



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Follow-up Inspection of Maghaberry Prison
January 2016 and Erne House Fire Report:
Northern Ireland Prison Service

25 February 2016

NORTHERN IRELAND ASSEMBLY

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Follow-up Inspection of Maghaberry Prison January 2016 and Erne House Fire
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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Alex Attwood
Mr Sammy Douglas
Mr Paul Frew
Mr Danny Kennedy
Mr Seán Lynch
Ms Bronwyn McGahan
Mr Edwin Poots

Witnesses:

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| Mr Stephen Davis | Northern Ireland Prison Service |
| Ms Sue McAllister | Northern Ireland Prison Service |
| Mr Brian McCaughey | Northern Ireland Prison Service |
| Mr Phil Wragg | Northern Ireland Prison Service |

The Chairperson (Mr Ross): I welcome Sue McAllister, Stephen Davis, Brian McCaughey and Phil Wragg to the Committee. I have no desire to be here until 10:00 pm, so perhaps we can keep our comments succinct. That applies equally to members: I do not want speeches; I want us to keep questions as succinct as possible please, everyone. That said, I will not curtail anybody, but I make that appeal to members. Sue, do you want to make an opening comment?

Ms Sue McAllister (Northern Ireland Prison Service): Thank you. I will be extremely brief.

Yesterday's report by the inspectors on Maghaberry was an important day for the entire Prison Service. While we welcome their assessment that the prison has been stabilised and progress has been made, we fully accept that these are early days and this must be built on and must continue. We will work with Brendan McGuigan and his team to build on the progress to give staff, prisoners, their families, the Committee and the wider community, confidence that Maghaberry continues to move in the right direction.

Our staff do a difficult job on behalf of the community. Every day, they keep people in custody safe and work with them to reduce their risk of reoffending when they return to the community. This team was at Maghaberry when the Chief Inspector gave his feedback. While not being in any way complacent, I was struck by his closing remarks when he said that he:

"left the prison with a sense of hope, and that all that could have been achieved within the time had been achieved."

That was very encouraging for the team at Maghaberry. However, challenges remain. Drugs, staffing levels, safety and recruitment all present their own issues. I would like to highlight briefly the prison reform programme. The report, published in 2011, set the direction for the service not just for the last four and a half years but for the next 10. Reform and rehabilitation will sit alongside safe, decent and secure as the core functions of our Prison Service. As we enter the next phase of reform, it is important that we all build on the positive work that has taken place and continue to build a service that has rehabilitation at its core. The last number of years have seen huge changes in our workforce and in how we do business.

In conclusion, the last number of years have seen huge changes in our service, its workforce and in how we do our business. I firmly believe in the path that has been taken; I believe that it is right for our staff, for the people in our care, but, most important, for the people in Northern Ireland. Thank you.

The Chairperson (Mr Ross): Thank you very much. I appreciate those succinct opening comments; let us hope that it sets the pace for the rest of the evening. I want to focus on the Erne House fire report first. You initially resisted an independent report. Why was that?

Ms S McAllister: I know that you have seen the report, and everybody has seen the synopsis. It is an extremely thorough and detailed independent inquiry report, and it will be very useful to us. If you were to ask me whether it told me anything that I did not know, having been part of the incident and having had an internal look at what had happened, I would say, "No, it did not". I was convinced by the inspector and others that having an independent inquiry would be helpful in taking forward some challenging decisions and difficult issues. I have worked in prisons for many years, and it is not my experience that an external independent inquiry would have been commissioned for an incident of this type.

The Chairperson (Mr Ross): Even when the inspector had recommended one?

Ms S McAllister: I had not known such a recommendation to be made before, so, based on my experience, I believe that an internal investigation would have sufficed. However, having the independent inquiry did give us a far more detailed and, clearly, more independent assessment of what took place. In every way now, I welcome the report.

The Chairperson (Mr Ross): So, in hindsight, you should have been more open to the idea than you were originally?

Ms S McAllister: I genuinely do not think that there is a single right answer. I have dealt with many incidents of that nature and magnitude and have seen good results come out of internal inquiries, so I do not think that this is a particular case of hindsight, but I see the value of having an independent inquiry. Obviously, it commands resources, it costs money, and it takes more time.

The Chairperson (Mr Ross): A letter that you wrote to Brendan McGuigan was put into the public domain following a freedom of information request from one of the media sites, and you said that you did not think that it would be helpful to open this incident up to further scrutiny. I must say that I disagree with that. I am not sure that we would have got all the details of what happened had we not opened it up to scrutiny, and at the time — I made the point the last time that you were here — I thought that there were efforts by management in the prison, and by the Minister himself, to downplay the Erne House fire. When we get more detail on prisoners trying to surrender on three separate occasions, I think that it is significant, and I think that extra scrutiny was absolutely necessary, and I welcome the inspector's report. Are you content that it was an independent inquiry into the fire?

Ms S McAllister: Yes.

The Chairperson (Mr Ross): The Prison Governors Association (PGA) has asked whether it was fully independent. How were the investigators who carried out the report selected?

Ms S McAllister: I approached a senior colleague who is the deputy director of custody in the National Offender Management Service (NOMS), and I approached the deputy director of custody for

the north-west because I thought that geographically that was the easiest place from which to take people. He identified a different governor initially, but that governor was subsequently seconded to work in health; it is a routine secondment for a prison governor to go to work somewhere else. We got Jerry Spencer, whom I had never met before; I had never heard of him; he had never been to Northern Ireland; and I had never been to any of the prisons that he governed. I had no knowledge of him, and I did not choose him; he was identified for us in exactly the same way as would be routine for any such mutual aid arrangements.

The Chairperson (Mr Ross): I will quote some of the criticism that came from the Prison Governors Association at the time. It was critical of the fact that the report seemed to focus on the events on the day of the fire, as opposed to exploring what had happened in the run-up to it. I think that that is probably a fair criticism. Would you agree with that criticism, that a more holistic approach to the run-up to the fire would have been helpful?

Ms S McAllister: I believe that it did both those things. The purpose of the inquiry was primarily to identify how the incident was managed, but it did identify some issues around decisions that were made that potentially contributed to the incident.

The Chairperson (Mr Ross): The executive summary of the synopsis that we were given says to me that an emphasis of the inquiry focused on the facts relating to the events of Sunday 26 April. In the synopsis, there is not the same detail for the events that led up to the climate that there was in the prison on that day. I wonder whether that would have been a more helpful synopsis for the Committee rather than just focusing on decision-making on that day rather than the events surrounding the incident.

Ms S McAllister: It is difficult to evidence cause and effect. This was about how the incident was managed. It was about whether it was preventable, so I think that it did what the terms of reference required it to do.

The Chairperson (Mr Ross): The point that the PGA is making, I suppose, is that if staff levels in the prison leading up to the events had been inadequate, that could have led to the type of atmosphere that existed when the event took place. I suppose that it is a fair criticism that the PGA is making, "Look, the governors were asking for additional resources; those resources were not made available to them; and then the events happened." The report focuses on a situation that they had been flagging up weeks ahead of time, and perhaps, because of that, the report may give a slightly different slant than would otherwise have been the case.

Ms S McAllister: I think that the report makes it clear that there were plenty of staff available to manage the incident. The report looks at what happened on the day, so I think that it does absolutely what it was required to do under the terms of reference.

The Chairperson (Mr Ross): My point is that there was tension in the prison, because, as we discussed with Brendan, if prisoners are not allowed out of their cells, if they are unable to do recreation or contact their families, that raises tension. That does not just happen over the weekend that the report focuses on; it happens in the weeks before, so while there may have been adequate staff to deal with the situation on the Sunday that it happened, if there had been insufficient staff in the week or two before, then that leads to the situation that created the circumstances in which the incident took place.

Ms S McAllister: That may be where we are in a slightly different place. I fully understand that when there are lockdowns, particularly in the absence of a predictable regime, it leads to tension as you said, because people cannot phone their families. That is not an excuse for what happened on that day; concerted indiscipline is not an inevitable consequence of regime restrictions. I do not think that anybody suggested that the concerted indiscipline could have reasonably been foreseen; this was about what happened subsequently. That was outwith the terms of reference of the enquiry, anyway.

The Chairperson (Mr Ross): I know that it was. That is why I am saying that there are criticisms of the terms of the inquiry.

Ms S McAllister: I think that there is a danger of spreading it too wide, so you get a lack of focus. We were trying to identify how the incident was managed.

The Chairperson (Mr Ross): I am just trying to place it in the context of focusing on the day. The synopsis report that we have is very critical of decision-making and stated that events were wholly preventable. I want to take you to the generalities of decision-making in the prison, so when an incident happens, such as somebody wrecking their cell or indiscipline in the yard, what process is in place to escalate the decision-making?

Ms S McAllister: I want to be absolutely clear that an incident in a prison is commanded by the silver commander, who is normally the governing governor; it may be the duty governor for a while, but it is normally the governing governor. That is the commander throughout the incident, even when people further up the chain are notified. The role of gold is to support, advise, resource and approve (SARA). Whether or not to escalate is the decision of the silver commander. If I had an incident in my prison when I was a governor, I either took the decision to manage it locally, or, if I thought that I might need additional resources, which would have to be released to me regionally or nationally, then I would notify the duty officer.

The Chairperson (Mr Ross): Do all incidents in a prison automatically go to silver command?

Ms S McAllister: I may be teaching you to suck eggs, but silver command is the pan-establishment level. Beneath silver there is a number of bronze commanders. It has nothing to do with people in helmets: you may have bronze responsible for running the regime; another responsible for managing the scene of an incident; another bronze responsible for corralling staff or controlling access to the scene. A small incident, such as a fight between two prisoners, for example, would normally be dealt with by the senior officer on the wing. For something more serious — concerted indiscipline or a fire, for example — the duty governor on the day would usually be the first person notified. That may, or may not, result in a decision to open the silver command suite.

The Chairperson (Mr Ross): In your view, should the incident that occurred on the Sunday in question have been escalated up to gold command, or should it have been dealt with more quickly?

Ms S McAllister: That is very difficult to call. You have to be there, and you have to give the duty governor on the day the freedom to exercise his or her judgement. If you were to ask me whether additional resources were requested from any other establishment, the answer is no, they were not. My conversations indicated that if the duty governor believed that he could have closed it down quickly, then I am not sure why it was escalated to headquarters. There is certainly nothing that says that it has to be.

The Chairperson (Mr Ross): Another thing that came out of the report in May was the lack of leadership or decision-making in the prison. That can happen for one of two reasons: either because the capacity to take decisions is not there; or because there is a culture of blame, which is what everybody in the Committee believes — both going up, and top-down, to be absolutely frank. If people do not feel that the leadership above them will support their decision-making, it almost always leads to the situation where they continually escalate a situation up the line to cover their own back. How much of what happened on 26 April was the former and how much was the latter?

Ms S McAllister: It could well have been. I do not know what was going on in people's heads. Possibly, the mistaken presumption was that by passing it up to headquarters you abdicate responsibility for resolving it locally. That is not the case. The purpose of escalating something to gold is not to pass it on to a different commander or somebody else to resolve; it is to get support, advice, resources and approval for what you plan to do. It does not remove responsibility from the governor. The three of us here who have been in charge of governors would be absolutely clear about that.

The Chairperson (Mr Ross): Some of the detail in the synopsis report that the Committee members have refers to an unsuccessful attempt at sending intervention and surrender plans to gold command from the email account. It does not go into any more detail about what exactly the problem was. Do we know now whether the problem was with the email account of silver heading up, or was it with the server? Where did the problem lie for the email with those plans not being sent?

Ms S McAllister: We do not know. We do not know whether it was not sent or whether the individual meant to send it but did not, or — I am not a particularly technical person — whether it disappeared into the ether. We were able to establish that I certainly never received it.

The Chairperson (Mr Ross): Is it not fairly simple to establish? I am not a technical expert either, but I know that if I send an email it will go from my draft box to my sent box. At a very simplistic level, that is the first thing that you would look for. If it was in the sent box, perhaps it did not arrive, so that is one thing that would warrant further investigation, and if it was in gold command's inbox, there are ways of finding that out. Why was it not done? It seems a fairly important issue.

Ms S McAllister: My understanding from my interview with Jerry Spencer was that there was no evidence to support that it had been sent.

The Chairperson (Mr Ross): Right. Is there a template available where you fill in the various bits of information required for the action and intervention plan that needs to be sent?

Ms S McAllister: There absolutely should be. It should be as simple as changing the date and some details on the location. It is not a lengthy process; it should be very simple and easily completed. There are some very experienced people at Maghaberry who ought to have been able to do that. I have to say that, in my many years of managing incidents at silver and gold levels, it is not unusual for it to take a long time to get plans. It is a source of huge frustration sometimes for gold commanders.

The Chairperson (Mr Ross): If there is a template in place — you said that it is fairly simple to do — what is that in time? Could you do it in 15 minutes?

Ms S McAllister: Yes.

The Chairperson (Mr Ross): OK. Obviously in this case, it was not sent off in that time. You were made aware of an incident taking place, and then there was that length of time before the email was received by you. We have not quite established what happened to the email. Was there not a time when you would have made further contact to ask why you did not receive the email? If you knew that an incident was taking place and were waiting for a surrender or intervention plan —

Ms S McAllister: That contact was happening because Mark Watterson, who was duty officer on that day, remained in Maghaberry rather than moving to the gold suite in Dundonald House and continued to try to get that moving and produced.

The Chairperson (Mr Ross): Could you have directed the staff on the ground to go in and make the intervention, even without receiving the intervention or surrender plan?

Ms S McAllister: It was never my role to direct. It was my role to support, advise, resource and approve. It is similar if, for example, one of the chief officers in the PSNI becomes aware of an exercise or an operation taking place. Once you become aware of that and in order to approve it, you need to have some governance around that, because if things do not go well, or even if things do go well, questions may be asked afterwards. So, once I had become involved by being notified, my position was that, in order to approve any intervention, I would have needed to see what the intervention plan was. On the basis of a dynamic risk assessment at the scene, that does not preclude the silver and bronze teams from deciding that the opportunity has presented itself — or there is a threat to life or to safety or security — for immediate action to bring the incident to a conclusion.

The Chairperson (Mr Ross): So are you saying that, once gold has been activated, silver could still take the decision on their own?

Ms S McAllister: Absolutely. Then, at the debrief, they would have to demonstrate that they saw, for example, fires being set or somebody's safety or life being in danger. That is perfectly justifiable. But once you have made that phone call to gold, the genie is out of the bottle. Gold cannot then not know. It would not be appropriate to approve an intervention without seeing an intervention plan.

The Chairperson (Mr Ross): In terms of the contact between silver and gold, we heard other reports that relationships were bad there, and I think that everybody has acknowledged that. What was that contact? Was it by phone? Was it verbal?

Ms S McAllister: It was by phone.

The Chairperson (Mr Ross): So, relationships on that day was not a factor in the breakdown between gold and silver or the decision-making process.

Ms S McAllister: No.

The Chairperson (Mr Ross): Do you believe that the CJINI report is a fair reflection of where the prison is currently at? Brendan McGuigan said that he thought that it was still very fragile but there was an element of stability. He said he was marking it as three out of 10. Do you think that that is a fair judgement of where we are currently at?

Ms S McAllister: I think that what Brendan said, and which we welcomed, was that his expectations of what could have been achieved in such a short time had been met in full. That was the sense that we took from it. There was a very short time between the previous inspection and the reinspection. There is a lot more still to do, but we were encouraged when he said that we had done every bit as well as he expected us to do.

The Chairperson (Mr Ross): It was flagged up that there had been a regression in areas such as mental health. I spoke at a mental health conference yesterday. What plans are in place to address that? That is not just for the prisoners; it is for the prison staff as well. I have spoken with a number of prison officers who have retired or are off on sick leave and have severe mental health issues. I previously asked — I cannot remember whether my question was to you or the Prison Officers' Association (POA) — about what support and counselling services are available to prison officers. I know that Carecall is there, but I was informed that you get six sessions and, after that, it is rare to be given any more. I do not think that that is adequate, and I think that it is something that we need to address. So, what plans are in place for the mental health of prisoners and prison officers?

Ms S McAllister: On the issue of prisoners, you are fully aware that I am not a healthcare professional and none of my colleagues here is a healthcare professional. Healthcare in prisons is delivered by the South Eastern Health and Social Care Trust, and so I cannot and should not speak in any detail about healthcare matters. Obviously, our role in prisons is to create the environment in which good, effective healthcare can be delivered. I have spoken to Hugh McCaughey at the South Eastern Trust, and he is very clear that, if you need to talk about healthcare in any detail, you should talk to him and his colleagues.

In anticipation of what you might raise this afternoon, however, I asked Hugh for a briefing on mental health services. They have very clear plans to address the staff shortage and vacancies through active recruitment, and, whilst they welcome the improvements made in primary healthcare, they are very clear that mental healthcare has to be their priority. They are looking to address the issues around staffing and at the reasons for staff leaving, so that they can raise their game in mental health. They have appointed a new mental health services lead for prisons to bring the leadership that is needed. They have improved the induction and the training that they give to their staff. They have commissioned the Royal College of Nursing to produce a practice development programme, and they are looking at an environmental allowance for all healthcare staff working in prisons. I am really just repeating what they said to me. You really must seek more detail and reassurance from the healthcare providers.

The Chairperson (Mr Ross): What about the officers?

Ms S McAllister: Correct me if I am wrong, but when Finlay was talking to you about this, he said that, if the initial set of sessions was not enough, it was unusual for people to be refused the opportunity to access more sessions. Carecall is the service that we have.

The Chairperson (Mr Ross): I know what Finlay said; he said many things that day. It is not the feedback that I have had from prison officers, I must say. More than one said that, after their six sessions, it was made very difficult or they were not offered any more support. I asked at the time whether Carecall was the right provider. The police have their own provider, dealing specifically with the job, which is very different from any Civil Service job. Carecall is here to help civil servants or Assembly staff working in this Building. Being a prison officer is hugely different. As nasty as it gets round here, it is nothing compared with being in Maghaberry. It is a specialised area, and I wonder whether that support is right.

Ms S McAllister: We have talked about this a lot, as you can imagine, and we have been very clear that managing sickness in the prison is the responsibility of the governor. I do not want to put Steve on the spot, but he might want to say something: he was recently governor of Magilligan, where he made real strides forward in managing sickness.

Mr Stephen Davis (Northern Ireland Prison Service): Management has to be individual; each input has to be tailored to the individual. To reinforce some of the things that Sue and the POA have said, I will say that, in my experience, staff are not all refused help after six sessions. If there is a need for more, more can be provided. There is also the occupational health route, where additional support and help can be provided. There is also the support of their colleagues and from relationships within the prison, as well as management support. One of the issues is that people feel isolated and not supported. The important thing is to get management out to support them, providing pathways through to whatever support they need and assisting them back as soon as possible. My experience has been that the more you support staff, the greater the impact on sickness absence rates. In Magilligan, it was running in single figures.

Mr Douglas: Thank you for your presentation. I am sure that we are agreed that there was extensive media coverage, and a lot of people were interested in the story. We got a synopsis today, but could you outline why we did not get the full report? Was it to do with legal and security issues?

Ms S McAllister: Is this the Erne House report?

Mr Douglas: Yes.

Ms S McAllister: In that report, there was detailed coverage of security, such as locking arrangements, fire safety and other things that we could not afford to share widely about our vulnerabilities and capabilities.

Mr Douglas: It is just that, in the past, we have had similar reports that have had some redactions. I think that this is in the public interest, because —

Ms S McAllister: OK. Sorry, we discussed giving you a redacted version, and actually, for the first time, we decided to do the synopsis because we thought that that might be more helpful than having something that just had lots of black on it. If you are telling us that that was not helpful, we can think again, because it was simply about getting the key points to you in a way that did not just look ridiculous because too much of it was blacked out.

Mr Douglas: No, Sue, I am talking about the huge public interest in this issue. Is it possible that, in future, we could have a redacted report as we have had in the past?

The Chairperson (Mr Ross): In fairness, the Deputy Chair and I had an opportunity to read the full report, and, bar one issue, we were satisfied that the synopsis pretty much covered it. There was one request that both of us made, and the timeline of events was made available to members on a confidential basis.

Mr Douglas: OK. Some people from outside have also raised the issue with me.

Brendan McGuigan was here, half an hour or 45 minutes ago, and he said that in the past he gave you four out of 10. He said that there have been improvements and that although in the past things were descending into a spiral, that was not the case. Was that a fair comment to give you four out of 10?

Ms S McAllister: What he said to us was that everything we could have been expected to achieve, we had achieved. You could equally say that there has been a 300% improvement in performance. To be honest, we did not find the number particularly illuminating; we were more interested in the fact that he said that he had hope and that he thought we were on the right track and there was more to do.

Mr Douglas: Let us take that four out of 10. I have been involved in interviews before, and I might give four and you might give eight, so I understand the reasons for that. Looking to the future, how long will it take to get to, say, seven or eight out of 10, or even 10 out of 10, as is the ideal?

Ms S McAllister: When they come back, we expect that they will return to the four tests of a healthy prison and go back to marking us on a sliding scale of one to four against the four tests. That is what we know, and that is what is in our DNA, if you like. I do not think that they will come back and mark us out of 10. I think that Brendan was put on the spot with that question and he had to answer it, but we will not be using that figure as an indicator.

Mr Douglas: My final question is about some prisoners who claimed that they were locked in their cells and not allowed out of them. To my knowledge, they have now issued civil proceedings. Is that the case?

Ms S McAllister: Is this to do with the day of the Erne House incident?

Mr Douglas: Yes.

Ms S McAllister: I am not aware of it. I do not know whether they have issued any proceedings. We have not seen anything, but that is not to say that it is not in train.

Mr Douglas: I read a report that some of them were going to issue civil proceedings. Is that not the case?

Ms S McAllister: Not that we are aware of, but it could be in train.

Mr McCartney: I have to be careful here, because we have read the full report; hopefully, I will not stray into it. In a general sense — I want to use this as a backdrop to the questions I am going to ask — in relation to Maghaberry, are we trying to fix something that is nearly impossible to fix because we are not changing the paradigm in which we are going to take it forward?

Ms S McAllister: I will ask Phil to start answering that. Obviously, you are talking about the buildings and the modernisation and reconfiguration of Maghaberry. All of our strategic reform is predicated on being able to close the square houses, open the 360 and move to the three mini-prisons. Let me ask Phil for his assessment. He was asked a similar question, when he first took up the post, about whether it was possible.

Mr Phil Wragg (Northern Ireland Prison Service): Indeed I was; I was asked whether Maghaberry was broken. I said then and say again now that it is not. We are on a journey that looks at the stabilisation of resources; we are part of the way through that journey at the moment, but we have a long way to go. We are working on the stabilisation of a regime, and we have achieved an awful lot with the creation of a core day and with the development of a regime in getting more men out of their cells and into purposeful activity. That has potential for much further growth yet. Indeed, we are working on the development of outcomes for offenders that are in complete alignment with the rehabilitation agenda, and that creates an opportunity for a safer Northern Ireland for men who are put back into the community. Those are all very possible in that establishment, and we are well on our way on that journey. We have identified a need requirement and are on our way to being able to create the opportunity to put the fixtures in place, but it will take us time.

Mr McCartney: I want to turn now to the fire. I will possibly return to that question; you will see the reason why. In the opening presentation, Sue, you said that you had learnt nothing new from the report and that is why you did not go for an independent investigation.

Ms S McAllister: That sounds like a very sweeping statement. In terms of the key findings, yes.

Mr McCartney: For us, it is about accountability. If Brendan McGuigan's team had not gone in in May, brought some of this to light and created the circumstances for the presentation, when would what existed in Maghaberry, whatever one's view of it is — we can only go from reports in front of us — have been detected and corrected?

Ms S McAllister: It is a good question, and we will not know now because we have got that. I have said already that I absolutely accept the value of that independent inquiry. We could not commit to doing that level of inquiry on every incident in every prison. We would be paralysed, because it takes time and costs money. The level of interest in this incident was surprising. The level of external interest was significant, and so I am absolutely happy to accept that it was the right thing to do.

Mr McCartney: There may have been external interest because it was newsworthy and people wanted to make points. As I said to Brendan McGuigan when he was here, I was struck by the fact that, when he came to the Committee, he saw an investigation as a necessity. I asked him today because I think he saw and he was picking this up. He was not in to investigate the fire but was very clearly picking up that the Erne House fire reflected what was wrong. There was a finding that:

"the Silver Command team displayed poor and reckless decision making."

If that is not news to somebody then I do not know what is.

Ms S McAllister: I was watching when you asked Brendan that question. I think that Brendan believed, when he spoke to staff and prisoners, that there may have been more to the incident than was subsequently found to be the case when the independent inquiry was carried out. He had some fears that there may have been more malevolence involved in how the incident was managed whereas the independent investigators found that it was more about capability.

Mr McCartney: Brendan McGuigan made points in the initial report in May on the breakdown of relationships between senior managers and headquarters.

Ms S McAllister: Yes.

Mr McCartney: And that is now reflected in the fire.

Ms S McAllister: I do not think that that is indicated by the investigation.

Mr McCartney: It could be one's interpretation.

Ms S McAllister: I think that Brendan feared that that might be the case, and, having seen the independent inquiry report, I do not think that there is any evidence to support that. That was the concern. Or a concern.

Mr McCartney: It may not have been in the public domain, but there was certainly some commentary that there was a belief that the responsibility lay at headquarters.

Ms S McAllister: Yes.

Mr McCartney: Were you aware of that? If so, when were you aware of it?

Ms S McAllister: When was I aware that that was the belief?

Mr McCartney: When were you aware of the idea being put about that it was the responsibility of headquarters? To be frank about it, it was put at the door of the director general.

Ms S McAllister: I have worked in prisons for a long time. People talk; I like to think that not a sparrow falls to the ground in the service that I do not find out about. I knew quite quickly what was being said; I would not be doing my job if I did not. In many ways, the independent inquiry was very helpful to me personally, but that is not what it was about; that did not enter into my judgement as to whether it needed to happen.

Mr McCartney: That is understandable, but that leads me to the belief that someone should have stepped in and said, "This needed an independent inquiry so that we can bring this out quicker".

Ms S McAllister: And, in fact, that is what did happen.

Mr McCartney: But it happened only by accident. That is the point that I am making. I do not think —

Ms S McAllister: I take your point.

Mr McCartney: That is why I am talking about the ability to fix what we are trying to fix. I do not know whether the two people involved are members of the Prison Governors Association, but, in other

instances, people might say that prison governors investigating prison governors would be open to a claim of bias. In that particular instance, a spin is being put on it: you have two governors biased against two other governors or a series of governors.

Ms S McAllister: It could be either.

Mr McCartney: That is the point that I am making. The report is very specific. The issues, in my opinion, are not fully addressed. I still think that there are people who are not of the belief that it is settled in a way that creates the opportunity for us to fix it as we go forward.

Ms S McAllister: We know that that is the remaining challenge. To be fair, page 3 of Owers pointed out that that would always be a challenge at the end of our reform programme; there would be some issues left to resolve.

Mr McCartney: That leaves us with a problem, which we have talked about today already: we are trying to reassure ourselves that Maghaberry can be fixed, but there is an underlying current that says that people are still rowing against fixing Maghaberry. We have to try to instil confidence that that can be done.

Ms S McAllister: Phil is absolutely clear that it is about leadership. The appetite at Maghaberry is primarily about his leadership as the governor. I know that you have expressed concerns many times about the will in all quarters. There will still be people who do not want to come with us on the reform journey. We have to identify them and deal with that.

Mr McCartney: But, in dealing with them — this is what frustrates me — where is the evidence that this is going to be fixed? Is this the time for people to take a step back and say that the Owers report is not being followed in Maghaberry? It is very clearly not being followed, and, by not following it, we are now dealing with the mess.

Ms S McAllister: We were going to come to talk to you about reform as well, but, very briefly, we are clear that, although we have come to the end of our formal reform programme, we have not delivered everything that Owers required us to. We have identified five strategic themes that will inform what Phil has to do in Maghaberry in the coming months and beyond. One of those is around leadership. We know that the change in culture is the remaining challenge for us, primarily in Maghaberry. We have made huge strides in Magilligan and Hydebank, but there is more to do.

In terms of the evidence that it will be done, you just have to judge us on the results. The fact that the inspectorate will work closely with us as an independent arbiter of what we do will be helpful to us and to you.

Mr McCartney: Do you think that there is an opportunity now to invite Anne Owers back to look at Maghaberry specifically?

Ms S McAllister: Yes. I think that you know that we invited Anne Owers back. She said that she would be unwilling because of where we were in terms of the inspection, but, I think that, now that we have the early signs of progress, that is a good idea.

Mr McCartney: Would that invitation be at your level or the Minister's level?

Ms S McAllister: It would be for David Ford to do.

Mr McCartney: Having read the report, I accept that the synopsis is an accurate reflection, but, in terms of it being public — it is back to the point that Sammy made — even if it is redacted, it should be placed somewhere. The timeline has been of tremendous value.

Ms S McAllister: Thank you.

Mr Kennedy: Welcome, and thank you for your presentation. The timeline has proved to be quite an important document. I want to pose a couple of questions on that and whether it breaches confidentiality. I will try to be general.

The Chairperson (Mr Ross): It depends on the level of detail.

Mr Kennedy: Yes. By way of general comment, there seem to be issues of a lack of important decision-making and communication at critical points. From the time of the initial incident, within an hour there is the possibility of the situation being resolved in some way, involving, effectively, the surrender of those involved. That does not seem to have been communicated properly, or those responsible appear to have been incapable of receiving that signal and acting upon it. Furthermore, there are communication difficulties that lead to a failure to reflect to gold command what is happening on the ground. Then, all of a sudden, the situation goes into a downward spiral. What other reasons are there for that? Is it just incompetence? Is it conspiracy or cock-up?

Ms S McAllister: I think that is precisely what the Chief Inspector was talking about. I think that the latter was indicated by the independent inquiry. I do not think that there was anything to support the idea that the incident was deliberately played out. As you have seen in the synopsis, there was poor decision-making and judgement a number of times throughout that morning and subsequently. There are inexplicable times when it would have been possible to resolve the incident, but that did not happen.

Mr Kennedy: Could there be any sense that those involved at critical points who failed for any reason to make important decisions felt that those decisions would not be supported higher up?

Ms S McAllister: I do not see why. People in those positions as duty governor or in-charge governor/silver commander would have had incident management training and would understand the requirements of resolving an incident when it comes to the practicalities of how that is done, how many staff are needed, who you need to be there, what to do with people after the incident has been resolved etc. I am not sure that I understand what they would think would not be supported. If people believe that they could have resolved the incident, there would be no reason not to resolve it because of course that would be supported. Again, the role of gold command is to support, advise, resource and approve. Gold command was not being asked to do any of those things at the point when it was indicated that it was possible to take a surrender.

Mr Kennedy: Just remind me and colleagues of the earliest point at which gold command was alerted to the prospect of a resolution.

Ms S McAllister: I am sorry. Could you say that again?

Mr Kennedy: When was the earliest point at which gold command was informed that white flags had been raised —

Ms S McAllister: Gold command was not made aware of that.

Mr Kennedy: At all?

Ms S McAllister: No.

Mr Kennedy: Even at 3.20 pm when gold command opened?

Ms S McAllister: No. The gold command suite was opened by the duty officer. It is a bit of a misnomer; it is a bit confusing actually. The gold commander, who was me on the day, was not in the gold command suite; that was the duty officer.

The Chairperson (Mr Ross): You were made aware prior to that though.

Mr Kennedy: You were made aware at 3.45 pm that there was a situation.

Ms S McAllister: Yes, absolutely. At 3.45 pm, I was contacted by the duty director and told that there were six prisoners in the Erne House exercise yard who were refusing to comply —

Mr Kennedy: Yes, 44 minutes later. At 2.29 pm, surrender and intervention plans were received, and nobody —

Ms S McAllister: Not by me.

Mr Kennedy: Nobody thought to tell you at that point.

Ms S McAllister: This is the breakdown where they were meant to be sent on to me but were not. I received them at 3.33 pm.

Mr Kennedy: Is that not slightly astonishing? You have said, "Look, these are operational arrangements for the people in control". They have told you about the incident.

Ms S McAllister: Yes.

Mr Kennedy: Yet nobody tells you that there is the potential to resolve the incident and your advice is not sought.

Ms S McAllister: We just need to be clear. I am not in command of this incident; I am the person in headquarters or in my kitchen — it does not matter where you are when the emails are sent — who is responsible for committing any additional resources that the silver commander might need to resolve the situation or for approving an intervention plan when one is sent to me. Once I am made aware that there is a situation, I say, "You need to send to me an intervention plan and a surrender plan", which are two different things. That is the normal course of things, but what I am saying is that that does not prevent a resolution from being reached if the opportunity presents itself and is seen as too good a chance to miss.

Mr Kennedy: Does that not give you the luxury of having the power but not the responsibility?

Ms S McAllister: Not really, because the responsibility for resolving the incident is at local level. This is a —

Mr Kennedy: But the difficulty with all of this is that, ultimately, because of a failure of communication or poor decision-making, you can say, "I wasn't told. I didn't know." At one level, that is convenient, but it is not satisfactory.

Ms S McAllister: It is fact. I do not know how — Just to rewind slightly, I think that this incident and, indeed, other incidents that were described to the independent inquiry team at the time, indicate that we need to do more and urgently need to do some training. We have a masterclass on 5 April for our senior leaders in incident management to make sure that they are absolutely clear about responsibility and capability, and about what resources are available to people if they need them. There are resources that can be committed by gold command or headquarters if they are asked for.

This incident was not well managed, and the important thing now is that we learn from that, move on and raise our game at all levels, whether it is people who are likely to be in silver command, the gold command suite, or fulfilling the bronze commander roles.

Mr Kennedy: Hindsight is wonderful; I accept that. Even with the benefit of all that, surely to goodness, in 2015, a situation cannot be tolerated where there is a major incident developing at one of our high-profile prisons — we have only three — and gold command is not being told what is happening.

Ms S McAllister: I absolutely agree. We need to be absolutely clear that everybody understands and is clear about communication. The communication was not —

The Chairperson (Mr Ross): So, at 1.45 pm, you were informed, and you said that you were waiting for the plans to be sent to you: is that right?

Ms S McAllister: Yes.

The Chairperson (Mr Ross): You informed me earlier that, given that there is a template, that should be done within 15 minutes.

Ms S McAllister: Yes.

The Chairperson (Mr Ross): So, at 2.00 pm — let us say 2.05 pm, allowing 20 minutes to do the plans — did you make an enquiry as to where the plans were or why they had not been sent to you?

Ms S McAllister: No, I do not think that I did, but I have said —

The Chairperson (Mr Ross): Why? There may well have been problems at silver command level; I do not know. There may well have been incompetence at some point down the line. That may or may not have been the case. However, if you are aware of an incident occurring at 1.45 pm, and you are the director general of the Prison Service and know that, if something goes wrong, the public are ultimately going to look to you and put the blame on you, there is an incentive for you to continually monitor the situation. I would have thought that, after 20 minutes, you would have asked, "What is happening now? Why have the plans not been sent to me?" I do not understand why that did not happen.

Ms S McAllister: I can understand. It is a really tricky one. There is no right answer and I am not being evasive, but there is something that happens in incidents, which is called the pithead syndrome — everybody wants to know what is going on all the time and everyone is gathering around. Sometimes, what silver commanders need is space. My belief was that this was being managed locally and that the most senior governor in our service was either heading into the prison or was in the prison and was in command of the situation. I was waiting for a surrender plan and an intervention plan to approve. Every incident is different, but I do not see that, after 20 minutes I would have been chasing them to ask —

The Chairperson (Mr Ross): After an hour, did you make contact?

Ms S McAllister: My presumption would have been that they were dealing with the incident.

The Chairperson (Mr Ross): After an hour had passed, and you had not heard anything, you would have wanted to know either that you were right and that the incident was resolved — in which case, when you contact somebody, you are not interfering with everything that is going on, because it has been resolved satisfactorily — or that there was a fundamental issue with the plan that should have been with you in 15 minutes. I just do not understand how you, as the leader of the organisation, did not take an interest, after an hour, as to why you had not been given the surrender plan. I just do not understand that.

Ms S McAllister: Right, OK. I was the commander on the day, and that is what I did.

The Chairperson (Mr Ross): After an hour, knowing that there was an incident going on in one of your prisons, why did you not think that it was appropriate to find out what the situation was? A lot can go wrong in an hour. It could have been resolved, and, if so, you would want to know that. If things had gotten worse, I would have thought that you would want to know that also.

Ms S McAllister: But I was not in command of the incident.

The Chairperson (Mr Ross): You are in charge of the organisation. You would want to know that the person in charge at the prison had fulfilled their legal duty to make sure that the incident was resolved or was being dealt with.

Ms S McAllister: Absolutely, and —

The Chairperson (Mr Ross): If it was being dealt with, you would have been given the plans. If the plan did not arrive with you, why would you not have enquired, an hour later, as to why you had not received it yet?

Ms S McAllister: If the governor wanted to intervene or take a surrender, and wanted me to approve the plans, he would have sent them to me. My belief was that the incident was being managed. You have read the report. I do not think that there is any criticism in there that gold command should have been chasing the plans. We may just have to take a different position.

The Chairperson (Mr Ross): I cannot comprehend why the head of an organisation in which a major incident is taking place, having been contacted at 1.45 pm and understood that plans were to be sent

to you, did not ask, even out of basic interest, "What is going on?" An hour later, those plans had not been sent to you. I just do not understand why no action was taken.

Mr Kennedy: What is rule 7?

Ms S McAllister: I had never heard of rule 7 until I came here. I think that it is particular to Northern Ireland.

Mr Davis: Basically, prison rule 7 is an administrative function that can be performed only by someone who is divorced from the incident in the prison. It cannot be imposed by the governor; it has to be imposed by an individual acting on behalf of the Minister. It is a prison rule that allows specific statutory obligations on the part of the governor to be set aside. It is formalised. If I am —

Mr Poots: Who would that be?

Mr Davis: It can be the duty director.

Mr Poots: Who was it, though? Who was it for rule 7 in this instance?

Mr Davis: Prison rule 7 is invoked to allow the governor to set aside statutory obligations such as a prisoner's entitlement to an hour's exercise.

Mr Poots: You said that the governor could not —

Mr Davis: No, he cannot. He asks for that.

Mr Poots: Who did he ask?

Mr Davis: The duty director.

Mr Poots: Who was?

Ms S McAllister: It was Mark Watterson that day.

Mr McCartney: It is a bit like the Special Powers Act of old. It suspends all human rights.

Mr Davis: I am not going there.

Mr McCartney: It suspends all your rights.

Mr Davis: You have to specify —

Mr Kennedy: It is someone who is not involved in silver control or even gold control.

Mr Davis: No, it cannot be someone at the prison side; the decision has to be made remotely from the prison. That is the law; that is what we have to do.

Ms S McAllister: It is an interesting issue. If you were to ask me whether I wish we did not have it, I would reply that I wish that we did not because I think that, sometimes, we use it too readily. However, I think that this was purely about the logistics of having exercise when we did not have an exercise yard. It was about not having exercise, but it was not made by people in the prison. The decision to invoke rule 7 was made by the duty director.

Mr Kennedy: By a civil servant, in effect.

Ms S McAllister: No, by the duty director, who was the unit manager in the gold command suite during this incident.

Mr Kennedy: He was in gold command.

Ms S McAllister: He was in the Dundonald House gold command suite.

Mr Kennedy: Gold command was not open at that stage.

Ms S McAllister: I think he was in Maghaberry at the time.

Mr Kennedy: It was 25 minutes before gold command was —

Ms S McAllister: He was operating as duty director. He was on the end of a phone. He actually spent some time in Maghaberry because he thought that would be simpler.

Mr Kennedy: It is a miracle that the phone worked on that occasion, because the email was not working. So, he sorts that out. OK. We are in a situation where it is unclear who knows what, and there is critical debate, which you have heard. At what point are civil servants in the Department of Justice told, leading to the Minister's office? The timeline does not indicate that at all.

Ms S McAllister: I would have to check.

Mr Kennedy: Maybe on Ceefax.

Ms S McAllister: There is far more of a requirement to notify people here than perhaps we were used to, but the private office would have been told at some point. We can check when.

Mr Kennedy: It would be interesting to find that out. I have no more questions on the timescale. Obviously, there is the incident itself, the inspection and the reinspection and all that, and we had some discussions earlier with Brendan about how to raise morale, improve conditions and raise standards in what is a very difficult and challenging situation. What is your view, as the head of the service, on how that can be done?

Ms S McAllister: We have been very clear about Maghaberry. It comes down to local leadership, and Phil is very clear that that is his role. I will just give you some figures. It is not about putting more staff in, because —

Mr Kennedy: Sorry, but —

Ms S McAllister: Have I misunderstood your question?

Mr Kennedy: Well, I am a bit alarmed that everything that is wrong at Maghaberry has to be sorted out there, because it is not working. There needs to be strategic direction, and that can only come from the very top.

Ms S McAllister: I know that there has been some suggestion that this is about an abdication of responsibility, but let us be absolutely clear that what happens in a prison is the responsibility of the governor. The governor sets the moral tone and the expectations — I say that having been a governor of more than one establishment — and creates the environment in which people can succeed. That is what Phil has set out to do. Of course, it is then our job to support Phil to do that. As I said, it is not about giving him more staff. He actually has fewer staff now than were in Maghaberry at the time of the full inspection back in May. It is not just about resources but about having tenacity and drive, supporting staff, pushing decision-making down and giving people permission to think differently. Morale is a difficult thing to measure and is not a word that I find particularly useful. Rather, it is about encouraging staff to be empowered and having mechanisms in place so that staff are rotated into and through those difficult jobs. It is about managing the sickness levels down. Sickness absence is now half of what it was at the time of the original full inspection. There are more boots on the landings. That is because people are back from the sick. All those things go towards making a healthy prison.

The Chairperson (Mr Ross): It is about the support that you offer. You have a bigger role to play than just to provide support to the governor. If the support that the prison is asking for is additional staff and that support is not there, a lot of the other problems are symptomatic of a lack of staff. If prisoners are locked up longer because there are not enough staff to escort them to medical facilities, educational facilities or whatever else, tension builds, and that leads to more attacks on prison

officers. If there are not enough prison officers there, more of them go off on the sick. If the support that the prison is begging you for is additional staff —

Ms S McAllister: This is really important: the absolute fact about the governor simply asking for more staff — I do not know where the belief lies about where those staff will come from or who will pay for them — is that staff were available. They were just sick. There were some gaps. We absolutely accept that there are still some gaps between the number of staff that we would like in an ideal world and what we can afford, but —

The Chairperson (Mr Ross): We were —

Ms S McAllister: Sorry, if I can just —

We were informed as a Committee — I have been Chair now for 15 or 16 months — that there were shortages in the complement of prison officers, not just because of sick leave. There were shortages. We were assured by both the Prison Service and the Minister that that situation was being resolved.

Ms S McAllister: The fact is that the number of officers available to the governor at the full inspection was considerably higher than was available at the reinspection. I remember having a conversation in which the response was, "Give us 40 more staff, and we will be OK". That was when there were 100 staff on the sick. You do not have to be a mathematician to work out that those staff are available. We have got to move away from the point that this was about starving the previous administration of resources and giving additional resources to the new team: that is simply not true. It is not true, and it is not right that that is continually said to be the reason for things being different now. That is not why things are different now.

The Chairperson (Mr Ross): Well, it is the case that it is much easier now to get additional staff into Maghaberry, given that the person who is making the decision is the governor.

Ms S McAllister: No. I do not believe that to be true. The governor has managed the sickness levels down —

The Chairperson (Mr Ross): It is true. How can it not be true? The person who is ultimately making the decision around staffing — I am not saying that it is necessarily a bad thing for the management at this moment in time — is the governor, and he is able to determine for himself that he can bring staff from Magilligan, Hydebank or wherever else. That was not the case previously.

Ms S McAllister: That is not in the gift of the director of operations. That would be a Prison Service management board decision, made at board level. It would be absolutely wrong to start bringing in staff from elsewhere when there was no appetite or willingness to manage the crucial issue of staff sickness levels.

The Chairperson (Mr Ross): I think that both can be done at the same time.

Sorry, Danny. I have interrupted you a few times.

Mr Kennedy: I have one last observation to make.

Thank you. We are pressing on what are important issues. You will note from the personalities on the Committee that it is a bit of a retirement home for former Ministers, with Mr Attwood, Mr Poots and me here. We have had Executive responsibility. There are times when, difficult and challenging although it is, and when it may not be our individual fault, as something develops, you have got to front up and say, "This is where the buck stops". Are you satisfied that you have responded accordingly in dealing with this incident?

Ms S McAllister: Absolutely. It is my job and my responsibility to support my colleagues to succeed at doing their job. It is reasonable that I expect leaders to lead and managers to manage, and, when that is not happening and things are going wrong, it is my job to take action to resolve the situation. I am absolutely clear that I have fulfilled my obligations. I have not abdicated responsibility. Equally, however, it is my job to sort things out when they go wrong.

Mr Poots: I am very interested in rule 7. It is completely new to me. Was the duty director at headquarters?

Ms S McAllister: He was at home when he got the call. He was on call at home.

Mr Poots: Not much of his communication with you as duty gold commander seems to be recorded here. Rule 7 was invoked at 15.39, giving the command to enter Erne House. Is that right?

Ms S McAllister: Yes.

Mr Poots: Does that mean that the governor did not give the command? Does it mean that the command had to come from outside?

Mr Davis: No. Rule 7 is a specific prison rule that allows normal prison rules to be suspended in the event of an incident. Prisoners are entitled to one hour's exercise a day, and they are entitled to visits. If you are contemplating suspending visits or interfering with a prisoner's statutory rights, to do that legally, you need to invoke rule 7. Basically, it is an administrative function to discharge rule 7. It is discharged by an individual who is separate from the prison.

Mr Poots: I get that. It just states:

"Log states duty director given command to enter Erne house".

Ms S McAllister: Yes.

Mr Poots: Was it the duty director who gave the instruction to enter Erne House?

Ms S McAllister: I do not know what that means. We will have to check. I think that those are two different things. "Rule 7 invoked" is separate from:

"Log states duty director given command to enter Erne house".

Mr Poots: Obviously, I do not have the full report, but I would like greater clarity on it. It strikes me as being a cross between the Keystone Kops and Pontius Pilate. There is plenty of washing of hands of this incident going on.

We are looking at a number of things at the prison at Maghaberry that you indicate are better. Mr Attwood focused strongly on the term "fragility"; whereas you focus strongly on the term "progress". You are making progress, but it is a very fragile situation, to all intents and purposes.

Ms S McAllister: We have had conversations with Brendan about his use of that word. What he is saying to us is that it is early days. We know that and accept it completely.

Mr Poots: It is of considerable help that you have up 150 prisoners less in the prison at this stage.

Ms S McAllister: It is about 100 less than at the time.

Mr Poots: You have also brought in additional officers.

Ms McAllister: We have fewer officers now than we had at the time of the —

Mr Poots: I know that you have fewer officers, even though Mr Adam sat there in March of last year and said that he was starting a recruitment process. Why did Mr Adam take so long to start the recruitment process? He told the Committee that the recruitment process had started even though it had not.

Ms S McAllister: We did a number of things. As you know, we did a big recruitment to take account of staff leaving on the voluntary early retirement (VER) scheme and got to what we believe was as far down that list as we wanted to go. We chose then not to go down further. We made a couple of decisions. We decided, in order to halt the attrition rate, to recruit staff through prisoner escort and

custody services (PECS). That is what we did, and that is what we told you we were doing. The intention was that those staff would get some experience in PECS and then move over to become custody prison officers (CPOs), but it did not work as we had intended. We were wrong to think that that would be a good launch pad for our staff. There was recruitment going on, but it did not end up as staff on the landing. We then decided that we were going to —

Mr Poots: I think that the Committee was pretty much of the view, from what Mr Adam indicated, that a recruitment process was starting. You eventually started a recruitment process in the autumn. That was the recruitment process that people understood Mr Adam to be indicating to us.

Do you realise how much the Committee and the Assembly value integrity and honesty, and how serious it is to mislead a Committee, the Assembly itself or Parliament? All those things are very serious, and for Mr Adam to sit there and tell us that you had started a recruitment process and six months later it had not started is pernicious at least and wholly unacceptable and grossly disrespectful to the House. It would be useful if you were to apologise for Mr Adam's misleading of the Committee, even at this stage.

Ms S McAllister: We will go back and check what Mark said.

Mr Poots: We have it here, so we can facilitate you with that.

Ms S McAllister: Thank you.

Mr Poots: Perhaps the Committee Clerk can read it out. In the meantime, I will pose further questions. We have what was said in Hansard. We know the impact of it.

You have been able to transfer prison staff from Magilligan and Hydebank to Maghaberry.

Ms S McAllister: Are we —

Mr Poots: You have been able to transfer prison staff from Magilligan and Hydebank to Maghaberry to augment the staff there.

Ms S McAllister: Yes, to take account of the fact that staff have been leaving Maghaberry. You are right. The lower roll that pertains in Magilligan and Hydebank has given us that opportunity.

Mr Poots: There has been a bit more freedom with overtime as well, I believe.

Ms S McAllister: No. That has not changed.

Mr Poots: Mr Adam indicated to us that £9.5 million was made available for overtime last year. Again, that is recorded in Hansard.

Ms S McAllister: Sorry, who said that? Did you say that it was Mark?

Mr Poots: Mark Adam.

Ms S McAllister: Are you suggesting that that is different from what was available before?

Mr Poots: He seemed to indicate that that was something that would sustain the availability of prison staff to cover all the duties.

Ms S McAllister: We have always been clear that it is the difference between funded staffing and staff-in-post that can be funded through overtime. If the gap between those two things changes, the amount of money available for overtime changes.

Mr Poots: Yes.

The Chairperson (Mr Ross): If it is helpful, I will read from the Hansard report of the Committee meeting of 4 March 2015. I asked:

"About a month ago, I asked the Minister for the number of prison officers leaving the service. In 2010, you had 63 leaving with no new prison officers recruited; in 2011, 47 left with nobody recruited; in 2012, 257 left with 140 recruited; in 2013, 323 left with 170 recruited; in 2014, 104 left the service and nobody was recruited; and, up until the end of January this year, nine people had left with nobody recruited. Clearly, there is an issue around capacity here. How understaffed do you feel you are in the Prison Service at present?"

Then you, Ms McAllister, said:

"I will ask Mark to talk about the detail of the numbers. However, I will just reassure you that we are about to start a recruitment exercise that will allow us to replace the posts that are currently vacant. We are committed to recruiting and are now in agreement that we need to recruit. That exercise has started. We have pressed the button, and we will bring in new staff very soon. I will ask Mark to answer your question about specific numbers."

Mark Adam then said:

"I am happy to. We are about 80 below our target staffing levels across all our prisons. There is a reprofiling exercise that will adjust that slightly as the year goes on. We are starting to recruit now and will bring in officers in two or three intakes throughout the year. That will bring us up to whatever is the agreed target staffing level. Recruitment goes out the week after next, so we will have people coming in in the early part of the summer and then again in the autumn."

I subsequently asked:

"And you are confident that you have the budget in place to recruit the full 80."

Mark Adam replied:

"We have already achieved the budget to be able to fill it. As I say, 9,500 hours of overtime will plug the rest."

Ms S McAllister: OK. We need to —

Mr Poots: It was actually you, as opposed to Mark Adam, who said that recruitment had started. Had it not started?

Ms S McAllister: We will need to go away and check, because, as I said, we did start recruiting. We recruited through PECS, and the intention was that those staff would move across into the prisons. However, there was not the appetite for that. People decided that they wanted to stay in PECS. To reassure you about what we said and what actually happened, we will go away and send you written confirmation.

Mr Poots: We have a wee saying that is used over here: Fool me once, shame on you; fool me twice, shame on me.

Mr Kennedy: That is Chinese, to be fair.

Mr Poots: Well, it is used regularly here. You will not be fooling us twice, Ms McAllister. You came to this Committee last year and told us that you were doing something. Six months later, we found out that you did not do it at all. That is not good enough.

Ms S McAllister: I think that we need to go back —

Mr Poots: You do not need to go back. The Hansard report of what you said last year has been read out to you. I do not think that you are challenging Hansard, because it will be recorded, and you would be very foolish to do so.

Ms S McAllister: As I explained, we brought staff in through PECS as a way of bringing them into —

Mr Poots: That is not what is being referred to. It was a recruitment process. You indicated how it was being broken down into two or three intakes, and about boots being on to the ground in the summer, and so on. None of that happened, Ms McAllister. You can apologise to the Committee now, if you wish. You do not have to go away and hide in the bunker again.

Ms S McAllister: Let me assure you that it has never been my intention to mislead the Committee. We will provide you with the information to support that.

Mr Poots: We had a previous experience where NIPSA drew to our attention that information provided by you was inaccurate. You had to withdraw that as well.

On the report itself — this is where I wanted to get to — it indicated that many prisoners remain very negative about many aspects of respect and decency. In the survey, fewer prisoners were satisfied with their relationships with the staff than was the case in 2015. The number of complaints had increased, and a large proportion related to satisfaction with accommodation.

The report also states that too many men still had no activity, that not all opportunities were being used and that access to the gym during the weekends had become increasingly restricted. As a consequence, attendance at gym sessions had decreased by approximately 20% since the same period last year.

Dr Cameron told us that, in spite of the reduction in the number of prisoners, the number of assaults on prison staff had gone down by one.

Let us get a feel for the progress. Where exactly is it? To be honest, I see more of the fragility than I do of the progress.

Ms S McAllister: I return to Brendan's comment. He was very clear that everything that could reasonably have been expected to be achieved in that short time frame had been achieved. We are content with that. It is early days, however, and there is much more to do.

Mr Poots: If I were you, I would be content with Brendan's comments. But, if you get into the detail and substance of the report, as opposed to the spin, I would be far from content. How do you deal with the substance here?

Ms S McAllister: We are not underestimating the extent of the challenge facing us to continue the progress at Maghaberry, but we are content with what has been achieved in a short time frame. We are not complacent.

Mr Poots: Where are you with sickness absence at this stage? Obviously, there has been a big effort made to address sickness levels.

Ms S McAllister: Phil, do you want to say a bit about that?

Mr Wragg: Trying to manage the level of sick absence and bring it down is a moveable target. I have not come across a sickness position, in my 29 years in the service, that is as poor as that in Maghaberry. That said, it is something that we are paying an awful lot of attention to managing.

Why is it poor? I think that there is an opportunity for sick absence to take place, unfortunately. Under my personal leadership — it is my responsibility as the governor, as I have a legal and moral responsibility to manage the establishment, which includes managing the staff — we will ensure that resources are properly in focus, by understanding why individual members of staff are off sick and by using an effective employer-responsible management tool that ensures that we are cognisant of why people are off sick and that we do all that we can to encourage them back to work in a way that ensures that the reasons that they are off sick in the first place are identified and dealt with. Yes, we operate within policy, but that policy protects the employee as well as the employer. We make sure that every opportunity is exercised to bring people back to work. Let us look at the figures: when I arrived at Maghaberry, 95 members of staff were off sick; this morning, there were 52. Clearly, we are doing something right to ensure that the caring and responsible managerial level of attention is paying dividends. On occasion, we bring people back on a phased return, perhaps because they have been physically or mentally unwell. The opportunities to get people back to work are taken, and that has been accepted by a large number of staff. That is very beneficial to the staff concerned because it is

better to be at work surrounded by colleagues in an environment that they know and want to be in than being at home and wondering about work.

Mr Poots: Thank you for that, Phil. You had a problem with people who were long-term sick. How many of them have been medically retired over the period that you have been in charge?

Mr Wragg: Medical retirement is quite a significant figure in Northern Ireland. I think that 80 have left the organisation, across the service, in the last six months.

Mr Poots: How many have left Maghaberry?

Mr Wragg: I do not have the figure in front of me, but I can provide that to you.

Mr Poots: Is it around 60?

Mr Wragg: I will not quote a figure, but I can get the accurate figure for you.

Mr Poots: I would expect you, as the governor, to know what the figure is, at least to within three or four.

Mr Wragg: I can get that figure for you.

Mr Poots: If you take 60 from the 90 who were off previously, that leaves 30.

Mr Wragg: It is not a case of managing maths.

Mr Poots: You have taken out the long-term sick and still have 60 out.

Mr Wragg: Managing sickness is not simply taking one figure away from another. There are people —

Mr Poots: That was simplistic, but it does help to illustrate that —

Mr Wragg: May I finish? There are people on long-term, medium-term and short-term sick, and that is the total number that we are managing. A number are off duty for various reasons, but release on medical retirement applies to individuals who have gone through a process and, medically, been deemed fit to leave the organisation.

I am looking at the short-term and medium-term sickness and encouraging those individuals back to work. Those who are off on long-term sick and will leave the organisation through an early release on medical grounds will not come back to work. What I am saying is that we are bringing people back to work regularly. That is what I mean when I talk about phased returns and opportunities to get people back into the workplace. You related this to people who were never going to come back.

Mr Poots: I know. You have quite a number of officers who have come back but not to front-line duties, which certainly helps the figures, but I do not have a particular issue with that. I do have an issue with the duty of care to staff. I do not have much time for people taking time off sick when they are not sick — I have absolutely no time for that. However, there have been cases when doctors specifically said that people who had undergone surgery or had a serious illness should be off sick. Despite having a doctor's report, over and over again, they get formal warnings as a result of being off sick.

Quite a number of prison staff have come to me, and I have here their reports and files. Over and over again, those individuals produced medical evidence that they were unfit to work but received formal warnings from your director of corporate governance for not being at work. Where is the duty of care when professional clinicians tell them that they are not fit to be in work and your head of corporate governance is firing out formal warnings at them like confetti?

Mr Wragg: First, we do not hand out warnings like confetti. Let me assure the Committee that we deal with our people — our members of staff — in a compassionate and caring way. However, we have a policy on absence and attendance, and we are duty-bound to follow it. Unfortunately, on

occasions, there are people with long and extensive sick records, and the policy catches up with them. At that point, we have a responsibility to issue warnings. Otherwise, we would not be compliant with our policy and, under employment terms, we would be seen not to be following our policy.

Mr Poots: Your head of corporate governance admitted that she was unfamiliar with the policy on sick absence and believed that warnings were issued on breach of a trigger point as opposed to looking at each individual case. I think that the policy is that you do look at each individual case as opposed to the trigger point, which she appears to be using. That is wholly wrong, and I intend to take that further, probably with you, Sue, and, ultimately, with the ombudsman, because this is maladministration.

Ms S McAllister: What Phil says is absolutely right. Every case is dealt with individually, and we measure how many people who reach a trigger point receive a warning. I do not know the exact percentages, but Steve and Phil might. It ranges from 25% and is never higher than 70%. I think that that is evidence enough that we do not issue them arbitrarily.

Mr Davis: The term in the policy is review points, not trigger points. The review points are 10 days off sick or four individual periods of sick absence. If you breach a review point, it merits the consideration of a warning. Consideration should be given, and the requirement is that, as an organisation, we need to have people on duty. There is a policy to manage sick absence, and it is not the case that people are not considered on their individual merits. As a governing governor who has managed nearly 300 staff, I undertook that process extremely diligently and personally. There is an appeals process, and, when I was the governor of Magilligan, I heard any appeals.

Mr McCartney: Is that particular to the Prison Service or across the Civil Service?

Ms S McAllister: Across the Civil Service.

Mr Davis: I am not sure whether it is across the Civil Service.

Mr Poots: One individual was asked by a surgeon why he had left it so long to come to him for surgery — it was because he was afraid of receiving another sick warning.

Mr Wragg: As I was saying, that is about policy. I do not know the case that you are talking about, but I suggest that that person has a poor sick record and had already received warnings, and, therefore, going off sick again —

Mr Poots: It is an ongoing sickness, which is why he needed surgery.

Mr Wragg: With our staff, we have invested —

Mr Poots: It is not an offence to be unwell. It is an offence to play the system, but it is not an offence to be unwell.

Mr Wragg: We totally understand that we are a prison workforce. They have families, too, and people become unwell and get flu etc. We totally understand that a number of people will not turn up for duty because they are unwell. We support those individuals to come back to work, remembering, of course, that the organisation has recruited, trained and invested in them. We want them to come to work, and we want them to do a good job. However, when a person's attendance becomes non-regular or non-effective, as a responsible employer, we have to look at whether that person is now fit to be in our organisation. Our policy tells us that we must do that, and it demonstrates that, through their absence, they are not. We have to make decisions individually — not collectively but individually — about each case.

Mr Poots: Correct. That is how it should be, and that is why the trigger point is not appropriate.

Finally, on recruitment, when will we see boots on floors? You have been through the process, held interviews and training is taking place, so when will we see the staff?

Ms S McAllister: There are staff in the Prison Service college, which is temporarily located at Hydebank. We are running a course for new prisoner escort and custody services (PECS) officers there at the moment. Phil, do you know the precise dates? We have 40 —

Mr Wragg: On 4 April, we have 40 members of staff joining us: 20 in each of two sections.

Mr Poots: That will not cover the number who have left.

Ms S McAllister: We are doing some work in parallel to look at reconfiguring our estate because the number of prisoners is down. We are looking at how we might use our estate differently to reduce the number of prison officers required. We are subject to the same budget cuts as all Departments. If we were to have more money, which is unlikely, we could recruit more officers, but we are recruiting up to what we can afford, and then we will look at how we can reduce the gap.

Mr Poots: Prisoner numbers are fragile. I am guessing that, if you think that the prison population will remain static, your planning includes wrong assumptions.

Ms S McAllister: Brian and his team are doing very sophisticated modelling to understand what the impact of the end of the industrial action will be.

Mr Poots: The strike by barristers.

Ms S McAllister: We are certainly not blind to that.

Mr Lynch: Brendan's statement contains the words "stabilised" but "fragile". How do you see progress continuing in the prison?

Mr Wragg: I am encouraged that the overview by Brendan and his team recognises our having stabilised the establishment. I think that the word "fragile" is there because this is still very new — it has been only about seven months — and a lot of the systems that we brought in are new. They are still bedding down, but they are operating well. As I said earlier, it is now about the resources, the regime and the increasing of outputs for offenders. My direct governorship of the prison relates to providing the direction of travel and communicating that to staff so that they know what to expect, when to expect it and what the change will look like. It is about training and embedding our staff. When I was in front of the Committee previously, I talked about empowerment and engagement, both of which are critical. It means giving staff ownership and allowing them to take risks, knowing that it is safe to do so because, whilst they are moving a big, complex establishment forward, they are doing so backed 100% by me and by my management team, which, from top to bottom and from bottom to top, is focused on one aim: a safe, secure, and decent establishment.

Mr Brian McCaughey (Northern Ireland Prison Service): The inspection report indicated that we have fairly strong resettlement arrangements and very strong prisoner development units at Maghaberry. Prison staff are very well educated, very committed and very dedicated, and they are performing well. We need to get those skills and attitudes out on to the landings, not just in prisoner development units.

Mr Lynch: Has the significant number of staff leaving been limited?

Mr Wragg: More staff will leave through the voluntary exit scheme (VES) at the end of March. It is always difficult when the PSNI begins to recruit because a few tend to want to leave the organisation and go there. Wages have increased for custody prison officers (CPOs), so we are now commensurate with the PSNI level of pay. I hope that through increased development opportunities and allowing staff to meet their potential — we are rolling out our top 50 (T50) programme, which involves officers moving on to become senior officers, functional managers and functional heads — people will realise that the Northern Ireland Prison Service provides a good and worthwhile career opportunity and that this will encourage them to stay.

Mr Lynch: The report continually talks about a change of culture.

Mr Wragg: Yes. Undoubtedly, a cultural change — doing things differently — is required in Maghaberry. That said, in the last seven months, I have noticed that staff, having been provided with

an opportunity and been allowed a safe environment in which to operate, are beginning to take good risks — solid risks — that allow them to work differently with prisoners. Some of this can be seen by virtue of the fact that they now operate in the exercise yards and go into the recreational rooms, which did not occur before. Implementing good health and safety risk assessments and workaround risk assessments, as well as ensuring that the opportunities are there for staff to realise that their safety is being properly focused on, means that staff are now taking the steps to move into the exercise yards.

Mr McCaughey: We are all very clear that prisons need to be a place of positive change and not solely about security or containment. It is about making sure that prisons offer intervention and engagement and, through our prison staff, support positive change and positive reintegration to the community. We certainly have that in our prisoner development units. The report clearly says that we need to get that out on to the landings and spread the values and principles that will support that positive change in those who are people first, offenders second and prisoners third, but always people.

The Chairperson (Mr Ross): OK. Thank you very much.