme, explained the process and the timeline we would follow, and sought to update the Committee on the selection criteria as published in the launch documentation. In summary, I said that the scheme was open to permanent members of staff in grades where, in the context of the new target operating model, we have a surplus.

The paper circulated to members in advance of our attendance today advises the Committee that 544 members of staff applied for the scheme and 224 applications have been approved, with 151 individuals leaving on 31 March 2012. The departure of 73 individuals has been delayed for operational reasons. The remaining 320 applications received remain under consideration. I want to stress to the Committee today that none of the 320 individuals to whom I have just referred has been told that their application has been refused, and no one has been told at this stage that they will not be allowed to leave NIPS.

I am very conscious of staff concerns. I spent Tuesday afternoon in Maghaberry meeting many of those individuals, and I am happy to give the Committee the assurance that I gave them. Although I cannot give a guarantee that all those who applied will be able to leave, NIPS management and the Minister are committed to doing everything possible to ensure that all applicants are afforded the opportunity to do so. Our entry and exit arrangements in the context of the wider NIPS reform programme are complex and challenging. The need to maintain a safe, decent and secure regime is paramount. It will, therefore, take time to work through the detail and to release staff when it is appropriate to do so. All those I met on Tuesday acknowledged that it would not have been operationally possible to release 544 staff on 31 March. That said, I appreciate that many are disappointed, and I do understand their desire for clarity. I have assured them that we will provide that clarity as soon as we can. I hope that staff will understand why it is not possible to provide them with a leaving date at this point. It will be important that we work together with our staff and our trade union partners over the coming weeks and months so that NIPS is best placed to ensure that those staff who wish to leave can do so as quickly as possible. As a management team, we remain committed to doing that.

I can confirm that those staff who are leaving on 31 March will receive their NIPS payments — their compensation in lieu of notice (CILON) and their nine-month payment — at the end of this month, not the end of April, as previously thought. A number of colleagues contacted us to express concern at the prospect of delay, and we have sought to address those concerns. Although the timescale for making those payments in March is tight, we will meet it. I know that the Committee is interested in when individuals will be taxed. As I indicated when I came to the Committee a few weeks ago, normal taxation rules will apply, and individuals who leave on 31 March 2012 will be taxed within the 2011-12 year; that is, the year in which they are actually leaving. Some staff have suggested that we delay their departure until the new financial year, but we do not believe that it would be appropriate or acceptable for us to do so solely for reasons related to taxation. It is, however, important to note that by paying the required tax in 2011-12, individuals will have a full tax allowance in 2012-13, when they begin to receive their pensions.

Before I turn to the recruitment campaign, I want to acknowledge, as I did earlier this week when I met a number of colleagues who are leaving the organisation on 31 March, the service that they have given. The job of a prison officer is not an easy one. Those who are leaving have earned their retirement, and on behalf of the management team I want to wish them well as they leave the job to which they have given much.

I will turn briefly to our recruitment campaign. As the Committee will be aware, we received 4,911 applications by the close of competition on Friday 2 March. We now move to the next stage of the process, which is the aptitude tests. Those are scheduled to begin on 26 March and will comprise numeracy and literacy tests that will be used to shortlist candidates for the assessment centre process, which is scheduled to begin in May. In view of the current timescales for obtaining security clearance, I expect the first class of recruits to enter training in or around November 2012. The response to the campaign is very encouraging, and we look forward to welcoming approximately 200 new custody officers into the organisation over the next 12 months.

Mr Wells: I am not impressed, Mr Armour; I have to be honest with you. I am out of my cage on this one, and I am very disappointed. When you came before the Committee in November, I specifically asked you about this point because I could see the perils and pitfalls that there were for people depending on which tax year they were paid in. My understanding is — and I was told — that people could be taxed in 2012-13. Indeed, I understand that Mr Cowan also told staff that they would be

taxed in 2012-13, and that officers made their decision on that basis. Now, those who are in the group of 151 have been told something totally different. You are saying here that it was not appropriate or acceptable.

I will give you some figures on this. Prison officer Smith leaves on 31 March. Let us say that he gets a £60,000 payout, of which £30,000 is tax-free, and he pays £7,500 in tax. If you are compassionate, helpful and thoughtful with the same officer and you ask him to leave on 7 April, he pays £2,900 less tax, quite simply because the money that is taxable in 2011-12 is taxed mostly at 40%. If it is taxed after 7 April it is taxed entirely at 20% and he can set aside his roughly £7,000 personal allowance. Having given prison officers that assurance, you are duty-bound to let them leave on 7 April. Once they do, and drift into the new tax year, there is nothing unacceptable or inappropriate about their being paid on 8 April and escaping having to pay £2,900 in tax. In other words: why should someone who was misled be penalised to the tune of £2,900?

Mr Armour: I accept that you asked a direct question in November about when taxation would apply, and that you were given the wrong information by the official who answered. Our documentation states clearly that the target date for staff to leave is 31 March.

Mr Wells: No. You will not get away with that, because, again, I have this read to me over the phone. There is nothing in that documentation that says that you will be taxed in 2011-12. It provides a target date, but there is nothing about taxation.

Mr Armour: No, and, to be clear, I did not say that there was anything about taxation. The launch documentation and all that we have said have made it clear that matters of taxation are being the individual and the tax authorities. It —

Mr Wells: No, sorry; you are not getting away with that either. The tax office has told me that it is entirely up to you when you decide to ask the officers to leave and in what year you deem the tax to be payable. The tax office will stand over and accept that, so you cannot blame the tax office. If you allow those men to go on 7 April, they will save £2,900. Why should that individual throw that down the Lagan if they leave on 31 March?

Mr Armour: I am not trying to blame the tax office or anyone else. I am simply saying that we indicated in the documentation that matters of taxation are between the individual and the tax office. I am also saying that the documentation indicated that the target date for people to leave would be 31 March. We have given that matter long consideration, and we do not think that it would be appropriate or acceptable for us to delay the departure date because of a matter solely related to taxation. I accept that we —

Mr Wells: Why?

Mr Armour: I accept that the official who answered the question at the Committee meeting made a genuine mistake. We had discussions with the tax office, which made it clear to us that people who leave the organisation in this tax year will be taxed in this tax year. That is where we are with it at the moment.

Mr Wells: But when they leave is entirely your decision.

Mr Armour: I accept that.

Mr Wells: If you decide to hold them for an extra week, they will save £2,900. You ask whether that would be appropriate or acceptable. The only people who do not feel that it is appropriate or acceptable are you. That is the problem. Why do you not allow the small number of prison officers who are caught in that position the flexibility to stay another week? By doing so, you would not break any rules. You would not be trying to evade or avoid tax; you would simply be doing your best for people who will lose a fortune as a result of your breaking an assurance that was given, not only verbally to the Committee but to staff by Mr Cowan.

Mr Armour: We concluded that to delay their departure for a week could be perceived as trying to avoid their paying tax —

Mr Wells: The tax office is happy for you to do that. It has no problems whatsoever with your doing that. Why have you taken it upon yourselves to be the guardians of HM Revenue and Customs?

Mr Armour: We concluded that we felt that it would not be the right thing to do, to delay on that basis.

Mr Wells: It is the right thing to do because you gave that public assurance and a second, verbal assurance to staff that they could do it. That is why it is right: you have to stand over your promises.

Mr Armour: I think that the individual who made the statement to you at the Committee made a genuine mistake. The intention was not to mislead anyone. We have always said that people should confirm taxation matters with the tax office. I am not trying to get away from it. I accept that we gave incorrect information to the Committee, but we do not think that, in itself, that is a reason to change the decision.

Mr Wells: But you must have believed it was right, because Mr Cowan — who has remained quiet through all of this — followed that up by telling staff that they could taxation paid in 2012-13, did you not?

Mr Michael Cowan (Northern Ireland Prison Service): First: yes, I did. It was our understanding that that would happen because we did not think that we could make payments until April.

Mr Wells: Right.

Mr Cowan: Therefore, we would be in the new tax year. However, the tax office has said that they have to be taxed when entitlement begins.

Mr Cowan: And that is your decision.

Mr Cowan: That is our decision, but I think —

Mr Wells: So you can make that entitlement 7 April.

Mr Cowan: You also have to look at the entire picture. If we pay the addition payment and the CILON in April then, because they will be in a new tax year, they will have to pay national insurance at 12%. The likelihood is that most of the staff involved will have been above the upper earnings limit in 2011-12. Therefore, any national insurance applied to the CILON will be at 2% rather than 12%.

Mr Wells: There is a difference between 12% and 40%. They will be paying 40% —

Mr Cowan: They are paying 40% as opposed to 20%, so they are losing 20% there. However, they are paying 2% as opposed to 12%, so they are gaining 10% there. That reduces the differential between the set of figures. In addition, if they receive their additional payment and their CILON in a new tax year, that will eat up their tax-free allowance and their 20% allowance. Therefore, when they come to receive their pension, it will be taxed at 40%. The pension is what they have to survive on month by month.

Mr Wells: There is no way that anyone — it is absolutely impossible, looking at the figures that are before me — could fall into the 40% tax bracket in 2012-13 if they leave the Prison Service at the end of March 2012 and take their pension. They would need to then take up a job with a fabulous salary to hit the 40% level.

Mr Cowan: If they get the money in March, they will have problems getting into the 40% rate. If the money is not paid until April, the CILON and additional payment will eat up all of their free pay and most of their 20% pay.

Mr Wells: The figures that I have quoted to you assumed that that would happen. Everyone who gets paid on 31 March will be paying 40% tax on some element of their payment. No one, in the following year, will be paying 40% tax.

Mr Cowan: No one will be paying 40% on those elements. Around 65% of the 151 staff who are leaving will walk out with £19,000 for their CILON and £28,000 for their additional payment. Around £17,000 of that additional payment is taxable, and £17,000 and £19,000 together is £36,000. They will have already received £36,000 in the new year. Once they get their pension on top of that, that pension will drag them into the 40% tax bracket.

Mr Wells: It will not, because they have their £7,000 personal allowance before you start. That is automatically deducted from the top line.

Mr Cowan: Yes, but no one is going to walk out with a pension of £7,000 or less. The majority certainly will not.

Mr Wells: Why do you not allow the staff, after having taken a consultation with their tax advisors or accountants, to make that decision for themselves? For some of them, 31 March is an extreme detriment. They made the decision to go based on the information that you gave the Committee.

Mr Armour: They should have made the decision to go based on the launch documentation, because that is the paper that outlines the detail of the scheme that we were operating. I appreciate and accept that a wrong answer was given by an official at the Committee, and I understand that people took that at face value and accepted it. However, very detailed launch documentation went out to all staff. I contend that that is the basis on which they should have made their decision.

Mr Wells: If that had stated that "By the way, this will be taxed entirely in 2011-12", the officers would not have a leg to stand on. However, the document is silent about when the taxation of the payments will happen.

Mr Armour: I accept that. As I have said, we have always made it clear that taxation is a matter between the individual and the tax authorities; it is not an issue for the Prison Service in that sense.

Mr Wells: If it ever went to judicial review, the fact that the issue was twice compounded and the wrong statement was made would mean that you would not have much of a leg to stand on. You should use your discretion to help those who are caught up in this situation. It is not a lot of people. Some want it paid in 2011-12, and they should be given that option. The others should simply be told that their completion date is April 7, because then the problem solves itself and HM Revenue and Customs will not touch them.

Mr McCartney: Can any of the 131 say that they do not have to take it? There is a big demand for people to take it.

Mr Armour: Once you sign up for it, you cannot withdraw from it.

Mr McCartney: Have they signed up?

Mr Armour: They have signed up to go.

Mr McCartney: Have they have been told that the concluding date was 31 March?

Mr Armour: They have signed up to the terms of the scheme, which indicate that 31 March is the target date to release staff.

Mr Dickson: I take it that the discussions have taken place with their trade unions as well and that all of the issues have been worked out with them?

Mr Armour: As you know, we have had ongoing discussions with trade unions. I have made clear the position on the scheme with the trade unions. In fairness to them, they did not get involved in

discussions with us around the details of the scheme; they stepped back and said that no trade union would support a severance scheme and that, therefore, it is a matter for NIPS and the Department. They are certainly aware of the launch documentation and what is contained therein.

Mr Dickson: I take it that, as a good trade union, it is giving information and advice to its members with regard to issues like taxation.

Mr Armour: I am aware that the Prison Officers' Association (POA) has made arrangements for financial advice to be given to its staff in various establishments, but that is not something that we were prepared to do.

Mr Dickson: That is perhaps the best place for people in that type of position to get that information and advice from, rather than from politicians.

Mr Wells: Politicians did not give them any advice; the politicians only asked awkward questions. On the more general aspect of it, I can understand the logic of what you are saying about the fact that there are 151 and then there is a second tier, and there are those who have received their letters saying that they are pending. Am I right in thinking that the impression given originally was that almost everyone who applied would be getting out almost immediately? Is there not a sense of disappointment generally that an awful lot of men — of course it is entirely men, or 99% men; I am not quite certain —

Mr Armour: I do not know the breakdown in terms of males and females, but it is predominantly male, yes.

Mr Wells: An awful lot of those men are now profoundly disappointed because the impression may have been given that in fact they were getting out within the next couple of months.

Mr Armour: I think there is a perception across the Prison Service that people were going to get away on 31 March. I have been very clear with staff, both in my meetings with the Prison Officers' Association, in the launch documentation that we produced and as I have walked around the prison, that it would not be operationally possible to allow everyone to go on the one day. We simply could not run a Prison Service if we let 544 people walk out. I have made that position abundantly clear to everyone who I have come into contact with and at several meetings with the POA, which have been minuted.

Mr Wells: I still think that a different impression was given publicly. At times I believed, at the early stages, that everyone who wanted to go, provided of course that it was below the figure you needed, would be getting away. You now have a situation in which 151 are away. Some are very happy and some are not because they are paying a big tax bill. Others who are hanging on are relatively discontent because they thought that they were getting away and they are not. Is that not going to cause management difficulties within the prisons? You have quite a few people there — in fact, the vast bulk of those who are over 50 — who want out and are now feeling somewhat bitter that they are left. Am I right in thinking that some of them may never get out?

Mr Armour: I have spent a considerable amount of time walking around and talking to staff. I know the depth of frustration and concern that there is over this issue. What I have said to staff is what I say to the Committee today. I cannot give a guarantee that everyone who wants to go will go, but what I can say is that the Department, the Minister and the Prison Service management team will do everything possible to ensure that all who want to go are allowed to go. I understand the concerns in relation to perception, but, to quote from the minutes of a meeting that I had with the POA:

"The POA noted that Mr Armour had been entirely clear and consistent throughout discussions and had made it clear that the release of staff under the exit scheme would be on the basis of operational need."

I understand that there is a perception out there, but I have been clear with people about the way that the scheme would be handled, and I continue to be clear with them in saying that we will do everything that we can to make sure that we get those who want to leave and have applied to leave out of the system.

Mr Wells: The 151 who are going on March 31 were told to try to use up their holiday entitlement before they left. Where they have not been successful in doing that, are any special measures being implemented?

Mr Armour: They were also told that, if it was not possible for them to use up their leave, we would pay them for that leave. Nobody was forced to take annual leave. We were very clear when we said to staff that, where possible, before they left the organisation they should use their leave, but we have also been quite clear in the documentation that those leaving on 31 March would only be notified on 1 March, so the window of opportunity for them to do so after it was confirmed that they were going was a very narrow one. It was in that context that we told staff that, if they could not, or it was not operationally possible for them to use their leave, we would pay them for that. That is exactly what we are doing in the majority of cases.

Mr Wells: But technically some of those men have gone already. They have gone off on holiday so as to use it up and they will not be back.

Mr Armour: They could, in theory, do that. I am not aware that very many have done that. Earlier this week, I spoke to several colleagues who are leaving on 31 March, and one told me that his shift does not finish until 8.00 pm or 9.00 pm that day, and that he would be in to work that. There may be some who have decided to take leave, but I do not expect that to be a significant number.

The Chairperson: There are some who have used leave up, anticipating that they were getting out, who are not getting out. That happened because of the expectation that was clearly created, and I have letter after letter about that. The director general at Magilligan said that the train is leaving the station and that it is only leaving once and that if you get on it, you will be getting off it. The director general said that that was your one and only opportunity. The clear perception was that whoever wanted out was getting out, and there has been no preparation. I hear what you say about the POA meeting, but, to me, there does not appear to have been any preparation for staff to be told that, actually, only 151 were getting out. At what point were staff told that only 151 would be leaving on 31 March? Clearly, the 544 would then have realised that the vast majority of them were not getting out.

Mr Armour: On 1 March, staff were told that 151 were getting on 31 March. Chairman, I draw your attention to what it says in the launch documentation:

"The precise phasing of releases in terms of numbers, dates, grades and specialisms will be determined by progress on the SEE programme, the number of staff wishing to leave the Prison Service and operational needs."

I do not think that, at any stage, the director general or any senior member of NIPS staff gave a guarantee that 544 people would all leave on the one day. I also have numerous letters from staff who are concerned, but I come back to the point that the launch documentation is as clear as I think it could be. As I have walked around the jails, I have been clear with the POA and staff. I have been asked time and time again by people whether they are going on 31 March, and my answer has been consistent: "I cannot guarantee that."

Mr S Anderson: Thank you, Ronnie and your team, for coming today. I started the discussion today, and one of the questions that I asked was: would the officers be allowed to leave with dignity and respect? From the e-mails and the telephone calls that I have got, and from the number of people who have contacted me and my colleagues, there appears to be anything but dignity and respect being given to those officers. I have to say that, because I have documentation. One of the female officers was even reduced to tears when she heard about the things that were going on in relation to the exit scheme.

The Chair asked about the commitments given, and, Mr Armour, you have referred to them. I have to take those officers at their word in the correspondence that they send to me. I received an e-mail to say that the director general, Mr McConnell, addressed staff in the chapel in Maghaberry prison some time last summer, although I am not quite sure of the date. He assured the staff that they would leave with dignity and respect and informed everyone in that chapel that, if 500 staff or more applied to leave

by 31 March 2012, they would be allowed to do so. I am not saying that you said that, but you were present, Mr Armour. You were apparently there at that meeting when the director general said that. It is not me saying that but an officer who has many years' service, and I have no reason to disbelieve that person. Can you comment on that point before we go on any further?

Mr Armour: The director general has always been clear that it is his intention and wish that as many people who want to go will be allowed to go. I have always been clear that there is an issue around operational need; we could not possibly let everyone walk out of the organisation on the one day.

I understand where staff are coming from. I understand the point that they are making. However, we could not run the Prison Service if we allowed 500-plus people to leave on 31 March. What I am consistently saying to staff, and what I want to say to the Committee today, is that we will do everything possible to fulfill the commitments that we have made by getting those who want to leave out of the organisation as quickly as possible. However, this is a complex and challenging reform programme, there are many interdependencies, and I simply could not let them all go in one day.

Mr S Anderson: It is accepted, Mr Armour, that you cannot let them all go in the one day. However, on reflection, and in hindsight, would you say that this has been mismanaged and that, maybe, you did not read the situation in the way that you should have? I knew, from talking to a number of officers, that, if this package was offered, you would get the numbers. Can you, or your officials, say that you did not know that you would get those numbers? If that was the case, why was there not a rolling out, Patten-type replacement of staff? Why was the whole process carried out like this?

Mr Armour: We made a judgement as to the exit package that we would put out and the number of staff that we needed to accept that package. We made a judgement in the autumn of last year that we wanted to release around 549 people from the organisation. In our business case, we took the view that, if we put the package out that we put out, we would get around 360 to 400 people. As I have said to the Committee before, there is no scientific analysis behind it; it was our best guess at the time. As you know, we received 544 applications. We have processed those and will continue to process those and work through that.

Mr S Anderson: Correct me if I am wrong, but is it not a fact that the Prison Officers' Association did suggest a staged exit?

Mr Armour: I think that the Prison Officers' Association would have been very happy with a staged exit process.

Mr S Anderson: Why was that not considered? Why was the impression given to the officers at that meeting that they would all leave on 31 March? Why was that impression given, when anyone in a business would realise that you just cannot take out the majority of your staff, with no replacements, and continue with the business? Why was that comment made?

Mr Armour: You have just said that anybody would know that. There has to be an argument that staff listening to that must also have known that you cannot take 544 people —

Mr S Anderson: If that is the case, why was it said? I know that it was not you who said it, but, apparently, the director general. Why was it said that you could let 500-plus officers go out the gate on 31 March? That came from the very top, Mr Armour.

Mr Armour: I think that the director general has always been clear that his wish would be —

Mr S Anderson: Did you hear that comment yourself?

Mr Armour: His wish would be to allow all those who want to go, to go. I do not think that he has changed his view on that. I do not think that, in making the comment, he had in his mind that he would allow everybody —

Mr S Anderson: You are not denying that the comment was made?

Mr Armour: I do not think that he meant that everybody would leave on the one day. I am not denying that the comment was made. I am not denying that that was what people perceived from the comment he made.

Mr S Anderson: Would you agree that we now have, as was mentioned by my colleague, a number of officers who are very unhappy to accept — chose whichever word you like here — that you have to now run a prison with a number of officers who do not really want to turn up to work anymore because of the way that they have been treated?

Mr Armour: I do accept that a number of officers are very upset by this. Personally, as I said, I have spent time in every house in Maghaberry, in the learning and skills area and in the gymnasium talking to those officers, explaining to them, or trying to explain to them, the reasons why we are doing what we are doing. I genuinely think that the vast majority of those to whom I spoke accepted what I said to them. However, that does not take away from the fact that there are people who are disappointed. I regret that fact; however, we need to move on and work towards ensuring that those individuals can leave, and it is incumbent upon management, our trade union partners and the staff to work together and try to ensure that that happens.

Mr S Anderson: You say that you have taken time to talk to officers. Are you not getting this unhappiness fed through to you as well?

Mr Armour: Absolutely. I am not —

Mr S Anderson: By the majority of staff?

Mr Armour: I would not say that it is by the majority of the staff. Like you and the Chairman, I have had a number of letters and e-mails from members of staff, but certainly not from a majority of them at this stage. I accept that there is a deep sense of annoyance among a significant number of people who have been told that their applications are still under consideration.

Mr S Anderson: OK. We will leave that one. However, I have to say that my contacts do not tell me that the whole exit scheme has been managed in an acceptable manner.

I will now ask about criteria. Can you assure me that the criteria used right across have been open, transparent and fair?

Mr Armour: Absolutely, yes.

Mr S Anderson: I ask because I have been handed examples of where perhaps that has not been the case. They are in relation to ones who are being kept on, and ones who are getting out, who are costing more to send out than to keep and vice versa. They can quote specific cases, which I will not read out in Committee. A specific case is cited where the cost implication, referred to in the criteria, may not have been adhered to. Also, it is alleged that there may be disproportionality across the grades, for example in the number of, say, principal senior officers compared to the number of basic grade officers.

Mr Armour: I cannot accept that, Mr Anderson, but, if you have individual cases that you want to bring to my attention outside of the meeting, I am happy to look at them.

Mr S Anderson: Having said that, I have relevant e-mails here and on my iPhone. However, I would have to check to see whether those people want to let their names be released for specific reasons.

Mr Armour: If they do, I am more than happy to look at those e-mails. I walked around Maghaberry earlier this week, and I intend to go to the other establishments as well. The point was made to me by several colleagues, who said: "I think that I should have been allowed to go because I started on the same day as such and such an individual and I earn the same amount." Along with Michael and other colleagues, I have looked at each of those applications to assure ourselves that the decision taken was right and was made on the basis of cost. There are a number of reasons why people may think that they are on exactly the same amount but they are not. Sometimes, that amount of money can be

very small indeed. However, I am content that the cases brought to my attention can be justified. However, I am more than happy if you want —

Mr S Anderson: If I go back and tell those people to take it back to you, their cases will be reviewed, and if there is a discrepancy, will they be allowed to go on 31 March?

Mr Armour: If there is a discrepancy, we will certainly look at that. Underpinning all of this scheme is fairness and transparency.

Mr S Anderson: What have you to say about disproportionality between the grades? There is an opinion that there has been more leaning to the senior grades getting out than to basic officers.

Mr Armour: In the paper we gave the Committee, there was a breakdown of the grades. The bulk of staff that are going are from the main officer grade, 112. There are two going in the governor grades; 17 in the principal officer grade; and 20 —

Mr S Anderson: It is not about numbers; it is about percentages. It is not me saying this; it is what is coming from some of the officers. They say that there has been some move to release the more senior grades.

Mr Cowan: Seventy-four per cent those staff leaving on 31 March are main officer grades. The vast majority of those who are leaving are in the lowest grade.

Mr S Anderson: There are more people in the basic officer grade, so a higher percentage will be leaving. Is there any discrepancy in the percentage? Say there were 50 senior officers and 40 of them were going, there might also be 70 other ones going, so numbers do not mean anything here. It is percentages.

Mr Armour: I do not believe that it is disproportionate. We have followed very strictly the processes laid down by the Department of Finance and Personnel (DFP). At each step of the process, senior representatives from DFP sat alongside us to ensure that we did this in the proper way, and we have strictly adhered to the scheme that we published for taking those decisions. I do not accept that it is disproportionate. The figures are a fair reflection of what we can spare across the service at this time.

Mr S Anderson: That is OK. I have always accepted the fact that you just cannot let officers go. You still have to run the prison. However, a lot of questions have to be asked here. Maybe I will stop with this one, and we can come back to the others. There is a feeling that this was a botched, mismanaged scheme from day one. Can I directly ask you a question, Mr Armour? In hindsight, would you have carried out things differently now that you know what you know?

Mr Armour: I do not think that it has been botched or mismanaged. We have handled and processed the scheme in the way that we said that we would. Are there learning experiences from this? Of course there are. Nobody is perfect, and we are not suggesting that we are. However, I do not accept that, fundamentally, we have handled this inappropriately, or that we have got it wrong. We have been consistent in doing what we said we would do in our launch documentation and what I said to the POA and the staff regarding the process that we would follow. We have not deviated from that. I do not accept that it has been mismanaged.

Mr S Anderson: I will finish with this one, Chair. The officers who have been unsuccessful have been told that there is a letter to say that they are now in a binding set-up and that you will keep them until you choose when they will go. Are officers of 55-plus, who could go at their own choice, now in a binding situation if they walked in to the HR department and said that they wanted to leave next week?

Mr Armour: No; if officers want to retire immediately, we will not stand in their way. I do not expect that very many of them would want to.

Mr S Anderson: What does it mean then if the exit package is binding?

Mr Armour: The advice that we have received from the Department of Finance and Personnel is that once a person is committed to the scheme, they cannot withdraw their application. In the context of your question about people who are over the retirement age, that is a different matter. However, we are saying that you cannot put in an application and then decide to change your mind and withdraw it. Once you have accepted the terms of the scheme, you are bound into it.

Mr S Anderson: Those people who have been unsuccessful bought into a package or a scheme that was not delivered as they thought it would be delivered. Therefore, how can something be binding to them if it has not been delivered?

Mr Armour: Nobody, at this stage, has been unsuccessful. In response to your second —

Mr S Anderson: I think that if you were to ask those remaining 300-plus officers, they would view that in a different manner.

Mr Armour: They may view that in a different manner, but I have not said to any individual who has applied that they have been unsuccessful. I have said that they have been unsuccessful at this stage, but that their application remains under consideration. I come back to the point that we published launch documentation in advance of the scheme. We have maintained and adhered to that. We have not deviated from that. I do not accept that we have broken the terms of the agreement. We are doing what we said we would do in the launch documentation of 8 November, which each member of staff received and, I have no doubt, read very carefully.

Mr S Anderson: I would not expect you, Mr Armour, to say here today that you have broken the agreement, but we will leave it at that today.

The Chairperson: Ronnie, how, though, can it be so one-sided that this is binding on individuals? They do not know whether they are going to get out at all, albeit I hear what you say today that you are working on the basis that you are going to let everybody out. However, they do not know when. Will it be three years, four years, six months? We do not know. Some of those individuals had already arranged employment for themselves when they thought they would be leaving on 31 March. I spoke to one individual who was going to be caring for their disabled grandchild because their family could not get childcare. They got the third type of letter. They do not know whether they will be out in six months, ever, or six years. Yet, it is binding. They cannot now turn round and say: "Do you know what, I am going to work to my full entitlement up to 70 years of age." Their lives are on hold because you could turn round and say six months from now: "You are now leaving." Some who had jobs can no longer take up those jobs, yet they are at your disposal until you decide to let them go. How can it be binding on those people?

Mr Armour: The advice we got from the Department of Finance and Personnel is that once you sign that you are accepting the terms of the scheme, it is irrevocable in terms of saying at a later stage that you have changed your mind. As I said, I have not given a guarantee that everybody who wants to go will go, and I need to be absolutely clear about that. However, we will do everything we can to release staff as quickly as possible within the context of what is operationally possible.

Mr McCartney: Thank you very much for your presentation. I have a number of broad questions. I want to place them in the context of the SEE programme and the prison review team report. There was, I think, an issue last time you were here about the ability of people to apply for the new custody officer posts, and it was said that legally, in terms of the actual job application, and I can well understand that. I want to make this as direct as possible: did you have the discretion or power as part of the severance to write in that a person should not reapply for a job in the Prison Service?

Mr Armour: No, I do not believe we had that power. This is an NICS —

Mr McCartney: You say you do not believe —

Mr Armour: I was going to say that this is an NICS statutory scheme. I cannot change a statutory scheme or impose terms on it.

Mr McCartney: I accept that, but was there any exploration? There have been instances in other public bodies where people who get an enhanced package as part of their terms of reference can apply for a post within a limited period. I am told that that is the case even within trade unions for union officials. I know you are saying that that is the scheme, but was the question asked directly?

Mr Armour: The advice we got from DFP and, indeed, from the Departmental Solicitor's Office (DSO), was that we could not and should not do that.

Mr McCartney: In relation to severance.

Mr Armour: In relation to the voluntary early retirement scheme.

Mr McCartney: So, there was a written question and then a written response from the DSO.

Mr Armour: We certainly discussed it with the DSO. I would need to check what exactly is in writing but —

Mr McCartney: No, I am not saying —

Mr Armour: Sure.

Mr McCartney: In no way am I trying to catch you out.

Mr Armour: No, I appreciate that.

Mr McCartney: You will be aware that there was a lot of public concern around this issue. A lot of people said that there is no financial advantage for someone leaving to reapply, and all that was part of the commentary. With regard to severance, however, we need to know for public interest. It can be written into the severance packages of people leaving public positions in other jurisdictions that they cannot reapply for a job on, for example, the health board. That is maybe something that can be explored with regard to public practice.

Mr Armour: The clear advice we got was that we should not do that because we would run the risk of indirect discrimination cases against us if we sought to prevent people —

Mr McCartney: If that advice is written, can we see it?

Mr Armour: If it is not in that level of detail I can certainly get it in writing for you.

Mr McCartney: In relation to the uncertainty, a big part of the severance package was to open up the space to allow the reform package to, if you like, take root and grow. For a person who has applied for the redundancy package and does not get it, the uncertainty that that creates is understandable. The Chair and others have outlined examples of people who have applied and are trying to plan their futures, and now this is denied them. In terms of the wider reform package, was an assessment made of how that might in some way impact on that? Was this merely a financial decision-making process or were there wider considerations? If half of those who applied do not know what is happening, they may not be in the frame of mind to be part of a new process.

Mr Armour: We are very aware of the wider reform programme, and all that we are doing is set in the context of that programme. We have always said that the exit scheme is the cornerstone of the programme. Without it, we would be unable to rightsize the organisation, deliver efficiencies or refresh the service in the way that we want and need to through the recruitment campaign.

We are proceeding with the exit scheme and the departure of staff in a measured and sensible way, and we are only releasing those staff who it is operationally possible to release. We have made it clear that the exit scheme is directly linked to the SEE programme. We believe that we can release 151 staff at this time, but we are equally conscious that the new recruits are not going to arrive with us until later this year. It is a complex and detailed programme. We will want to release staff as we get new people in, so that the wider reform agenda does not suffer, as it would if we were to let too many

staff go too quickly and suddenly found that we could not deliver what we are expected and required to deliver.

Mr McCartney: That is a point well made, and people need to take decisions operationally. I am told that there were three letters.

Mr Armour: That is correct.

Mr McCartney: We were in Maghaberry yesterday, and people were saying that they were able to identify what sort of letter it was by whether it had a paper clip: if they felt a paper clip, it would be more beneficial.

The third category of letter is "your application remains under consideration". I understand the phased approach, but perhaps those staff members could have been given some sense that, for example, in a year's time another 150 could be allowed to leave, subject to DFP or whatever. The process seems to be hanging in the air. That leaves it open to speculation, and people may feel that they will not get it and will be left hanging. Morale, etc, etc, kicks in, which will have an impact on the wider SEE programme and the review thing. That needs to be addressed.

Mr Armour: OK.

Mr McCartney: As I said, we were in Maghaberry yesterday. I was approached by a number of staff — I do not wish to name them or to give their ages in case that has an impact one way or another. However, one person told me that he was very close to the retirement age and that a number of people who are over 65 were not part of the package. That is difficult to understand.

There is openness and transparency, but the operational thing may be where it became judgmental for the person on the receiving end. Their openness and transparency will be around age, how long they have been there, and the operational stuff. Given that the letter was the thing, would it not be more appropriate to call the staff together in each of the institutions and explain the programme in a more strategic way, rather than it being a letter with too many questions unanswered?

Mr Armour: I plan to go out and do presentations to staff on the wider change programme next week and the week after. I will no doubt be required to touch on the points that you have just outlined, and I am happy to do so.

Mr McCartney: Does the individual have some right to ask through their union or individually, "Why not me?" and to be given an explanation? If you say that it is operational, there is no room for debate; that is nearly a cover-up.

Mr Armour: I am not trying to close this down for people or to prevent them from questioning our decisions. When I was in Maghaberry, people came to me and said, "I am such and such an age" or "Somebody else is younger than me" or whatever, and you clearly heard the same thing. However, this came down purely to cost, with the exception of where there was an operational need to hold people back.

Mr McCartney: The person involved said to me yesterday that he got his gratuity payment previously, so he made the case that if it were down to cost, he would be well up the pecking order.

Mr Armour: Unfortunately, it is not as simple as that. People have come to me and Michael and said, "I have lifted my gratuity and, therefore, I should be cheaper than so and so". However, in reality, it is just not as simple as that.

Mr McCartney: Michael, is there provision for somebody to come to you and say, "Here is my case. What would it cost to buy me out?"

Mr Cowan: Obviously, if people want to come, they can. What I would say is that if they got letter 3, they did so on the basis that they cost too much. If they were kept back for operational reasons, they got letter 2. So people know whether it was operational reasons or cost that prevented them from

going. Again, a lot of people have thought, "But I have lifted my gratuity". However, the gratuity was paid to them by Civil Service pensions, so it does not come into our consideration in terms of cost. Their lifting the gratuity does not make them any cheaper.

Mr McCartney: Are the people in category 3 told how much it would cost for them to exit?

Mr Armour: No; we have not told anybody the specific cost.

Mr McCartney: Would that not add clarity?

Mr Cowan: It might disappoint some people even more.

Mr McCartney: I will be honest: when I was listening to that individual yesterday and heard his age and that he got his gratuity, I made an automatic assumption. Last time, I think I described Michael as a number cruncher; you have the numbers. It is about bringing that clarity to people rather than having uncertainty.

Finally, as part of the process, I assume that people in senior management will be part of the discussion on the impact. Again, we met senior managers, and although what we discussed was in confidence, we could see that — "concern" is maybe too strong a word — they would like to be informed as to how this will roll out in terms of what they have to try to achieve as part of the wider remit of the SEE programme and the reform programme.

Mr Armour: Absolutely. We have plans afoot to bring our managers together and talk them through those issues. The governing governors of each establishment have been involved in this process. Indeed, I held discussions with them in advance of the voluntary early retirement panel meeting. So, they have been involved. However, I accept that there are middle managers who have not been involved to the same extent.

Mr McCartney: This is a day of firsts: we had the Lord Chief Justice in for the first time, and I think that this is the first time I have represented a member of the POA.

The Chairperson: I want to pick on up on one of those points so that I can understand it. The 73 in option 2 are cheaper than the other 320. I have spoken to some in the 320 bracket who are over 55 and have their full pension already worked up, so they do not need any uplift, and are in specialist-type roles. Surely those people, be they dog handlers, workshop people or people in the tactical response group (TRG), cost the same as the people in option 2. So, it is down to purely operational reasons.

Mr Armour: It might be helpful if I take a moment to talk you through the process. We collated the list of 544 staff on the basis of cost, from the cheapest down to the most expensive. We then looked down that list. Governing governors had indicated that perhaps in some of the specialisms — let us take dogs as an example. Maybe there are five dog handlers in an establishment. The governing governor may have said that they could not afford to lose more than three of those people at a time. Therefore, working down the list, we would have held back some specialists for operational reasons. Those people became part of what we refer to as the letter 2 category. The 151 letter 1 people were told that they can go on 31 March. Seventy-three people were held back for operational reasons. In fairness to those people, we have told them that they will be allowed to go, but, at this stage, we cannot tell them when that will be. The line was, then, drawn at 224, rather than at 151. There are 151 people plus 73 people who were held back. That leaves 320 individuals. Those people got the third letter, as has been referred to, which said that their applications were still under consideration.

The Chairperson: Therefore, the line at 224 was the break point in terms of cost?

Mr Armour: Yes.

The Chairperson: With regard to fairness —

Mr Armour: It was done on the basis of cost. Everybody above that line will be allowed to go. However, 73 of those people are being delayed for operational reasons.

Mr Cowan: We could have someone who is just one below the line. The next time round, when we look at the next tranche of leavers, we could still say that, for operational reasons, that person could not go even though they were the cheapest. Again, that person would know that they would have been selected and that, therefore, the next time round, they would leave at that stage.

The Chairperson: Therefore, nobody among the 320 can say that they are cheaper than one of the 224?

Mr Armour: We do not believe so, no.

The Chairperson: I know that the 73 people do not have a specific date. Is there an end point in general? Talk me through that. As I understand the package system, people can be given only one month's notice. If they are given more than that, then they are working their notice. Therefore, they will get only one month's notice before they go. Will that be within the next six months or the next year? Is there an overall time frame for those individuals, at which point they will all leave? Obviously, you can say that someone has been held back because they are in the TRG unit, for example. I do not know whether that is one of the specialisms for which people can be delayed. Other staff among the 320 could be trained up to go into that unit. I do not know how long it would take for a workshop or to become a dog handler. Surely, there are staff among the category of 320 people who could replace them. Has there been any thought as to how quickly the 73 can be let go?

Mr Armour: We are looking at the 73 people and ensuring that we have the skills in the organisation to replace them. At this stage, I cannot give you a time as to when the 73 people will go. I am just not in a position to do that at this point.

Mr Weir: Following on from that, with regard to working out timescales, I appreciate that for both the 73 people and the 320 people, you are not in a position to give timescales for their departure. Taking maybe one step back, is there any timescale for when you will be in a position to make a decision on their timescale?

Mr Armour: What I have said to them is that we will do that as quickly as we possibly can. However, we have not given those individuals a specific timescale, no.

Mr Weir: Arising out of that, if I picked you up right earlier, you, basically, said that, at this stage, nobody among the 320 people had been excluded and told that they would not qualify for the package?

Mr Armour: Absolutely.

Mr Weir: However, by the same token, there are people for whom you have not given the green light and said that they will qualify. In terms of processing, at least, to establish whether someone could qualify for the package, do you have a timescale for that?

Mr Armour: No. We do not have timescales at this point. I think that it would be unwise for me to give timescales to which we may or may not be able to live up. We have told people in the third category that they have not been refused or turned down; their applications remain under consideration and will be processed as quickly as possible. However, we have not been specific —

Mr Weir: It is important. I am trying to square a circle on that in the broader sense. I agree with others that I do not think that elements of the process have been handled in the best possible way. One problem with the process is that, on one hand, you want to give people a level of certainty. The uncertainty that hangs over whether people will get a package and when is leading people into an awkward situation. That does not lead to good staffing or good morale. On the flip side of the coin, I think it is also important because, given some of the things that have been said before, there has been at best a degree of misunderstanding, and, in some cases, wrong information has been given out. We heard earlier about the tax side, and I think there is some discontent with that.

The other points have been covered, but as I understand it, the exit package also covered a training package of around £5,000. Is it true that around £1,500 of that is being used to cover the costs of a training provider, or what is the position there?

Mr Armour: No; the £1,500 is the cost of training people either in advance of them leaving the organisation, or immediately following that in teaching them how to prepare a CV. It is to get people ready for the world beyond. The £3,500 is specifically set aside for courses that individuals may want to do. It is not about the training provider, it is about providing the training. That is what the cost is.

Mr Weir: So, it is an upfront cost?

Mr Armour: Yes. I can tell the Committee that, of the 151 we have had, 16 —

Mr Cowan: Nineteen people have shown an interest so far in doing the PRRT course and, of that 19, 16 have signed up to the courses that cost £1,500. They have signed up to those in totality.

Mr Weir: OK. I think all the points have been covered, Chair, although there is a certain amount of concern and dissatisfaction out there at how this been handled.

Mr Armour: I understand the point you are making, Mr Weir, but we have delivered this scheme strictly in terms of the launch documentation that we put out.

Mr Weir: No, to be fair in the criticism, although I think that a slightly misleading impression was given, I am not being critical from an operations point of view on the overall release of people. Where I am more critical is around some of the issues where people were given the wrong impression, as indicated particularly on the taxation side. I, along with others, urge you to look at that again, because this can have a detrimental impact on a number of individuals for the sake of a few days.

Mr Armour: I accept that a wrong answer was given to the Committee.

Mr Wells: To follow on from that, we have done a bit of number crunching since Mr Cowan made the point about national insurance. Even taking that into account, it is still £2,000 of a deficit to the prison officer. I admire your thoughtfulness in saying that we want to save them national insurance, but you are still giving them an extra £2,000 worth of tax.

Mr Cowan: There is going to be more tax paid; I do not deny that. I just wanted to make two points, one of them being that you were looking at 20% tax against 40% tax, and I was just saying that you have to take into account national insurance as well, which works out better for them in leaving this year rather than next year. It reduces the differential. I am not saying it erodes it completely —

Mr Weir: Even taking that into account, we reckon at least £2,000 —

Mr Cowan: Yes, I understand that it still leaves money, but as I said, if you take the CILON and the additional payment together and then add the pension on to it, you will not have exceeded both your tax-free element and your 20% by the time the pension comes in, but for a lot of officers, a proportion of that would still be at 40%. Again, there is something else to take into account, and I am not saying —

Mr Weir: On the albeit slightly back-of-an-envelope calculations that Jim and I have done — I suspect Jim will know the taxation matters down to the penny — but even taking into account the pension situation and national insurance, there is still a gap of a couple of thousand —

Mr Wells: It is rapidly running down the Lagan as we speak. That is the effect it has; you may as well throw it into the Lagan rather than give them the extra week. Also, to make matters even better, they are probably going to spend several hundred pounds paying the accountant, because they are going to have to do a tax return. That is absolutely certain, because if you are paying it in 2011-12, you will have to have a tax return because that is an unusual situation. The only way they can reclaim the tax is to submit a tax return. I made the point at the meeting in November that this will be the first time many prison officers will have had to do that. We, as MLAs, have to fill these wretched things in every

year, so we are quite experienced, but to a prison officer, this is something totally new. Therefore, could you add maybe £400 or £500 on to that, because they are going to have to go and see their local friendly accountant and put in a return? If they do not, the tax will never be repaid because you are paying it on 31 March. There will be no mechanism to do that except through a tax return. I appeal to you, and maybe I am a wee bit extreme; I have been heavily lobbied about this. Show a wee bit of compassion and exercise flexibility to the small number of prison officers, by saying that you will let them go on 7 April, and the problem is solved without your breaking any rules. That would show a bit of thoughtfulness for your officers.

Another thing is that I am with Peter. I absolutely understand why you are doing what you are doing. On reflection, there is no way that we could have opened the gates and said to 500 officers, "Away you go". That would have created chaos. However, I thought that every officer would at least have a date for going, whether that was 31 March, at the end of 2012 or whatever. The confusion arises because many officers have not got a clue where they stand.

Mr Armour: I have to be clear that if I were to give every officer a date today I could not then pay them compensation in lieu of notice. If I say to someone today that they are going in six months or a year's time, I could not justify paying those people compensation in lieu of notice.

Mr Wells: You could adopt a broad-brush approach, such as saying that an extra 300 will go by Christmas and another 200 by the following March; something like that. A lot of officers out there are thinking that they might never get out, which is quite worrying.

Mr Armour: I accept that, but I need to be careful in what I say about leaving dates.

The Chairperson: To tidy up one point: of the 19 from PRRT, are the three that have not signed up to that CV element entitled to the full £5,000 or to other courses?

Mr Cowan: With the other three, I am not sure. The letters went out only recently, so we expect that number to increase. I am not sure how many of those six courses those other three signed up to, but, by responding, they show obvious interest in carrying out some of those activities.

Mr A Maginness: I think that you are the victim of a very generous scheme. I recall that a couple of weeks before the deadline only half of the required number had applied, but there was a sudden stampede. It seems to me that even the enhanced payments that teachers are being given at the moment would not match this in generosity. You would certainly not get your pension and your pension lump sum immediately, particularly if under 55, so the scheme is very generous indeed.

However, I take the point that its tax efficiency should have been thought through in more depth. You obviously want to maximise the benefit of a lump sum to those who get it, particularly if, as Mr Wells said, the approach to discharging these men was not very tax-efficient. Uncertainty is a problem that was touched on by a number of people. I know that you cannot give a specific departure time for Prison Service members, but you could give an indicative timetable to the generality of serving officers. That might help reassure people by giving some stability and restoring morale within the service.

The departure of serving prison officers is important in reducing the overall complement. However, that is not and should not be separate from the implementation of the SEE programme to get a more efficient and effective service by reducing overmanning and restrictive practices. Can you reassure us that the SEE programme continues and will not be negatively affected or disrupted, and that, at the end of the day, you will get those efficiencies and do away with restrictive practices that have affected the effectiveness of the service?

Mr Armour: Yes, I can give you an absolute assurance that the SEE programme remains on track. As I said earlier, the launch documentation makes clear that releases in respect of staff leaving are tied to the progress of the SEE programme. That remains the case. We have allowed a reasonably small number to go, because that is what we think we can manage. I continue in negotiations with the POA and will meet it again tomorrow on the wider reform programme. All of that continues to move forward. The commitment to the SEE programme is undiminished.

Mr A Maginness: When do you envisage the custody officers coming into post?

Mr Armour: My best guess would be in around November. As I said earlier, we now move to the aptitude test and the assessment centre. The issue then will be getting through the security clearance procedure, which takes a number of months and over which we have absolutely no control. However, we will pursue the elements that we do control as quickly as we can. My guess is that they will enter their training around November.

Ms J McCann: The SEE programme was one aspect of the programme of reform within the Prison Service to ensure a more progressive regime. You said that you got legal advice on the employment of new prison officers. Part of the programme of reform is a sea change in staffing levels and everything else. Are you saying that the legal advice that you got ruled out any bar being put on prison officers who leave under the SEE programme coming back in as custody officers?

Mr Armour: The legal advice that we received from the DSO indicated that the organisation would be vulnerable to claims of indirect discrimination if we sought to bar or prevent people who are leaving from reapplying. As the Minister explained in the Assembly on Tuesday, none of the 151 people who are leaving have applied to come back. However, our advice was clear that we could not prevent or bar people from doing so.

Ms J McCann: Did you also seek legal advice on the conditions of their severance?

Mr Armour: As I indicated, we are applying a DFP statutory scheme. We could not impose conditions on the statutory elements of that scheme.

Ms J McCann: Not even on severance conditions so that, if they were to reapply within a period of years, they would have to give back some of the money that they received?

Mr Armour: My understanding from DFP is that there is no provision for us to do that. We are not the same as the PSNI scheme, which was governed by specific regulations that allowed for those sorts of conditions to be imposed. We were not in that position.

Ms J McCann: Can we have a copy of that legal advice?

Mr Armour: Yes. As I said earlier, I am more than happy to write to the Committee on that one.

Ms J McCann: From the legal advice, do you see anything in actual law that is preventing the Minister from inserting a severance condition to prevent someone taking what, as we have heard, is a very good package and then coming back in as a custody officer? Is there no way to prevent that? There is a public confidence issue here as well.

Mr Armour: I accept that. The normal rules of abatement for people leaving the Civil Service pension scheme and then re-entering would apply. However, my understanding is that there is no other provision in the NICS statutory scheme —

Ms J McCann: Even though this is an enhanced package?

Mr Armour: — to impose those conditions.

Ms J McCann: Can we get a copy of that?

Mr Armour: Yes. I am happy to write to the Committee on that, and I will arrange for the lawyers to provide you with something.

Mr Dickson: How many applicants did you have?

Mr Armour: For the custody officer competition? We had 4,911 applications.

Mr Dickson: How many of those applications are from people who availed themselves of the exit scheme?

Mr Armour: Of the group of 151, none.

Mr Dickson: I have a great deal of sympathy for the 320 people who are currently waiting for an opportunity. Clearly, certainty around these things is very important, and has to be for each individual. We have heard members make reference to individual cases. There is an element of unfairness, in that you can lock those 320 in and they cannot get out, even if they cannot see that they will, either at a time in the future that does not suit them, or never, prior to their retirement, avail themselves of the scheme.

Two things need to happen. First, I appreciate that you have gone through a very complex process, and in spite of the criticisms that have been levelled at you, you deserve some bouquets as well as brickbats. There will be things that you will learn along the way. Nevertheless, it is important that those 320 people, in whatever group numbers they appear, need to know, as best you can tell them, when they are going to be released. I appreciate that there are other legal, employment and contractual issues around that, but at some stage, after the recruitment, induction and training of the custody officers, you will have a clearer sense of that picture, together with the finance that is available to you to complete the process for those 320 people. At the very least, the issue needs to be reviewed critically at a number of key points. I would like you, perhaps the next time you come back to us, to be able to say that such a review is under way.

The rest of this has been very helpful to me. I am going on a visit to Magilligan prison tomorrow, and I dare say that individual officers will have an opportunity to raise some of the issues with me.

Mr Lynch: You have said a number of times, Ronnie, that you did not have the power, and that you have sought legal advice. However, at tab 6 there is a request to seek new regulations to enable the Department of Justice in respect of pay. It is called the PS review board. In that respect, then, you do have the authority to make and amend regulations in the Prison Service.

Mr Armour: I do not have that in front of me. Correct me if I am wrong, but I think that tab 6 refers to the Prison Service pay review body. That is an independent body that looks at salary scales and pay. It has absolutely nothing to do with the severance programme or the NICS statutory scheme.

Mr Lynch: I understand that, but it is seeking, through regulations, to enable any reports coming from that to be forwarded to the Department of Justice and to be laid in front of the Assembly. There is room for new regulations to be made. There is the ability, then, within that scope, to make regulations for severance pay.

Mr Armour: It would be a matter for the Department of Finance and Personnel to bring forward regulations for the NICS statutory scheme. It is not for the Department of Justice to do that. What you are saying is correct; regulations could be brought forward to the Assembly to address those issues.

Mr Lynch: Would you seek to bring regulations forward? This is an issue of public confidence, as you know.

Mr Armour: I would not seek to do that. Even if that were to be the case now, it is too late for this scheme. I keep going back to the documentation that we published on 8 November 2011, which is what we are committed to. I would not seek regulations, because it would not just be a matter for the Department of Justice.

Mr Lynch: Fine. You mentioned that the Minister of Justice said on Tuesday in the House that none of those who had sought the severance were amongst the new applicants, and there is another 400 there. Have any of them indicated to you that they would, or would never, seek re-employment in the Prison Service?

Mr Armour: The application process is now closed. We have not gone through all the names. We have looked at the 150 people who are definitely going, but we have not done an assessment from the rest

of it. However, I think the first 150 is a pretty good indication of what is likely to be the case the rest of the way through. The other point that I would make is that we will have started the recruitment process, and people will, potentially, be coming in before some have left the service.

Mr Lynch: If you were that confident that none of them would reapply, why not put in a stipulation?

Mr Armour: The advice that we got was that it would be indirect discrimination if we put a stipulation in that people could not reapply. I and the Prison Service had to act on the legal advice that we received, otherwise we would have been vulnerable to challenge from the 544 officers who could have said that they were being discriminated against because they are over 50, male, Protestant or whatever. Therefore, our advice was that we should not do that, and we did not.

Mr Lynch: And we are getting the legal advice?

Mr Armour: I have said that we will write to you on that point.

Mr McCartney: You said that the applications are now closed. If there is another tranche, will it re-open or will people be taken from the reserve list?

Mr Armour: The application process is closed. We have 4,911 applications, and none will be added to that. We would have to run another competition to get more people, but we do not think that we will need to do that.

Mr McCartney: In the first tranche, there will be about 200 new custody officers, but there is an intention in the future to recruit more. Will that be re-opened or will you go to the reserve list?

Mr Armour: We will seek to use the reserve list initially, but, eventually, we will have to run another competition.

The Chairperson: OK. I have a couple of final points. For the guys leaving after 31 March, whoever they will be, is there something about new pension arrangements whereby people up to the age of 55 can be financially penalised? Are you aware of anything like that?

Mr Cowan: All civil servants are going to have to start to contribute more towards their pension, but that is the across the entire scheme for everybody, regardless of age or who you are.

The Chairperson: So, those who stay on, whatever way payments go into the pension, will be impacted by that?

Mr Cowan: Yes, in the same way that every other person in the scheme is.

The Chairperson: That will be a change for those individuals.

Finally, I want to try to nail this as much as we can: you have said that you cannot give a timescale for when you can give a timescale, and there is a fair amount of uncertainty in all of that. What needs to be done from an operational point of view in the Prison Service and the Department to be able to give an absolute guarantee? You have said that you are working and will do all that you can to let all 544 people who have applied to go. That is what you are working towards, but you cannot give an absolute guarantee. In my view, it is grossly unfair to offer a scheme and, when some people have taken it up, ultimately say that — even if it is only for one person — you are not getting it.

Mr Armour: There are three issues. First, we need to make progress with the reform agenda, and, as I have said, we are in discussions and negotiations with the POA on that issue. Secondly, we need to see the recruitment of new staff, and we need to see those people starting to come in to the organisation in significant numbers. Thirdly, we need to be absolutely sure that we can secure the funding to do that. We are working on all three issues at the moment.

The Chairperson: Can that be funded within the Department of Justice?

Mr Armour: NIPS is in discussions with the Department of Justice about funding. However, this is a priority for the Minister.

The Chairperson: Going by memory, the business case of 360 would have generated £180 million in savings.

Mr Armour: Over 10 years, yes.

The Chairperson: Over 10 years. So, what would 544 generate?

Mr Armour: We said that 360 would cost around £60 million but generate savings of around £180 million; 544 would cost around £80 million and generate savings of around £200 million over the same 10-year period.

The Chairperson: In that sense, it is cost neutral.

Mr Armour: It is, and there are very strong arguments on a cost basis.

The Chairperson: OK, thank you very much, Mr Armour. It may have been longer than you expected. I thank you and your team for your time today.