



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

**Review of the Northern Ireland Prison
Service Corporate Governance
Arrangements**

29 March 2012

NORTHERN IRELAND ASSEMBLY

Committee for Justice

Review of the Northern Ireland Prison Service Corporate Governance Arrangements

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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 Colum Eastwood
Mr Seán Lynch
Ms Jennifer McCann
Mr Basil McCrea
Mr Alban Maginness
Mr Peter Weir
Mr Jim Wells

Witnesses:

Mr Gary Boyd	Northern Ireland Prison Service
Mr Colin McConnell	Northern Ireland Prison Service
Ms Jenny Small	Northern Ireland Prison Service

The Chairperson: I welcome to the meeting the director general of the Northern Ireland Prison Service (NIPS), Colin McConnell; the director of offender services, Gary Boyd; and the director of finance, planning and corporate governance, Jenny Small. Sorry; that is Max Murray, who is attending the next session. Apologies — Gary has assumed two jobs.

Mr Gary Boyd (Northern Ireland Prison Service): One is enough.

The Chairperson: The meeting will be reported by Hansard. I will hand over to you, Mr McConnell.

Mr Colin McConnell (Northern Ireland Prison Service): I have a point of clarification about your introduction: Gary Boyd is our director of finance, and Jenny Small is the change manager in the finance directorate.

We are very grateful for the opportunity to address the Committee this afternoon, and, as members are aware, in 2010, the Criminal Justice Inspection Northern Ireland (CJINI) conducted a review of the Northern Ireland Prison Service's corporate governance arrangements and subsequently published its report in December 2010. CJINI identified a number of opportunities for improvement in governance and accountability arrangements as well as in wider areas such as performance management, the

culture of the organisation and operational working practices. Those themes were subsequently revisited by the prison review team, and CJINI's earlier recommendations were reinforced and incorporated into Dame Anne Owers's final report in October 2011.

Throughout the period, significant progress has been made to capitalise on the improvement opportunities that had been identified, and the Committee will be pleased to note that as recently as this morning, the Prison Service management board took the first steps towards adopting the new corporate governance framework for the Northern Ireland Prison Service. When that framework is fully implemented, it will usher in a new era of more closely aligned and integrated management in direct response to the areas for improvement identified by Dr Michael Maguire and his team. The new corporate governance framework reflects key elements of industry standard good practice guidance on corporate governance, and it sets out and clarifies the distinctive roles of the Prison Service management board, its two formerly constituted subcommittees — the audit and risk committee and the clinical governance committee — and other supporting governance structures, including executive directors' business meetings, the operational management board, the strategic efficiency and effectiveness (SEE) programme board, the finance committee and the necessary range of performance, assessment and appraisal reviews for senior decision-makers in the organisation.

The framework also explains the relationship between the Northern Ireland Prison Service and other external governance and scrutiny roles, including the ministerial oversight group, the departmental subgroup, the Criminal Justice Inspection Northern Ireland, the independent monitoring board, the Prisoner Ombudsman, the Department of Justice (DOJ) management board, the Northern Ireland Audit Office (NIAO) and the Northern Ireland Ombudsman. In addition to clarifying the roles and remit of the relevant governance structures, the new framework details the responsibilities of the director general, including my role as designated accounting officer and, similarly, the remit and boundaries of other key roles.

Work has also been done to outline the internal control and governance arrangements that operate between the Northern Ireland Prison Service and its arm's-length bodies, which are the Prison Service Trust and the Northern Ireland Prison Service Sports Association. The respective administrative framework and financial memoranda contain the details of the accountability mechanisms and the agreed delegated limits of decision-making and financial authority that are granted to arm's-length bodies by the Prison Service. Those are currently under review by the Department of Finance and Personnel (DFP).

The framework also describes the corporate and business planning process and its fit within the wider strategic agenda, including the Programme for Government and ministerial priorities. The corporate plan for 2011-15 has been updated, and the annual business plan for 2012-13 has been drafted and endorsed in principle by the Prison Service management board. We have also sought the views of the Criminal Justice Inspection on the proposed objectives and targets for next year as a means of ensuring that the Prison Service is properly addressing the previously reported concerns.

The Prison Service management board receives monthly progress reports against business plan targets to facilitate monitoring, scrutiny and corrective action to achieve strategic realignment where appropriate. There are plans to review the information that goes to the management board, and that review will take place within the first quarter of the new business year. More detailed action plans sit beneath that strategic level, which are monitored and scrutinised rigorously by the governance substructures. That means that the Northern Ireland Prison Service policy and strategy will better align with service delivery on the ground — which, of course, was a frequent criticism of the Criminal Justice Inspection — and that suitable accountability mechanisms will be in place and operate to ensure appropriate and prompt escalation to the right level at the earliest opportunity.

The finance director is refining our financial strategy, which will cover the remainder of the spending review period, 2012-13 to 2014-15. The revised strategy will reflect the outcome of the departmental budget-setting exercise and will align with our business plan. It will also align with the priorities in the 2012-2022 estates strategy when that is published. It will set out a detailed financial plan for year 1 — 2012-13 — and will identify anticipated financial risks and how they should be mitigated over the period.

The annual report and accounts are prepared by our service in accordance with the statutory requirements and report on NIPS achievements against its performance targets. The annual accounts include a statement of internal control signed by me as accounting officer, and the annual report and accounts are audited by the Northern Ireland Audit Office, which reports on compliance.

The new governance framework describes a range of elements of the internal control arrangements that fit together to detect and respond to wider corporate and business risks. Those internal control arrangements provide assurance to the accounting officer through an effective internal audit function; operation of the audit and risk committee; the stewardship statement process; a counter-fraud policy and response plan and whistle-blowing arrangements; operation of robust financial policies and procedures; staying within agreed delegations from DOJ and DFP; application of the appropriate rules in various business areas, including procurement, health and safety, security, information management, equality and diversity and performance management; and adequate and proportionate risk management arrangements.

The written briefing that the Committee has already been provided with contains highlights that the CJINI report on corporate governance identified as areas that stretch beyond the bounds of governance in its strictest form. The wider issues raised have been subsumed within the SEE programme work streams and are also reflected in the 2012-13 business plan.

I am pleased to report that the Northern Ireland Prison Service has made significant progress over the past 15 months since the Criminal Justice Inspection's report on governance. However, it is also important to note that much work still has to be done so that we can embed corporate governance and internal control arrangements in order to ensure that the structures, processes and control ultimately enhance business performance.

Thank you very much, Mr Chairman.

The Chairperson: Thank you, Mr McConnell. I appreciate your presentation. I hear what is being said. In theory, it sounds that the way in which the structures are being established is the way to do things. I am sure that you know that it is up to individuals with regard to culture, the leadership that needs to be given and the responsibilities that people need to take for themselves. Is it permeating through the management of the organisation that people need to stand up and be counted and take on that responsibility to drive the change that you outlined?

Mr McConnell: That is a very good point. Our recent work with our trade unions to gain agreement about the way forward for the service is an example of how corporate responsibilities are being recognised and shared. I touched on the fact that we cannot escape from the realities that you, quite rightly, point out. Corporate plans and agreements are one thing, but traction on the ground is another. Our emerging and yet to be fully developed performance management arrangements will help that to happen in due course.

One of the most powerful recent indicators of a growing sense of purpose and realism in the business are the early outcomes from the full inspection of Maghaberry prison. Not so long ago, the chief inspector assessed Maghaberry as being the third-worst prison in the UK. As members know, Maghaberry has just been subjected to a full inspection, and it is really encouraging that, although the inspectorate team commented that there was still a considerable way to go and that many of the improvements at Maghaberry that they evidenced were, as they described it, small shoots with short roots, there is clear evidence that the prison is turning the corner and going in the right direction. That is a general indicator that we have a workforce that is stepping up to the mark and grasping its responsibilities.

The Chairperson: Where do those changes envisage the role of headquarters, vis-à-vis a governing governor managing a particular prison establishment? In the past, there has been an accusation that headquarters has tried to run prisons. Where do you see the responsibility to empower the governing governor and the management of individual prisons to take that responsibility? Obviously, headquarters will always have a role, but where is the division of responsibility between headquarters and prison establishments?

Mr McConnell: It is clear that the role of headquarters is not only to set out the vision and values of the organisation but to set out the strategic direction for the organisation and to establish the operating framework within which delivery takes place. As director general, I am clear that it is not the business of headquarters, or my business, for that matter, to run prisons. That is why we have governors in charge, management teams and front-line staff for delivery. Therefore, it is my job and that of headquarters to set the framework, the policy direction and the strategic intent, but then to allow governors and their teams and staff to get on with delivery, subject to appropriate balances and checks.

The Chairperson: Within your prison establishment, how do you ensure that governors are not locked away in their own environment? In the past, there were accusations that they were hardly ever seen on a wing or landing and were in their own particular huddle, and they needed to engage. I recall that one governing governor demanded to see people's diaries to justify what they were doing. How do you ensure that prison management is not aloof from the rank and file?

Mr McConnell: You would probably chide me if I said that it was our job to determine how governors should go about their job. It is not. I will go back to my previous answer: it is my job and the senior team's job to set the framework. However, we expect governors to act professionally. You cannot run a business unless you know how it is running at the grass roots and into the weeds. Governors, through their own professional intent, will want and need to be out and about in the business. Balances and checks are in place to ensure that that happens. Governors are performance managed; currently, they are managed directly by the director general. It is not for me to determine whether that stays the same, but it is the current model. Governors also have to report on the performance of their teams. That cannot be done accurately or adequately from an ivory tower. The greatest feedback mechanism, formally and informally, is whether governors are seen out and about in their establishments and are able to report knowledgeably about aspects of performance.

A balance must be struck. As senior leaders, governors develop their own policies and strategies, and they need time at their desks to do that. They also have correspondence to address. At the same time, they have to be out and about in the business. Therefore, we have to strike a balance between time at a desk to deal with the administration and bureaucracy of business and time out and about in the business and leading. That balance may be different for different individuals. However, by and large, we have to ensure that enough time is spent out in the business.

The Chairperson: The director general chairs the board. I should probably know this, but how are the board members and non-executive board members appointed? What is the composition?

Mr McConnell: The executive team is made up of full-time appointees to the Northern Ireland Prison Service; they are civil servants. The non-executive board members, of which there are three in the Northern Ireland Prison Service, are appointed by the Department of Justice. I do not have any input into who the non-executive directors are, so they come to me as independent members. I can show the Committee that our three non-executive directors exercise their independent responsibility fully.

The Chairperson: Do you see any conflict in the fact that the director general chairs the board? It would seem strange in a health trust, for example, for a chief executive to chair a board. Instead, there are independent chairs. If that board exists as the challenge function to the management and directors, should it not be chaired by an independent?

Mr McConnell: There are varying views. You described the alternative model. The services in England and Wales, in Scotland and in Northern Ireland are all managed in the same way, with the chief executive or director general managing the board. However, I am equally aware that there are other business models with a non-executive or independent chair. Which is best? I cannot really comment. All that I can say is that, given the work that we are doing, the model that we currently run in the Northern Ireland Prison Service can provide the scrutiny balances and checks that the business needs.

Mr McCartney: Thank you very much for the presentation. Commenting on the way forward, Michael Maguire refers to a Prison Service report that was published before the CJI report of December 2010. It states:

"financial pressure alone necessitates radical transformation of the existing organisation, its structures, management systems, processes and priorities".

In highlighting the way forward, Michael Maguire said that there should be:

"a rationalisation of recommendations into a focussed and manageable programme".

Do you think that we now have a "focussed and manageable programme" to take things forward?

Mr McConnell: Yes, I think that we have. Let me explain why I believe that that is the case. There are two elements. The first is that the Northern Ireland Prison Service has worked hard to condense into key elements the hundreds of recommendations that had stacked up. We have been able to do that, if I may say so, with the keen support of the chief inspector and the Prisoner Ombudsman, who have been very helpful in assisting us to focus on those key elements.

Secondly, and more particularly with the Prisoner Ombudsman, rather than further bombarding us with recommendation on recommendation, general themes have helpfully been created or raised for us, and they link into issues on which we have been working. We have had helpful support from the Criminal Justice Inspection and the Prisoner Ombudsman, which has helped to create the space for us to drill down and focus on the key elements that we have to take forward to improve the service.

Mr McCartney: Would it be a fair observation that the service, led by you, has a clear process of implementation to deliver this type of reform?

Mr McConnell: Yes. As you will be aware, Raymond, following the Owers review, this is a very wide change programme for the service. It ranges across the service and into many aspects beyond it and follows up on the Owers recommendations. That is why the Minister has put a ministerial oversight group in place, and the permanent secretary has put a departmental subgroup in place, which look at how the Northern Ireland Prison Service is taking its work forward. There is substantial scrutiny on how we are taking improvement initiatives forward.

Mr McCartney: So there will be a combination of the oversight body and the management change team. I think that the Minister said on Tuesday that he would supply the Committee with a report every six months, so there will be a clear chart of the points you feel you have reached in each of the milestones.

Mr McConnell: Yes. The Minister has made it clear that he wants detailed information on a six-monthly basis of things that have to be achieved and our performance against them.

Mr McCartney: So a programme will be made out, in front of the oversight body, that it can follow and see what can be measured against A, B or C.

Mr S Anderson: Thank you for your presentation, Colin. I want to speak about where the Prison Service currently is and the way forward. The number of staff who are getting out in the first tranche at the end of the month is quite low compared with the number of staff who wanted out. How do you see your programme moving forward for staff working practices over the next year with what I would say is a quite discontented workforce that includes those remaining staff? I would like your view on that because I am getting phone calls and e-mails from the staff who were not allowed to leave the service on 31 March as they had hoped to. I have asked Mr Armour, and your name was mentioned at a meeting last year in Maghaberry when those staff were told about getting out on 31 March. You now have to work with a number of officers to try and bring forward new operational procedures. Would you agree that that workforce is very discontented at present, or how do you view the situation?

Mr McConnell: There is no doubt that a proportion of our workforce is discontented, but there is a really encouraging counterbalance to that. Elements of the workforce are discontented, and there is no point in trying to gloss over that because that is absolutely the case. I know that in real time because I was talking directly to staff at Hydebank Wood with Ronnie Armour and Max Murray. Those staff left me and my colleagues in no doubt that many of them are discontented. Staff may be discontented, but I have no sense, and I would not stand by any suggestion, that our staff are irresponsible. I would make that distinction. Although we have a workforce in which some are discontented — I understand why — I have no indication nor do I believe that they would be irresponsible.

On working with them, it is a case that, collectively, we need to get through this. It is not an ideal situation, but I am convinced that the process that we have gone through with our trade unions — we have got through some difficult and tough talking — has got us to the cusp of what is probably an incomparable agreement with our trade unions to move the Prison Service forward. All those are indicators that we can work together through some very tough, difficult and challenging times and issues, and come out the other end of it positively. The challenge to me, the senior team and the governors is to support staff who feel discontented at the moment and to keep the focus on the commitments that we have given, which I will restate here. We will do everything that we can to try to make sure that staff who want to leave the Prison Service can.

Mr S Anderson: I take your point that the staff are not irresponsible. In fact, they have been very responsible for many years and have given great service to the Prison Service. However, there seems to be a number of staff who appear to have been left out of negotiations in some way. They do not appear to be being fed information. I do not know whether that is the fault of, or through negotiations that you are having with, the trade unions. Were there any meetings with the trade unions this morning, by the way?

Mr McConnell: Yes.

Mr S Anderson: I was told that there were to have been meetings this morning. I do not know what agreement came out of that, but a lot of staff feel that there may be some talk going on that is not being fed down to individual staff on the ground. Staff have told me that they have spoken one to one, perhaps to you or Ronnie Armour. They say that some of the information is a bit fuzzy, and they are not sure where they stand on the way forward. As the Chair said, these people have made arrangements for their livelihoods and what they are going to do, thinking that they were going to get out on 31 March. That is now on the back-burner. They now have to rethink what they are going to do. They do not know when they will be able to leave the service.

You say that everything possible is being done to get these people through the system in the way that they thought they would get through it. I tried asking the Minister about this issue in the Chamber: in light of the fact that they thought that they would get out on 31 March this year, can you give me any assurance that they will? Can you tell me that? When will they get out? I will try to put you on the spot here. As director general, when can you see these officers, who have given fine service to the Prison Service, going through the system?

Mr McConnell: Sydney, you have pinned me down, and I wish —

Mr S Anderson: These people are pinning me down.

Mr McConnell: — that I could give you the answer that you seek. Your question is not unreasonable, but there are many facets. I say with all genuineness that many folk, not only in the Northern Ireland Prison Service but in the Department of Justice and elsewhere, are working diligently to try to bring about the circumstances in which those who have said that they want to leave the service will be able to do so. I simply cannot, at this stage, give you a series of dates when that will happen, but achieving that remains our clear strategic intent.

If I may, I will qualify a couple of other things to which you referred. It has been said that the majority or all staff believed or were led to believe that they would leave the service on 31 March. When I was at Hydebank Wood, it was put to me that I had said, during a presentation there, that 650 staff would

leave the Prison Service on 31 March. I do not remember saying anything like that. However, let us distil down into practical terms. The prospect of 650 members of staff — over one third of our deployable front-end workforce — leaving the service in one go just would not make operational sense.

It could be that the story has changed in the telling. If some members of staff have become uncertain or confused, or have not quite understood what was said, I have to say, it is truly regretted that that is the case. However, we should not miss the fact that 151 people are going out of the service at the end of this week. Others will leave the service during the next business year: regrettably, I cannot tell the Committee how many or when. Our commitment remains, and I will say this until I am blue in the face: we will try to bring about the circumstances in which those who want to leave the service can do so.

Mr S Anderson: I appreciate that, Colin. I am here today to try to get those people moved through the system and for that agreement. I was told that the meeting was not at Hydebank but at Maghaberry. You were one of those named, and Ronnie was also at the meeting. Those people believed that they were getting out. The question I asked at the time was why the service did not use a rolling-out scheme, as the Police Service did. Did more ask to leave than you expected? Did you not expect to get those numbers?

Mr McConnell: Without a doubt. I do not think that any of us foresaw that 544 people would come forward to say that they wanted to access the scheme. Various numbers were being bandied around. However, I think that it is fair to say, Sydney, that no one foresaw 544 coming forward. That in itself should not be a block to our determination and aspirations. However, we still need to run the Northern Ireland Prison Service, and we cannot do that safely with too many people going out too soon.

It might be worth touching on the recruitment process. What has also been asked, for example, is why I did not generate the recruitment process sooner. The projection is that the first new recruits will come into the business around November this year. Understandably, some staff say that we are holding on to them because we did not start the recruitment process early enough. The fact is that we did not know how many people were going to leave the service until 20 February, which was just a few weeks ago. That was when the scheme closed, and we knew how many wanted to leave the service. That has generated the scale and scope for how many recruits we are likely to need in the future.

People are feeling bad about lots of stuff. Management is not an exact science — I wish that it were. I truly believe that the Prison Service has done its level best to get to the point at which as many staff can leave the business as quickly as possible. For all that, we have to run the service safely.

Mr S Anderson: Thank you very much for that. What I ask today is that this will be brought forward as soon as possible, allowing those people to leave because they have made their arrangements.

Let me quickly touch on another issue. Night custody officers and operational support grades are also discontented. I received an e-mail on their behalf. They were not prepared to put names to it because of fear of repercussions. That type of thing is happening; people are scared to put names down because they feel that they will not be rewarded. What is the position with night support staff? Will they be allowed to stay in their present situation, or are they being forced to move to custody officer grade?

Mr McConnell: An urban myth that seems to be doing the rounds at the moment is that somehow people are going to be compelled to go to different grades. None of this is about compelling. We cannot change terms and conditions unless it is taken forward voluntarily. Despite the reshaping of the service, if the staff who are in operational support grade (OSG), prisoner escort and court custody services (PECCS) or night custody grades determine that they want to stay as they are, we cannot force them to do anything else. We have put forward an exceptionally good offer to those staff who may want to transfer to the new grades. It is persuasive not only from a financial perspective but from a long-term career viewpoint. Ultimately, it is for them to decide whether they want to make the change.

Mr S Anderson: Can you guarantee me today that there will be full consultation with night custody officers and prison day officers and their unions in the forward programme regarding shift patterns and suchlike as we move into the new regime?

Mr McConnell: For anything at corporate level, we follow the collective bargaining arrangements. However, we have to be clear: work profiles and shift or attendance systems are matters for the management team. Management teams should consult; it is good practice. It is certainly my intent — it is written into our corporate strategy — that, as we move forward, we expect regular national and local consultation on these types of issues. However, it is for management to determine ultimately how the business runs.

Mr S Anderson: Will the management fully consult with the officers, through their unions, about any changes? It is a bone of contention that full consultation does not appear to have taken place. Can I get that assurance today?

Mr McConnell: Sydney, consultation does take place. Again, let us address the issues as they come up. Let us not snatch defeat from the jaws of victory. From the outset of the process, extensive invitations were made across the board for involvement in the change process. That has been taken up to varying degrees. We are where we are. For all that, we have reached the point of agreement. We have to be careful that we do not focus on the negatives. There is a huge triumph here. People said that we would never work together and that we would never get the Prison Officers' Association (POA) to sit at the same table. Those doubters and critics have been proved wrong. There is a real opportunity to celebrate something quite different for the Northern Ireland Prison Service. It is about success, working together and moving forward.

Mr A Maginness: Thank you for coming along today and giving such an extensive report. Your written update cites the term "useful progress", but how would you characterise the progress that you have undoubtedly made? Can you do better? Where will you be in three or six months' time? Certainly, progress has been made, which is to be welcomed. It is going in the right direction. Can you give me a sense of where you think that you are at?

Mr McConnell: I might give a summary, but I am conscious that I have a couple of experts with me who might want to comment.

Ms Jenny Small (Northern Ireland Prison Service): The work that has been undertaken by the Prison Service over the past 15 months in responding to the specific criticisms of CJINI has resulted in a fundamental change in how corporate governance is viewed in the organisation. However, you are never at the end of the journey when it comes to corporate governance. We are at an important cusp.

As Colin said, we submitted the revised corporate governance framework to the Prison Service management board this morning. The board was involved in its development in the first place, but we are at the point at which we are ready to launch a new governance regime. It is important that we bring people along with that new regime. We are in the process of planning a launch programme and planning how we ensure that it is fully embedded in the organisation as we go forward.

There has been a lot of good and useful work over the past while, but we are not at the end of the journey yet. In the next three to six months, there will be a formal launch of that programme, but there will also be a process of continual self-evaluation. The Prison Service will continue that in the longer term, which will involve looking at how well we are doing and at what we can do better.

Mr A Maginness: There seems to have been considerable progress between management and the POA to reach this point, and everybody has to welcome that. However, can you give me a sense of where we are at with the final detail in relation to shifts, restricted practices, staff rotas, patterns of work, and so forth? The Minister said that agreement had been reached in principle. I wonder whether there is a difference between that and the actual application of an agreement.

Mr McConnell: The Minister chose his words wisely. Until the union side and the management side effectively can make a joint announcement, those words are well used. However, they are not weasel

words in the sense that my understanding and belief is that our trade unions and ourselves have agreed the detail of how we are moving forward. Before we go public on it, it is right that we pore over every single line so that we are absolutely understood. As recently as yesterday afternoon, for example, there was a four-hour meeting between the POA area committee and the management side to do exactly that and discuss what we mean and what everything will be like in operation.

The distance that we have travelled is quite extraordinary. That has not been simply because management has pushed and pushed, because progress is impossible in that sort of circumstance. It has been made possible — I do not want to overplay it — by a growing realisation by all that only by coming together and working for a common goal, for want of a better description, are we going to move the business forward. Did management get everything that it wanted? No, it did not. Did the trade union side get everything that it wanted? It certainly did not. However, together, we have a really good transformational package for the business that absolutely addresses the concerns raised by Dame Anne Owers and those raised by Dr Maguire in the CJINI report. We have totally refreshed the work profiles and staff attendance patterns, and we have agreed a new disciplinary process, a new industrial relations procedure, and so on. Those are all fundamental aspects of our business operation and of change, and we have done it together. I praise those who have been involved in that process, because it has produced good leadership and good joint partnership working.

Mr A Maginness: That is to be welcomed. I have one final point. The Southern Health and Social Care Trust looks after healthcare in Maghaberry prison.

The Chairperson: It is the South Eastern Trust.

Mr A Maginness: I am sorry; the South Eastern Trust.

The Chairperson: It is responsible for all the prisons.

Mr A Maginness: For all of them?

The Chairperson: Yes.

Mr A Maginness: I am sorry; I stand corrected. That is a good thing.

What about education and skills? Where are we on that? Will that responsibility be outsourced, or will it remain with the Prison Service?

Mr McConnell: Learning and skills is, if you like, similar to the operation of the service. Learning and skills is at the core of how we engage with those who are in custody in order to try to help them to make improvements. All the research shows that unless we deliver high-quality opportunities in learning and skills, we are unlikely to make any impact on reducing the risk of reoffending. That is absolutely at the core of our business.

Will learning and skills be outsourced? At this stage, I do not know. Nonetheless, we are making sure that we engage properly with Departments to make sure that we are generating the understanding of what is necessary and possible. In the initial stages, certainly, I can see us forming closer links and ties with the Department for Employment and Learning (DEL) as we move forward. However, we should keep an open mind about the long-term solution, because, ultimately, we want the solution that is the most affordable but that produces the best outcomes for those who pass in and out of custody.

Mr McCartney: I want to make one small point. One of the complaints that we have heard from the management team at Maghaberry prison is that education and learning is not a statutory provision, whereas it is in England and Wales. Can you comment on that?

Mr McConnell: Again, I think that we have to keep an open mind, Raymond, on how best to put together a comprehensive regime in each of our prisons so that we maximise the time that we have available to get people to reflect and change. I do not know whether that is by making education and learning statutory. I have an open mind on the issue, but we should certainly consider it.

Mr A Maginness: Does it make much of a difference whether it is statutory or non-statutory? As you said, it is the core element in rehabilitation.

Mr McConnell: That is why I said that I have an open mind.

Mr McCartney: The governors argue that if teachers go on sick leave, they do not have the ability to replace them. However, if it is a statutory provision, there is a responsibility to supply those teachers, and absenteeism becomes a bigger issue.

Mr McConnell: There are a number of ways to address that.

The Chairperson: Were you about to make the same point, Mr McCrea?

Mr B McCrea: I was indeed, Chair. I find it rather surprising that you have an open mind on the issue. If the whole purpose of a prison regime is to try to prepare people who will, eventually, re-emerge into society, I would have thought that education and skills training would indeed be a statutory provision.

Mr McConnell: It is a view.

Mr B McCrea: Colin, if you do not mind me saying, that sounds as if you are being a bit Pontius Pilate about the whole thing. It is actually central. We have invested a lot of money in the new education centre, and concerns have been raised about people being available to go to the training centre. I worry that the education and reskilling of people who find themselves in prison is not receiving the priority that it ought to have.

If I felt that the system was working really well at the moment, I might be of the view that there was no need to change it. From what I see, however, it is patently not working. There is always an issue when resources are tight. We see it in other Departments when that is the case, and non-statutory issues tend to suffer.

Mr McConnell: I do not want to get caught up in the tautology of this, but there are ways to address the comprehensiveness and richness of a prison regime that protect education and learning and do not necessarily require it to be made a statutory provision. That can be done through different contractual arrangements.

Mr B McCrea: That is self-evident, but given that you stated that, some time ago, Maghaberry had been assessed the third-worst prison in the United Kingdom and that England and Wales feel it necessary to place education and learning in statutory provision, it surprises me that we think that we know best and that it is going OK. It is surprising that that stance is taken. We can take a different view and see whether there are different ways to do it, but, to my mind, much greater priority should be given to the necessity to train, educate and reskill people who are in prison but who are likely to emerge at some stage into society. When there is statutory provision, there is statutory-resourced provision. That is really what matters.

Mr McConnell: I take your point.

Mr Wells: It is too good an opportunity to miss, Mr McConnell. I know that you are here to talk more generally about the corporate plan, but I noticed that Mr Anderson got in on the severance scheme. I will not deal with the issue of the men who are disappointed, but I will raise the issue of the taxation of the gratuity payments. You are probably aware of what I am about to say. A gentleman who is a very senior official in your service sat in that very chair, and, in response to a specific question from me about when the tax will be payable, he said that it will be payable in 2012-13. That was relayed back to the prison officers. I understand that, subsequently, in advice to the prison officers, they were also told that it would be in 2012-13. At a very late stage — in fact, two months later — the officials came back to the Committee and said that they had changed their minds and that it would be in 2011-12.

You know that, as far as many of your officers are concerned, that effectively takes £2,000 and throws it down the Lagan. It has the same effect. In the Minister's answer to me in the House on Tuesday, he said that he had taken advice from Her Majesty's Revenue and Customs (HMRC). HMRC is not interested in this subject. You could quite easily have made the appropriate gentlemen — they are all gentlemen — redundant on 6 April, holding their posts until then, and the taxation would have fallen in 2012-13. You have deliberately drawn up the bridge on 31 March, knowing full well that that decision will cost them £2,000 each. Whether the officials gave me the right information or the wrong information is neither here nor there. The information was given, so you are bound by that decision, whether it is right or wrong. If this were ever to get to judicial review, you would be bound by it. Therefore, why can you not, as the outgoing chief executive, show a bit of flexibility for those who wish to opt to leave on 6 April to allow them to save an enormous amount of money?

Mr McConnell: Jim, we have taken our corporate decisions. We have given a number of explanations on why our decisions have been taken in the way in which they have. There is no flexibility on me as director general, whether I was staying or in the reality of my moving on. It is not some sort of honours system whereby I give honours because I am leaving. The arrangements are set as they are, and the tax situation for the individual officers is a matter for them to address.

Mr Wells: Come off it. You have really raised me on this one. You know full well the implications of what you are doing for the individual tax situations for the bulk of the officers who are involved. You cannot simply say that it is up to them to sort it out. You know that, if you pay the lump sum in 2011-12, the bulk of it will be taxed at 40%. You know the implications of what you are doing. Why could you not have held to the original decision that you made and allowed the flexibility for those gentlemen to take the tax in 2012-13?

Mr McConnell: Jim, I do not recognise the scenario that you are putting forward. The fact remains that individual taxation is for individuals, and it will be for individuals to deal with HMRC and their own tax liabilities.

Mr Wells: When your staff give an undertaking that it could be taxed in 2012-13, you have to stand by that because it is in Hansard. Staff were also told, when they were briefed about the package, that they could take it in 2012-13. Even if that is the wrong decision, you cannot go back on it.

Mr McConnell: I will repeat the answer that I have already given to you: the situation is the way that it is, the Prison Service will not make any change to the arrangements, and it will be for the individual ex-employees —

Mr Wells: That is an utterly callous decision that you have taken deliberately to cause the maximum amount of pain to your officers. That is no way to treat them, given that your staff clearly understood the situation when they came before this Committee in November. You should exercise a bit of flexibility to help the staff. You have now taken this utterly inflexible decision that you know best, and you will make that decision knowing full well that you will cost each officer in that position £2,000 in tax. That is not a very caring attitude towards your officers.

Mr McConnell: Mr Chairman, I appreciate that it is an emotive issue, but I resent the allegation of callousness. This is a business decision. We are held by those decisions and, regrettably, I am not in a position to make any changes.

Mr Wells: It is not a case that you cannot make changes; you will not make any changes. You are on the way out, and you could not care less about those men and are determined to inflict the maximum pain on them as far as their package is concerned. You gave the correct information at the time; you cannot go back on that.

Mr McConnell: Mr Wells, I respect your views as a member of the Committee, but I certainly do not share them.

The Chairperson: May I pick up on an issue that I touched on earlier when you were not here, Mr McConnell? I am receiving feedback that the officers who are now in the scheme could previously have

taken their pension gratuity lump sum without any consequences. However, those who are now tied into the scheme are apparently not able to do that. It came to my attention in only the past 24 hours that this has become a difficulty. Has that issue come to your attention?

Mr McConnell: I do not have that level of detail, Paul, but I can certainly write to you about it.

The Chairperson: We agreed earlier that we would write to the Department because this fresh information is coming to us that officers are being told that, if they are in the scheme, they are not able to get the lump sum that they would previously have been able to get and continue in their employment. If that was the case, it would concern us. However, it is quite new to us, so it would be appreciated if you could come back to us on that.

Mr McConnell, I thank you and your team for coming along. It is much appreciated.

Mr McConnell: Thanks very much indeed.