

Female offenders in the criminal justice system

The Committee reports to the Parliament as follows—

1. At its meeting on 16 December 2008, the Equal Opportunities Committee decided to undertake an inquiry into female offenders in the criminal justice system. The detailed, formal report of the Committee's findings is contained in paragraph 5 onwards. A concise summary of the Committee's main conclusions and recommendations is set out immediately below.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

2. There is a small, but growing, number of women in Scotland who come into contact with the criminal justice system. The differences in the ways that these women, compared with men, enter the criminal justice system and are subsequently treated raise some challenging questions. Having considered these gender differences in some depth, the Equal Opportunities Committee believes that much more needs to be done by the Scottish Government and other public bodies to address specific issues facing female offenders.

THE PROVISION OF SERVICES AT CORNTON VALE PRISON (paragraphs 20 - 88)

- Officials have admitted that the quality of mental health care in prison is limited.
- There are too many women in prison with mental health problems who do not pose a threat to society, but who are a threat to themselves.
- The way that women with mental health problems are sentenced by the courts should be re-examined. This could help to minimise the number of such women being imprisoned and, consequently, result in more resources being available to address rehabilitation in prison.
- Members of the Committee were deeply concerned to hear that some women deliberately commit offences purely to access the services provided in Cornton Vale prison.
- More could and should be done to rehabilitate women in prison, particularly those serving short-term sentences and those on remand. For example, the Committee considers that literacy and numeracy levels for female prisoners are extremely low and more help must be given.
- A pilot speech and language therapy programme should also be made available in Cornton Vale as soon as possible, in order to improve communication skills.
- The Committee invites the Scottish Government to consider whether statutory support is needed specifically to help women on short-term sentences when they are released, as the present approach is not working.
- It is an alarming statistic that around half the children of female prisoners may end up in prison themselves. Children are the entirely innocent victims when mothers are sent to prison and every effort should be made to support them.
- Visitor facilities at Cornton Vale should be improved. Prison officials should think more creatively about ways of maintaining links between imprisoned mothers and their children.
- More could and should be done to stop drugs circulating in Cornton Vale but children should not be punished by having their visits cancelled if their mothers are caught taking drugs.

SENTENCING FEMALE OFFENDERS (paragraphs 89 – 120)

- The equality issue of women being sentenced more harshly than men has been highlighted by the Cabinet Secretary for Justice. The Committee seeks information on the action that the Scottish Government intends to take to address this issue.
- Social enquiry reports or stand alone reports should provide sentencers with better information about women's mental and general health. When they are sentenced to imprisonment, better information about women's health needs, including medication, should be made available to the prison service.

ALTERNATIVES TO IMPRISONMENT (paragraphs 121 – 139)

- The 218 centre in Glasgow is an excellent example of how targeted, comprehensive services can be provided to women in the community rather than in prison. The types of services it provides could be replicated across Scotland where there is a demonstrable demand.
- The Committee considers that there should be more female-appropriate community sentences and that these should be better funded.

PREVENTING RE-OFFENDING (paragraphs 140 – 170)

- There are encouraging signs that authorities are aware of the importance of women building links in prison with those who can help them when they go back to their communities. While a lot of effort is underway to improve these throughcare links, this should be better co-ordinated.
- Given the success of bodies such as the charitable organisation Circle and the south-west Scotland Community Justice Authority in rehabilitating and preventing offending by female offenders, current targets for reducing female re-offending could be exceeded.
- Not enough information is kept to evaluate which programmes are successful in rehabilitating female offenders. The Scottish Government and the Scottish Prison Service should take steps to improve this.
- The Committee questions why ex-offenders with a conviction for prostitution may have to reveal their conviction to certain prospective employers and invites the Scottish Government to clarify this matter.
- The Scottish Government should consider again whether the health service could take over responsibility for health care in Scottish prisons within a much shorter period than is currently envisaged.

THE GENDER EQUALITY DUTY AND LEADERSHIP ON FEMALE OFFENDERS (paragraphs 171 – 183)

- The gender equality duty should be applied in relation to all policies and programmes of relevance to female offenders.
- A great deal of work is underway by various bodies to address the issues facing female offenders but improvements still require to be made.

3. In short, there are many significant issues facing female offenders. Many of these are actively being addressed but greater leadership and co-ordination of effort needs to be shown by the Scottish Government.

4. Shortly after this report is published, the Justice Committee will publish its Stage 1 report on the Criminal Justice and Licensing (Scotland) Bill. There is a great deal in the Bill that is also of relevance to female offenders. The Equal Opportunities Committee considers that, together, these reports will provide the Scottish Parliament and the Scottish Government with a golden opportunity to take action to prevent re-offending by female offenders by fully addressing their needs and individual circumstances.

BACKGROUND

5. At the Equal Opportunities Committee's meeting on 22 April 2008, participants considered the issue of female offenders from an equalities perspective in order to help the Committee determine whether this could be a suitable topic for inquiry. A variety of expert witnesses, including the Lord Advocate and the then Governor of Cornton Vale women's prison, described various gender differences that existed throughout the criminal justice system.

6. Following this evidence session, the Committee made a private visit to Cornton Vale on 28 October 2008. This allowed members of the Committee to meet female offenders, prison staff and other organisations,¹ in order to discuss issues facing female offenders with those who had first hand experience. The visit to Cornton Vale and the evidence session convinced the Committee that there was indeed merit in conducting an inquiry into female offenders from an equalities perspective.

7. The remit of the Committee's inquiry was to assess the prison experience for, and background of, female offenders, particularly the extent to which prison helps to prevent women from re-offending.

8. At the start of its inquiry, the Committee invited written evidence from interested groups and individuals. To help shape this evidence, the Committee specifically invited views on the following key questions:

- What is the profile of, and availability of services to, women in prison?
- Can prison adequately provide effective treatment or rehabilitation programmes to all female offenders? Do specific groups of female prisoners, for example those with mental health problems, require different interventions?
- Is the existing range of alternatives to custody appropriate to deal with the specific profiles of female offenders? Are these alternatives to custody being used effectively across Scotland?
- What is the availability and effectiveness of support available to female prisoners when they are released who may be likely to re-offend?
- To what extent may the Gender Equality Duty affect the way that relevant bodies in the criminal justice system deal with female offenders?
- To what extent do any issues identified for female prisoners also affect male prisoners?

9. The Committee received fifteen responses to its call for written evidence. It then took oral evidence at seven meetings, between February and June 2009, and received a private briefing from two sheriffs from the Sheriffs' Association. Members also visited the 218 centre in Glasgow, which is discussed in more detail in paragraph 132 and Hydebank Wood Prison and Young Offenders Centre in Belfast. The Committee would like to thank all those who provided written and oral evidence, which has greatly informed the content of this report. All evidence received, including a summary of the evidence provided by the sheriffs, is available on the Committee's website.

Why has the Committee focussed on female offenders?

10. In numerical terms, women comprise a relatively small, but increasing, part of the overall prison population: in 2007/08, approximately 5% of prisoners were female and 95% were male². However, it was suggested to the Committee at its evidence session on 22 April 2008 that there were particular issues facing female offenders that were either different from or more complex than those facing male offenders, or that were unique to female offenders. Some of the views expressed by witnesses at this meeting, which helped to convince the Committee to undertake a formal inquiry, can be paraphrased as follows:³

- Women who offend tend to have chaotic lifestyles and significant mental health or addiction problems, and many of them have also been victims of physical or sexual abuse and mental cruelty in their childhood;
- A great number of women offend because of a drug addiction. Many women start to use drugs as a way of self-medicating, to block out much that has happened in their lives previously. Involvement in prostitution and sexual exploitation is one of the main reasons why women's drug addiction starts or escalates quickly;
- Many women in Cornton Vale have drug addictions and have been involved in prostitution. Many of the women involved in prostitution see Cornton Vale as a respite. The Government has recognised that prostitution is a form of abuse but prostitutes continue to be criminalised;
- There are instances where gender stereotypes and expectations of women's behaviour have led to inequalities in sentencing and perhaps even in arrests;
- Historically, women were far more likely than men to be prosecuted for not having a television licence. This was because inspectors attended people's houses when women were at home with young children and their husbands were at work. In other words, men were equally guilty of the offence but women suffered disproportionately;
- Women who suffer domestic abuse may fail to declare, when applying for benefits, that their partner is staying with them and can therefore become involved in the criminal justice system through benefit fraud;
- Often, female offenders become involved with a male partner who has a significant influence on them, such as supplying them with drugs. Many such women are forced into prostitution to feed their habit;
- The impact of imprisonment may be greater for women than for men in that women are much more likely to lose their homes and responsibility for the care of their children.

11. These gender differences were summed up particularly cogently by Mike Ewart, the Chief Executive of the Scottish Prison Service (SPS):

“ ... although women prisoners are affected by issues that affect both male and female prisoners across the system, in almost every case those issues are more significant and more prominent for women. Women are more likely to suffer from mental illness or mental disorder, they are more likely to have been victims of abuse, and they are more likely to have drug or alcohol issues, or both. They are also more likely to face significant resource and domestic issues and ... they are more likely to be the principal carer.”⁴

12. In short, there is clear opinion to suggest that, in the context of the criminal justice system, women's life experiences can be different from men's experiences and that some of these differences may stem from or result in inequality and discrimination. Having heard these views, the Committee was interested in taking more formal evidence in order to ask whether any changes could or should be made to the criminal justice system to better

respond to these differences. The question is particularly relevant because the Gender Equality Duty requires relevant public bodies, including bodies discussed in this report, to eliminate unlawful discrimination and harassment, and to promote equality of opportunity between men and women.⁵ The question is also relevant because the female prison population has doubled in a decade – to around 400 in 2009, from 199 in 1999 – despite various major initiatives which aimed to divert women from prison.⁶

13. While the Committee's focus is on female offenders, this does not mean that it is not interested in male offenders or that it considers that female offenders should be treated more favourably than male offenders. Rather, there is evidence that in some situations men and women should be treated differently in order that their needs be better met. In other circumstances, policies or practices may be equally effective for men and women. A challenge for decision makers is to understand how gender differences can be recognised and acted upon, without running the risk of stereotyping men or women or ignoring their individual needs.

14. During oral evidence-taking, the Committee's questioning touched upon a wide range of often highly-complex topics, for example: the effectiveness of early years intervention in preventing crime; the reasons why women commit crime; and the merits of community sentences in preventing further offending. While discussion of these topics was extremely useful in informing this report, the Committee has not provided in-depth recommendations on all such matters, some of which may have been worthy of a dedicated inquiry in their own right. Rather, this is a concise report, focussing on those matters where the Committee considers that practical improvements can be made.

15. It is also helpful to point out that while the Committee was undertaking its inquiry, the Justice Committee was conducting its Stage 1 scrutiny of the Criminal Justice and Licensing (Scotland) Bill⁷. The Bill is concerned with various issues, for example, short-term prison sentences and community sentences, which are of great relevance to female offenders and which were raised frequently during the Equal Opportunities Committee's evidence taking. The Stage 1 debate on the Bill is expected to take place shortly after the publication of this report and the Equal Opportunities Committee expects that the gender-specific evidence around these issues should serve to inform the Parliament's debate on the Bill.

Organisational responsibilities within the criminal justice system

16. This report is concerned with the way that women are treated in prison and throughout the criminal justice system, given their life experiences. It focuses on equal opportunities issues rather than looking in detail at complex justice matters. In order to aid understanding, however, it is helpful to summarise very briefly the responsibilities of some of the key bodies in the criminal justice system and to reiterate the fact that they are subject to the Gender Equality Duty.

Scottish Prison Service and Scottish Government

17. The SPS is an executive agency of the Scottish Government. It is headed by a Chief Executive who is directly accountable to the Cabinet Secretary for Justice for the running of the agency. The Cabinet Secretary decides policies for dealing with offenders; sets targets for the SPS to achieve in pursuing those policies; and oversees the SPS's performance against those targets. Most decisions about the means of achieving those targets, the day to day care of prisoners, the management of prison staff and resources, and other operational and contractual decisions within that framework, are delegated to the SPS's Chief Executive.

Community Justice Authorities (CJAs)

18. The eight CJAs were established by the Management of Offenders (Scotland) Act 2005 and are based on the concept that no single agency can be responsible for achieving a reduction in re-offending. CJAs have established area plans which show how outcomes set by the Scottish Government will be delivered. Plans are submitted to the Scottish Government and are signed off by the Cabinet Secretary. The CJA must then ensure that the resources that are paid to local authorities for the provision of criminal justice social work services are aligned against the priorities that are set out in the area plan.

19. Having set the background context, the rest of this report considers:

- the provision of services to women in Cornton Vale prison (paragraphs 20 – 88);
- the sentencing of female offenders (paragraphs 89 – 120);
- alternatives to imprisonment (paragraphs 121 – 139);
- preventing re-offending (paragraphs 140 – 170);
- the Gender Equality Duty and leadership on female offenders (paragraphs 171 – 183).

THE PROVISION OF SERVICES IN CORNTON VALE PRISON

20. HM Prison and YOI Cornton Vale provides custodial facilities for the vast majority of female prisoners in Scotland and for women on remand. Much of this section therefore focuses on the services that are provided in Cornton Vale.

21. Of all the issues highlighted in the Committee's inquiry remit and call for written evidence, perhaps the most straightforward to address is the background of female offenders in Cornton Vale, given the almost uniform evidence provided on this matter. For example, it was stated that most female prisoners⁸:

- Had no work outside the home; 80% were unemployed at time of arrest;
- Had problems at school and few qualifications; 95% left school at age 16;
- Were on state benefits and in debt;
- Had accommodation problems;
- Had experienced some form of abuse; 75% declared a history of physical or sexual abuse;
- Had suffered psychological distress; 80% of offenders had some form of mental illness;
- Had serious problems with alcohol and drug misuse: a recent report on Cornton Vale concluded that 98% of inmates had drug addiction problems.

22. Given the similarity of many female offenders' experiences, it is perhaps unsurprising to note that a very extensive range of programmes is provided at Cornton Vale, both in-house and by external bodies, which aim to help women deal with these issues.

23. Doctor Andrew Fraser, the Director of Health and Care at the SPS, explained the rationale behind the provision of such programmes:

"The theory is that unless the problems that affect women as they come into the system are sorted out – those problems are primarily drug problems, but they are also mental health problems – those women will not be in a state of mind to engage in any other interventions that will reduce the risk of their re-offending in the future. Therefore, I regard interventions to deal with mental health and drug issues as fundamental and basic to a regime of care and support that will wind up with lower risks of re-offending in the future."⁹

24. SPS staff explained to the Committee that different treatment programmes are available to prisoners according to the length of their sentence:

- “The vast majority of health and addictions services are on offer to people however long their sentence is. Whether a person is in prison for three weeks or three years, they get the full panoply of services, because we address needs as they come up. However, we have trouble addressing issues that take a long time to sort out ... we would not want to put a prisoner on a particular course unless we knew them well enough to be able to support them in the direction that they wanted to take.”¹⁰
- “Throughcare addiction services are available to prisoners whatever their sentence length. If someone wants to access services to do with learning skills, employability or addictions, or has problems with housing, for example, we try to support them by linking up with community services.”¹¹
- “In general, prisoners who are serving sentences of more than 31 days can access education and addiction services. The prisoner programmes have to be offered to people who are serving longer sentences, because the programmes are more intense and concentrate on offending behaviour. A programme needs to be in place for a long period if it is to have a positive outcome.”¹²
- “[a person who was serving a sentence of three months] would not have access to in-depth prisoner programmes, but if they wanted to access education awareness group work we would do our utmost to link them into community services, so that that work could continue.”¹³
- “Those who are serving a sentence of anything more than six months can generally access our prisoner programmes, which are more in-depth programmes on offending behaviour and further education awareness.”¹⁴

25. It is helpful to highlight at this stage that written evidence submitted by Kenny MacAskill MSP, the Cabinet Secretary for Justice, contained a draft SPS women offender strategy. This draft strategy is somewhat confusing in that it states that various programmes provided in Cornton Vale “have been designed specifically for women” but also says that the “SPS is not currently delivering women specific services”. The salient point, however, is that the document makes clear that “the new draft SPS Strategy for Women Offenders will ensure that there are core systems, interventions, programmes and processes designed for women, fit for purpose, and based on risk and need ... All developments will be subject to an Equality and Diversity Impact Assessment.”¹⁵ **The Committee is fully supportive of this approach.**

26. It is also worth making the broader point that the draft strategy, which was only received by the Committee at its last oral evidence session, addresses several issues that were raised by witnesses throughout the Committee’s inquiry. The Committee acknowledges the relevance of the draft strategy – it is referred to throughout this report – and welcomes the fact that the SPS has responded so quickly to concerns that were expressed throughout the Committee’s inquiry.

27. It is vital that the good intentions contained within the SPS’s draft women offender strategy actually translate into deliverable policies that will make a positive difference for female offenders. **The Committee requests that the SPS provide a detailed timetable setting out how the actions contained within its final strategy will be implemented.**

Women serving short-term prison sentences and women on remand

28. The Committee spent a considerable amount of time taking evidence from SPS staff and from the Cabinet Secretary for Justice, specifically on the effectiveness of short-term prison

sentences in helping to rehabilitate female offenders, given the very large amount of highly critical written evidence it had received about such sentences. For example, it was claimed that short-term and very short-term sentences cause disruption to families and children; can do greater damage than any good done by the respite for communities; and are not effective in reducing re-offending. The Cabinet Secretary said of female offenders that “our information is that those who are given short-term prison sentences are more likely to reoffend than those who are given community service”.¹⁶

29. Considering the criticism of short-term sentences, the Committee sought to understand why more support could not be provided to women serving such sentences, given that they comprise a significant part of the prison population.¹⁷

30. SPS staff made clear that levels of overcrowding were such that they did not have much time to spend with prisoners as they had to help out with processes such as the delivery of medication and food. Staff stressed that some interventions, particularly drug treatments, could take a long time to work and that it may actually do more harm to intervene with a prisoner whom they did not know particularly well or who may not be able to complete a programme upon release into the community. It was also pointed out that it could be difficult to engage and motivate short-term prisoners to take up services.

31. The Cabinet Secretary for Justice made perhaps the bluntest comment in the debate about how prison should cater for women serving short-term sentences:

“... the purpose of prison is first to protect the public and then to seek to rehabilitate and reform—that cannot be done in three months. Prison officials tell us that it takes almost eight weeks to get someone into the system, and eight weeks to prepare them to go out, because if they have an addiction it is necessary to ensure that they have, when they get out, access to methadone or whatever else. The SPS does not exist to provide respite care. I am not being flippant when I say that if that is what you want to provide, it would be cheaper and better to do so at Stobo castle or similar than at Cornton Vale prison.”¹⁸

32. Despite the limitations outlined above, it was acknowledged that Cornton Vale’s health services in particular can make an appreciable difference in a short period of time, even to some of the most vulnerable women. Indeed, the Committee was shocked to hear suggestions that some women deliberately commit offences in order to be sent to Cornton Vale to access the services it provides. However, Tom Fox, Head of Communications in the SPS, said “I suppose the question is whether that [access to services] should happen in prison or before they get anywhere near us”.¹⁹

33. On a separate but related note, SPS officials were explicit about the fact that some of the services provided in Cornton Vale were not offered to women on remand either. The Committee is aware that many women on remand in prison may only be on remand for very short periods of time and that access to services may be limited in such circumstances. However, the Committee invites the SPS to consider whether women on remand should have greater access to tailored services given that this appears to be the case at Hydebank Wood prison in Belfast.

Conclusions and recommendations on support available to short-term prisoners and women on remand

34. The Committee appreciates that the Scottish Government is committed to reducing the number of custodial sentences of six months or less – one intention of the Criminal Justice and Licensing (Scotland) Bill is that sentencers should not impose such a sentence unless they consider that no other method of dealing with the person would be appropriate. While the Scottish Government acknowledges that the Bill, if enacted, will not solve prison overcrowding, it is reasonable to suppose that it will result in fewer women being imprisoned on short-term sentences and the SPS being able to provide greater support to these women.

35. The Committee notes that certain programmes, for example, to tackle drug addiction, are not offered to short-term prisoners on the basis that they may need to be undertaken over a longer period of time to be effective. However, the Committee questions whether more support could be given to other prisoners, in order to make more productive use of their time. For example, the Committee was told by one ex-prisoner, Lorna Lumley, that she was not allowed to do education classes in Cornton Vale because she was not in prison for long enough (her sentence was seven months).²⁰ The Committee considers that this seems to contradict evidence given by SPS officials, who said that prisoners serving sentences of more than 31 days can generally access education services.²¹ **Given the very low levels of educational attainment in Cornton Vale – around two-thirds of women are effectively considered to be lacking functional literacy and numeracy²² – the Committee invites the SPS to consider again how short-term prisoners can be encouraged to take part in educational classes.**

36. The Committee also questions the statement by SPS officials that “the vast majority of health and addictions services are on offer to people however long their sentence is”,²³ when some addictions services are only offered to women on longer term sentences.

37. The issue of what support should be provided to women serving short-term prison sentences is bound up with the question of what support they should be given on release from prison. While SPS staff made clear that they try to support women by linking them with community services, the Committee is not convinced that this always works as efficiently as it should. For example, a recent report by the charitable body Circle said that “links between Family Contact Officers and Circle’s community-based workers are [not as] strong as they could be”.²⁴

38. The Committee recommends that greater efforts be made to ensure that there is better ongoing support available to women moving back to the community from prison. For example, it invites the Scottish Government to consider whether there could be greater statutory support given to short-term offenders when they leave prison, as such support is currently only provided on a voluntary basis. Given the high levels of re-offending rates amongst this group, this approach does not appear to be working particularly well.

39. As for women on remand, the Committee invites the SPS to consider whether they can have greater access to services, given that this appears to be the case at Hydebank Wood prison.

40. While it may be possible to improve the support provided to women in prison on short-term sentences, the bigger question is whether action could be taken to prevent there being

so many women on such sentences in the first place. This issue is discussed in greater depth in paragraph 121 onwards, which consider alternatives to imprisonment.

Prisoners with mental health problems

41. A second category of prisoner of particular interest to the Committee is those offenders with mental health problems. Much of the written evidence, particularly the submission from SAMH, painted a fairly disturbing picture of how such women were treated in the criminal justice system. The evidence also suggested that there were women in prison who did not pose a threat to society but who were a threat to themselves.²⁵ The Committee was very keen to pursue these issues with the relevant experts.

42. To put this matter into context, Mike Ewart, the Chief Executive of the SPS, set out the limits on dealing with offenders with mental health problems:

“... we do not claim to deal with mental health conditions in a way that would be regarded formally as complete treatment. The health care interventions are the best that we are able to provide, but they do not deal radically with people's underlying problems, nor do we claim that they do.”²⁶

43. Despite these limitations, the Committee was told that surveys of men and women with mental health problems showed that about 80 per cent felt better about themselves when they left prison than they did when they arrived.²⁷

Severe mental illness

44. One of the most serious criticisms made in the written evidence received by the Committee was that there were some women who had a mental illness that was so severe that they should not be in prison. In oral evidence, Doctor Andrew McLellan, the former Chief Inspector of Prisons, made clear that there was a definite equalities angle to this issue; he referred to a previous report of his which said that “twice as many female prisoners as male prisoners pro rata suffer severe and enduring illness”.²⁸

45. While providing oral evidence, Doctor Andrew Fraser, the Director of Health and Care at the SPS, made it clear that he was speaking in very broad terms about women with mental health problems. His view was that of the 80 per cent of women in Cornton Vale who may have mental health problems, “1 or 2 per cent should be in hospital rather than prison”.²⁹ He also said that “A further 8 or 10 per cent would, I would hope, be satisfactorily dealt with in the community, highly supported by the NHS and other agencies. For them, their mental health problem is the more prominent problem – it is an offending problem”.

46. For the remaining women with mental health problems, he said that “their offending is more prominent than their mental health problem”, suggesting that their problems “might drive the offending but they are not what made the person do the crime” (although he acknowledged that “it is sometimes quite difficult to detect which comes first”). Doctor Fraser said that these offenders “would definitely be in the criminal justice sector, although whether they should be in prison is another issue”.

47. While Doctor Fraser considered that there was sufficient high-secure provision outside Cornton Vale to deal with violent or very ill female offenders, Mary Beglan, manager of the 218 Centre, provided seemingly contrary evidence:

“There is perhaps a concern that women are sometimes sent to Cornton Vale for their own safety simply because their behaviour is so extreme. I call to mind another woman with whom we worked in 218 who has been in and out of custody and continually tries to take her own life. The sheriffs have to deal with that at some point. The mental health sector is sometimes reluctant to take on some of the more complex women—perhaps it would be better to say that there is a lack of resources. For some women, there is no place to go, but they basically need to be detained and kept safe. That is not an answer in this day and age, but there is a shortage of appropriate services for people with acute mental health problems and offending behaviour.”³⁰

48. On a broader note, the Committee was also told by Doctor Linda Treliving, a specialist in psychotherapy, that there were women with borderline personality disorders who may actually go largely undiagnosed in prison.³¹ This is despite the fact that, according to Doctor Treliving, there are interventions available that can make “a considerable difference” to people with such a disorder.³²

Conclusions and recommendations on prisoners with mental health problems

49. The Committee is deeply concerned by the suggestion that there are women in Cornton Vale whose mental health problems are so severe that they would be better treated elsewhere. The suggestion that there may not be sufficient alternative capacity outwith Cornton Vale to support these women is also worrying.

50. Further, while there are larger numbers of women in Cornton Vale whose mental illness may not have actually led them to commit a crime, the reality is that they still have mental health needs which are unmet; the chief executive of the SPS has openly admitted that Cornton Vale’s interventions “do not deal radically with people’s underlying problems”.³³ The specific example of women with borderline personality disorder was highlighted to the Committee as a group who may miss out on diagnosis and treatment altogether.

51. While the Committee considers that the Criminal Justice and Licensing (Scotland) Bill may result in there being fewer women in prison and, therefore, more time available to SPS staff to support prisoners with mental health problems, this will not in itself solve the problems identified in this section. **Rather, the Committee calls for a re-examination of the way that women with mental health problems are sentenced by the courts. This could help to minimise the number of such women being imprisoned and, consequently, result in more resources being available to address rehabilitation in prison.**

52. The Committee recognises that even if there were fewer mentally ill women in prison, there may still be problems with the way that they are identified and treated by prison staff. And if there are existing deficiencies in prison care, it is fair to assume that the care these women receive after leaving prison will also be deficient. **The Committee considers that improvements must be made to the support that is provided both in prison and in the community to female offenders with mental health problems.**

Drugs, visiting rights for children and family relationships

53. There are three other, interlinked issues relating to Cornton Vale that the Committee would like to highlight in this section: the availability of drugs, prisoners’ relationships with their children and visitor facilities.

Drugs

54. Despite the efforts of the SPS, many prisoners are still able to access drugs. While Cornton Vale aims for women to be free of drugs or for their drug use to be stabilised, surveys of prisoners have shown that 38 per cent have substances in their system on leaving prison (compared with about 70 per cent on admission).³⁴

55. The continuing availability of drugs in Cornton Vale is a matter of concern to the Committee and not just because of the obvious incongruity of illegal substances being accessible inside a prison. Drug-taking and dealing may also undermine efforts to get women to engage in interventions that aim to reduce the risk of their re-offending in the future.

56. From a broader perspective, the Committee was told throughout its inquiry that addiction is a major issue for offenders. For example, it was noted that there was a “huge demand” on the health service for drug rehabilitation³⁵ and that “a huge number of women in Glasgow who are involved with probation and the courts have co-existing addiction issues”.³⁶

57. Sue Brookes, Head of Offender Strategy and Partnership Development at the SPS, and former governor of Cornton Vale, made clear that there were various security arrangements in place and education provided in Cornton Vale to try to prevent the circulation and use of drugs. However, she also stated that “drug use will never be prevented absolutely, and it is a mistake to try to do so”.³⁷ The Committee recognises this point and the fact that a very restrictive security regime may be counter-productive. For example, carrying out intrusive body searches of female offenders for drugs can be deeply traumatic, particularly for those who have previously suffered sexual abuse. However, the Committee also notes evidence that relatively non-intrusive action can apparently be taken to reduce drug availability significantly:

“It is possible to have a relatively drug-free environment. All the Scottish prisons are pretty leaky as far as drugs go, but there is a very low level of drug use in the State hospital, despite the fact that around 80 per cent of our patients have a history of significant drug misuse. That is partly because our turnover of a few dozen patients per year is much lower than that of other institutions, which deal with a few thousand receptions per year. It is also to do with the existence among our security staff of a strong culture of stopping drugs coming in. Mechanical and chemical sniffers do away with the need for invasive personal searching or the use of scary things like dogs.”³⁸

Prisoners’ relationships with their children

58. Drug taking by prisoners is also of wider relevance because it can impact on the offender’s family – the Committee was told that some women who take drugs in Cornton Vale are punished by not being allowed to see their children on future visits.

59. The Committee fully accepts that the SPS has to be able to retain some degree of control in deciding how to deal with women who have broken prison rules. However, where children of female prisoners could also, in effect, be punished, the Committee does not consider this to be acceptable. This is because there is stark evidence to suggest that prison significantly damages women’s relationships with their children, particularly when drugs are involved. For example, Jane Martin, Manager of Criminal Justice Services at Dundee City Council, referred to research showing that many women had lost care of their children at the point at which they went into custody “largely due to the chaotic lifestyles that are often associated with substance misuse”.³⁹

60. On a broader note, Baroness Corston, the author of a recent report into vulnerable female offenders in England and Wales, cited Home Office figures showing that about half the children of female prisoners ended up in prison.⁴⁰ Other witnesses strongly emphasised the importance of offenders maintaining relationships with their children as a means of helping to prevent their further offending.

61. The Committee is pleased to record the fact that the SPS is seeking to build on good work that it is already carrying out with offenders and their families by considering how drug offences can be handled without disproportionately affecting women's families. This issue will be considered as part of the SPS's new strategy for women offenders.

62. The new strategy may also be the ideal place in which to consider other means of improving family relationships and parenting skills. The former governor of Cornton Vale suggested that, for example, women and their children cooking and eating meals together in Cornton Vale could help to develop closer family links.⁴¹ Another witness, Doctor Loucks of Families Outside, highlighted the success of family addiction programmes in the United States, which do not just focus on a person with a substance misuse issue, but involve their entire family.⁴²

Visitor facilities

63. A particularly innovative approach to maintaining links between female prisoners and their children was highlighted to the Committee on its visit to Hydebank Wood Prison in Belfast. The prison had recently installed a facility in the prison, on a pilot basis, to allow a child to visit his or her mother in private. Prison staff stressed that the visits were very much aimed at preserving the rights of children, who are the innocent parties when their parents are imprisoned.

64. Given the importance of maintaining family relationships, the Committee is concerned about the poor quality of the existing visitor facilities at Cornton Vale; for example, Nancy Loucks of Families Outside, described the visiting facilities at Cornton Vale as being "very poor".⁴³

Conclusions and recommendations on drugs, visiting rights for children and family relationships

65. There is an equality dimension to the issue of drug taking, in that female offenders are more likely than male offenders to have an addiction and to have taken drugs as a result of, for example, their involvement in prostitution and sexual exploitation.

66. While seeking to limit or eradicate drug taking within prisons is a long-standing and complex challenge, the Committee considers that more could be done by prison authorities. **The Committee highlights evidence claiming that there are institutions comparable to Cornton Vale that have significantly reduced drug taking, by non-intrusive methods, and invites the SPS to consider how it can learn from this best practice.**

67. **Where female prisoners with children continue to take drugs, the Committee has made clear its view that any subsequent punishment should not impact on the child in question. In determining visits by children it should be the case that the rights and interests of the child are paramount, and that no visiting rights should be denied to children other than where the consideration of their wellbeing dictates that visits should be suspended. Assuming that the SPS accepts this principle, the Committee also invites it to consider the innovative approach being taken in Hydebank Wood**

prison, where a facility was located within the prison grounds, at relatively low cost, to allow children to visit their mothers for a longer period. The Committee believes that this approach is cost-effective, could improve the life chances of entirely innocent children and is therefore worthy of consideration by the SPS.

68. The SPS should, more generally, seek to include stronger measures in its final women offenders strategy that would improve relationships between female prisoners and their children, given the deeply worrying statistics about the likelihood of female offenders' children being imprisoned. The Committee recommends that the Scottish Government carefully consider the merit of implementing family addiction programmes for female offenders and that it examine how better support can be provided to the children of female prisoners to prevent their future offending.

69. Innovative approaches to maintaining family links may be undermined if basic facilities such as the visit room at Cornton Vale are not fully fit for purpose. **The Committee therefore welcomes the SPS's acknowledgement that improvements can be made and invites it to set out the specific action it will take to upgrade this facility.**

Gaps in services

70. The Committee has outlined specific improvements that could be made to the way that female offenders are treated in prison. It is also worth highlighting some of the services that are not currently provided at Cornton Vale.

71. One specific example is speech and language therapy (SLT). It is fair to say that while various SPS staff acknowledged that SLT could be useful, it was not seen as the main priority for female prisoners.

72. In written evidence, the Royal College of Speech and Language Therapists said that 44% of women in the criminal justice system had communication difficulties. The submission argued that SLT interventions could help to prevent and reduce the female re-offending rate by increasing oral communication skills, by enabling the individual to access a wider range of rehabilitation programmes, thereby empowering them to change their offending behaviour.⁴⁴

73. Doctor McLellan, the then Chief Inspector of Prisons, was perhaps the most vocal supporter of SLT in oral evidence. He highlighted two gender-specific issues about SLT:

- it helps with self-confidence which is severely lacking amongst women in Cornton Vale;
- it allows women to be listened to, perhaps for the first time in their lives.⁴⁵

74. Given the importance placed by experts on the benefits of improved communication skills, the Committee recommends that a pilot speech and language therapy programme be made available at Cornton Vale as soon as possible.

75. The Committee also invites the SPS to consider more generally whether there are any other innovative ways in which it could improve its services, particularly with reference to other jurisdictions. For example, Hydebank Wood Prison in Belfast has a pet therapy unit within its grounds which allows female prisoners to care for two dogs. The unit has been particularly successful at building the relationship skills of women who had found it difficult to respond to other programmes. Some staff at Hydebank have also undertaken a four day 'Women Awareness' training course, while all female staff have had female-specific

training. The Committee notes that, in Northern Ireland, the prison service's approach was to encourage prison officers to move from their previous focus on discipline and lock up, to working with prisoners on their socialisation skills as part of the rehabilitation process. The Committee understands that this approach has improved the relationships between staff and prisoners and, in so doing, the rehabilitation process. **It therefore recommends that the merits of such an approach be considered by the SPS.**

The debate on the dispersal of female prisoners

76. As well as discussing the specific ways that female offenders are dealt with in Cornton Vale, the Committee considered the broader question of whether all female prisoners should actually be held in one central location or whether some should be dispersed to other prisons across Scotland.

77. While witnesses' views on this issue were initially quite divided, there appeared to be a consensus that it would usually be better for women to be held in a prison that was closer to their home, so that they were better able to maintain family links. It would also be easier for women to make contacts with local service providers in prison, which they could continue when they were released.

78. Some witnesses, primarily SPS staff during early oral evidence sessions, did have reservations about dispersal. Their main concern was that prisons other than Cornton Vale may not be able to replicate its full range of specialist services, particularly because of the small number of female prisoners.

79. This argument was forcefully rebutted by Doctor McLellan:

"I do not agree with the Scottish Prison Service policy of concentrating all women prisoners in one site. By itself, that is a significant factor in the overcrowding in Cornton Vale. It is not fair or honest to say that we must bring all the female prisoners into a central location so that we have a critical mass that allows them to benefit from the available programmes and resources, and at the same time to say that, because the central location is overcrowded and there are waiting lists, it is not possible for those who are in prison for a short time to take advantage of the opportunities."⁴⁶

80. While there are differing views on the question of dispersal, the reality is that female offenders can be detained in prisons other than Cornton Vale; during the course of the Committee's inquiry some women were transferred from Cornton Vale to Greenock prison, while the Cabinet Secretary for Justice confirmed that the proposed Grampian prison will hold female prisoners.

81. The Committee was reassured by evidence provided by SPS officials that many health and addictions interventions are on a one-to-one basis, so these could still be delivered in even very small prison units.⁴⁷

82. There is an issue in this debate, however, that is still of some concern to the Committee. In oral evidence, Sue Brookes, the former governor of Cornton Vale prison, stated that she was aware:

"... of other jurisdictions in which legal challenges have been faced after women had initially been centralised in one prison and were then dispersed. The authorities were unable to provide an appropriate targeted and specialised regime for female offenders, and that, as I

understand it, led to legal challenge on equal opportunities grounds, because it was no longer possible to provide specialist support.”⁴⁸

Conclusions and recommendations on the dispersal of female prisoners

83. Given this apparent risk of legal challenge, the Committee seeks reassurance from the Scottish Government or the SPS that this issue is being addressed as final plans are being made for Grampian prison.

84. In principle, the Committee welcomes the dispersal of female prisoners from Cornton Vale as a means by which family contact and throughcare support could be strengthened. However, the Committee is aware of some witnesses' very strong concerns that prison estates that contain both male and female prisoners, as is envisaged at Grampian prison, should be designed with women's specific needs in mind, rather than the women's provision simply being an “add-on” to the male provision. For example, if greater efforts are to be made to improve the links between female offenders and their families by having them cooking and eating together, this would have an impact on the type of facility that would have to be built and would have to be properly resourced. The Committee also understands that, in Northern Ireland, there was a judicial review of the decision to host women within the same prison campus as male prisoners. While the decision was upheld, the Committee understands that human rights groups continue to have concerns.

85. Given such concerns, the Committee seeks confirmation from the Scottish Government that equality impact assessments will be undertaken when future decisions about prison build are made, to ensure that prisons better meet the needs of men and women. The Scottish Government should consult with bodies such as the Scottish Human Rights Commission and the Equality and Human Rights Commission, to ensure that relevant equalities and human rights issues are fully taken into account.

86. While it has outlined its support for the principle of moving women from Cornton Vale to smaller units, the Committee also makes clear its view that there are some female prisoners who may actually be better treated entirely outwith the prison setting.

Younger prisoners

87. There is a further topic specific to female prisoners that raises similar issues to the dispersal debate. Doctor McLellan told the Committee that he considered the “number 1 gender-specific issue relating to the imprisonment of women” to be the “lot of women under 21 in Cornton Vale”.⁴⁹ He criticised the fact that women under 21, including young women on remand, were having to mix with adult criminals. The issue was recognised by SPS officials, who pointed out that the small number of young women in Cornton Vale meant that it was difficult for them to get equal access to services if they were not allowed to mix with older offenders. It was also pointed out that some young women had said that they wanted more contact with adult women and that it was “not normal for young people to live only with other young people”.⁵⁰

88. The Committee understands the competing viewpoints in this discussion. However, it considers that the most compelling point was made in the SPS's draft women offender strategy, which was submitted very late on in evidence-taking. It says “... there is a substantial body of research that shows that placing young people in adult prisons accentuates criminal behaviour after release”.⁵¹ Given the strong emphasis placed on tackling re-offending by the SPS and the Scottish Government, the Committee is deeply concerned by such evidence. **While it therefore welcomes the SPS's commitment to**

address this issue and the specific needs of young women more generally – in accordance with United Nations recommendations and European prison rules – the Committee requests a more detailed explanation of how this will be realised.

SENTENCING FEMALE OFFENDERS

89. Having examined the prison experience for female offenders, this section of the report considers sentencing and prosecution decisions.

Decisions on prosecution and sentencing

90. Where an offence has been committed, procurators fiscal and the courts will have the key role to play in helping to determine the appropriate disposal for the woman, or man, in question. The issue of whether gender differences are recognised and then acted upon at these points of the criminal justice system is an intriguing one, which has raised complex issues for the Committee. For example, Baroness Corston told the Committee that “Sentencers do not like to hear this, but they have been giving women harsher sentences for less serious crimes.”⁵² A similar assertion was made by Chris Hawkes, Chief Officer of the Lothian and Borders CJA, who cited research claiming that women appeared to be sentenced to custody disproportionately compared with men for the same offences.⁵³

91. Baroness Corston’s report also discussed the concept of a separate sentencing framework for women at sometime in the future. While she said that the statutory duty to take positive action to eliminate gender discrimination and promote equality under the Equality Act “might require this in due course”⁵⁴, her report did not recommend such a framework.

92. The issues of possible sentencing discrepancies and separate sentencing frameworks raise fundamental questions about the nature of equal opportunities and how relevant bodies should respond to the different circumstances of men and women.

93. Mr Hawkes discussed some of these issues in oral evidence. Given the complexity of the issues he raised, it is helpful to set out his evidence in some depth.

94. Mr Hawkes said that before prosecution, procurators fiscal have an opportunity to make decisions about how an individual offender will be treated. He said that under the Equality Act 2006, the requirement on the procurator fiscal service was to recognise that the offence, rather than anything else, must determine due process.⁵⁵

95. While making clear his belief that fiscals comply wholly with the legislation, he also said that there was “some confusion about what equality means”. He understood that “equality” equated to fairness but also to the recognition of difference. He said that there were some fundamental issues pertaining to women offenders but not to male offenders. Mr Hawkes stated that “women-focused programmes of intervention” had not been developed when a woman appears before a court. He clarified this by saying that “women’s specific needs have not been recognised at the pre-prosecution stage” and that “courts have not been provided with the range of women-focused programmes that sheriffs need to give them any confidence in using community-based disposals”. He considered that custody was used as a consequence of those two things.⁵⁶

96. Mr Hawkes also noted evidence that prison was used as a sanctuary for women, particularly in the case of remand – he referred to research showing that a significant

proportion of women who were remanded to custody did not subsequently receive a custodial sentence. He went on to say that:

“The only instance in which it can be argued that a woman should be treated differently from a man is when the woman is pregnant when the fiscal makes a decision, because the fiscal must think about the impact not only on the woman but on the child. That is an exception. Perhaps the committee can help us all with the complex issue of understanding whether, in acknowledging the 2006 act and the responsibilities that flow to local authorities and all authorities from it, a distinction can be made on the basis of need. It could be argued – I am sure that it would be and that it would make an interesting test case – that women's needs are not significantly different from those of men when a prosecution decision is made, but I argue that women's circumstances appear to be different. That relates largely to victimisation, abuse and self-harm, which seem to characterise that group of offenders. However, a group of male offenders could make an equal claim. We need help with the question. We do not understand clearly enough whether the prosecutory process could be used to address need earlier ... I said in our submission that an assessment appears to be required pre-prosecution to assist the fiscal in determining which route is appropriate. However, that might fall foul of the 2006 act.”⁵⁷

The Lord Advocate's view

97. Prior to undertaking its formal inquiry, the Committee took evidence on female offenders from a variety of witnesses, including Elish Angiolini QC, the Lord Advocate. She said that the prosecution system did not differentiate on the basis of gender; it considered the circumstances of the individual crime and the individual victim. She also made clear that the prosecutor's position would not be to remand women in custody, more so than men, for their own safety, and that there was no conscious discrimination in the approach to prosecution “although that is not to say that there is not indirect discrimination”.⁵⁸

98. The Lord Advocate also outlined the work that her department was undertaking as part of its gender equality plan, for example:

- considering the methodology for gathering data on gender in order to assess whether there is a disparity in the treatment of female offenders when it comes to bail;
- considering how to negotiate pleas, how to make decisions to prosecute at the beginning of the process, and the effect that that has across the genders.

Sentencing issues

99. The Committee discussed some of these issues during a private meeting with two sheriffs from the Sheriffs' Association. Members also raised two other specific issues relating to sentencing: female impact assessments and mental health problems.

Family impact assessments

100. The importance of offenders maintaining links with their families has already been made clear. One organisation, Families Outside, recommended to the Committee that courts should more readily bear this in mind by considering the impact on children when women are sentenced. Doctor Loucks of Families Outside acknowledged that while social enquiry reports are supposed to do this, she considered that they focus on the convicted woman rather than on her family. Families Outside was carrying out work into broader child or family impact assessments, which should have been completed by the time this report is published.⁵⁹

Sentencing: mental health problems

101. The Committee has already made clear its concern that there are some women in Cornton Vale who have such severe mental health problems that they should not be there. While such issues should also be flagged up in social enquiry reports, it would seem that this can present challenges; Cath Smith, Principal Officer, Glasgow City Council Criminal Justice Social Work Services, told the Committee that “At the social inquiry stage, it is extremely difficult for social workers to assess mental health”.⁶⁰

102. On a broader note, Sue Brookes, the ex-governor of Cornton Vale, said:

“More than once, women arrived at reception in Cornton Vale clearly not knowing who they were, let alone where they were, and I had serious concerns about their ability to understand the court process that they had just been through. I cannot see how it can be ethically correct for someone to end up in custody without having understood properly the system that they have gone through and without having been able to contribute to the process.”⁶¹

Sentencing issues: the view of sheriffs

103. In discussing these issues with two sheriffs from the Sheriffs’ Association, the sheriffs made clear that their views were personal and not necessarily those of the Sheriffs’ Association or other sheriffs. Neither accepted the assertion that women were treated more harshly than men in the Scottish legal system. The sheriffs considered that much of the evidence to support this assertion was anecdotal or based on research in England and Wales which may not be comparable to the position in Scotland. They said that each case was dealt with on its own merits; people were treated as individuals and women were not treated differently from men.

104. Nor did the sheriffs support the proposition that there may be merit in a separate sentencing framework for women and men. It was felt inappropriate to deal with female offenders on some sort of generalised gender basis.

105. The sheriffs said that social enquiry reports already dealt with the likely impact of a sentence on the woman’s children. They made clear that while this was taken into account as a factor, just because a mother has children does not mean that she should not get a custodial sentence. It is one of many factors that the court will take into account.

106. In terms of the mental health issues that the Committee raised, the sheriffs said that social enquiry reports should mention whether an individual has a mental health *disorder* (a term defined in the Criminal Procedure (Scotland) Act 1995). Where a woman (or man) has a mental health *problem* then the sheriffs would still expect this to be flagged up in a social enquiry report and such problems could be taken into account.

107. The sheriffs also strongly emphasised that they relied heavily on defence lawyers to provide information about mental health problems and would be surprised if such problems were not highlighted. It was again made clear that factors other than a person’s mental health must be taken into account in deciding on an appropriate disposal.

108. It is worth noting that in oral evidence, the Lord Advocate said that diversion from prosecution for mental health treatment and support had been in existence for several years. She also made clear that detection of mental health issues is difficult and stressed that the term “mental health” can cover a wide range of very different behaviours.

Other health issues

109. The preceding paragraphs have focussed on the specific issue of mental health. It is helpful to set out at this point the Committee's broader concerns about deficiencies in communication and information-sharing between the prison service and other agencies regarding prisoners' general health. In oral evidence, SPS staff outlined various incompatibilities that could make relationships difficult, for example:

- "It defies logic but, as soon as someone is taken into custody, they disappear as far as the duty of care of the NHS is concerned, and the police's forensic medical examiners have to delve into the patient's health records, at the discretion of the NHS, to find out what has been going on."⁶²
- "The Scottish Prison Service is a different provider from the NHS, so there is no automatic flow of health care information ... information systems ... are not well developed in prisons for health care and addictions and ... are certainly not capable of talking to outside systems."⁶³
- "Cornton Vale provides a national service, so we potentially have to deal with every doctor in Scotland. The position in male prisons is different, because, by and large, men go to their local prison for a short sentence, so they have good links with local services ... We do not always get responses to specific requests for information, which is disappointing. One would hope that one's colleagues' professional standards would cause them to provide information promptly."⁶⁴

110. The Committee considers that there is scope for some of the problems that arise from these deficiencies to be addressed at the sentencing stage. The provision of information to SPS staff on the health issues affecting offenders who are sentenced to imprisonment or placed on remand is crucial and any relevant information received by sentencers should, as a matter of course, be forwarded to SPS staff.

Conclusions and recommendations on prosecution and sentencing

111. Despite a broad consensus amongst witnesses that there should be fewer women in prison, numbers have continued to rise. There is merit in asking what part prosecuting and sentencing decisions have played in this situation.

112. How men and women are treated by prosecutors and by the courts is an important but complex issue. The Committee notes that the decisions of individual judges (including sheriffs and justices of the peace) may well be exempt from the Gender Equality Duty given that a judicial function in connection with a court is not covered by the legislation. However, this does not take away from the fact that there should be fairness in sentencing.

113. As a first step, the Committee requests an update from the Lord Advocate's department on what has changed, in terms of prosecuting and sentencing men and women, as a result of the very recent actions it has taken on gender equality (as outlined in paragraph 97). It is worth pointing out that it has been open to prosecutors for some time to take different approaches to female and male offenders; written evidence provided by the Scottish Government outlined various alternatives to custody introduced over recent years, including initiatives specifically targeted at women, for example, "diverting women via the Procurator Fiscal from the courts into diversion schemes"⁶⁵.

114. Given the contrasting evidence on whether women are more harshly sentenced than men, the Committee notes with great interest quotes attributed to the Cabinet Secretary in the Herald on 12 August 2009:

“There is analysis that (when) a man and woman facing punishment for the same offence, the woman will get a higher tariff. That is a product of Scottish society and perhaps male chauvinism that affects politicians as much as the judiciary. I don't think it is done deliberately, it is a cultural thing.”⁶⁶

115. The issue of gender inequalities in sentencing was raised with the Cabinet Secretary when he and his officials provided oral evidence to the Committee on 23 June 2009. A Scottish Government official said “I am not sure that we have any statistics that show that women are punished more harshly than men.”⁶⁷ Given the Cabinet Secretary's subsequent reported comments, the Committee considers that he should have raised these concerns first when providing oral evidence. **The Committee would like to receive a more detailed summary of the analysis that the Cabinet Secretary is quoted as referring to, and, more importantly, an explanation of the action that he will take to address this apparent inequity in sentencing.**

116. The Committee recognises that while the issue of a separate sentencing framework for women and men was raised by Baroness Corston, the practicalities of such an approach have not been fully fleshed out in a Scottish context. **The Committee therefore invites the Scottish Government to state whether it supports the concept of a separate sentencing framework and, if so, what action would require to be taken to deliver this.**

117. The specific issue of female prisoners with mental health problems has been highlighted throughout this report. It is completely unacceptable that there are still women in Cornton Vale whose mental health is such that they should be treated elsewhere, particularly given the apparently unanimous view on this matter. The current situation gives the impression that Cornton Vale is being used almost as a repository for women who have nowhere else to go.

118. The Committee is concerned that there may be instances where sentencers do not have access to all of the information pertaining to an offender's state of health prior to sentencing. While social enquiry reports can highlight any physical or mental illnesses which an offender may have, the Committee has heard evidence that it can be extremely difficult for social workers who prepare the reports to assess mental health. The Committee has also heard evidence that, in some cases, sentencers would expect such issues to be flagged up by defence lawyers.

119. **The Committee believes that there may be merit in exploring whether stand alone medical reports prepared by GPs or other relevant professionals should be made available to sentencers prior to sentencing. The Committee believes that, as many female offenders suffer from health conditions which may contribute to their offending behaviour, courts should always have access to relevant and up to date information on offenders' health prior to sentencing and urges the Scottish Government to explore how this can best be achieved.**

120. There are two other specific issues around sentencing that the Committee would like to highlight in this section. **Where a woman is sentenced to imprisonment, the Committee believes that it is imperative that better information about her specific health needs, including any medication which she may require, be made available to the SPS on admission. Second, the Committee recommends that the Scottish Government consider and take cognisance of the research being undertaken on family reports by Families Outside, which should be available shortly after the publication of this report.**

ALTERNATIVES TO IMPRISONMENT

121. Despite the increase in the female prison population, women who offend are far more likely to receive a community penalty than a prison sentence. This section considers the suitability of such alternatives to custody for women.

Community penalties

122. Much of the written evidence was critical of community penalties as having been developed for male offenders and therefore not always being appropriate for female offenders.

123. While this criticism was also made in oral evidence, Aileen Macdonald of Apex Scotland said that some women were happy to complete their community penalties alongside men.⁶⁸ Jane Martin, from the Association of Directors of Social Work, confirmed that in most areas the appropriateness of women-only squads for community service was already being considered, as were issues such as late starts for people with child care responsibilities or medical requirements.⁶⁹

124. The issue of community penalties is one that is actively being addressed in the Criminal Justice and Licensing (Scotland) Bill. The Bill proposes to replace existing community penalties with a new community payback order (CPO). CPOs will enable courts to “punish offenders in a way which also addresses the areas of their lives which need to change”.⁷⁰

125. Given the Scottish Government’s commitment to carrying out equality impact assessments (EqIA) of its bills, the Committee sought to understand how the EqIA process informed the CPO provisions in the Bill.

126. A Scottish Government official acknowledged that gender differences around community penalties had not always been recognised in the past:

“We need to be honest. In the past, we have not been good at looking at that. We have met our legislative requirements under equality duties and so on to bring in orders that, on the surface, do not look as if they impact on people. However, the evidence that has come out in the past few years and our work to support women offenders have taught us that we have to be much smarter. A woman might be subject to a community payback order, but there might be issues around access to unpaid work. We should not demand something of the woman that she cannot meet.

Social work will have to get to grips with that in preparing social enquiry reports, for example. We want social workers to start looking at the impact of recommending that a requirement is put into a community payback order and the potential impact if the person breaches the order. To alleviate the problem slightly, we have introduced electronic monitoring as a condition in response to breach of an order. In some courts, people will not be sent to prison for breach of the CPO; they will be given a restriction, through electronic monitoring, but they will be allowed to continue on the order. It is open to social work to ask for a review of the order, so the conditions could be modified if they are becoming too onerous. We understand that putting a requirement on top of a drug treatment and testing order, for example, is really quite onerous.”⁷¹

127. In-depth scrutiny of provisions regarding CPOs is, rightfully, the role of the Justice Committee. However, the Equal Opportunities Committee is pleased to note that, on the face

of it, the CPO process will take better account of gender differences between men and women.

Community-based facilities

128. The Committee considered in some depth whether women's offending behaviour could better be addressed in buildings in the community, rather than in prison.

129. It is of deep concern to the Committee that there are some female offenders who have, according to witnesses, committed a crime in order to be sent to Cornton Vale or whose addictions may have killed them had they not been treated in prison. This suggests that there is something lacking in the provision of support for women who offend or, indeed, who are at risk of offending.

130. Mike Ewart, Chief Executive of the Scottish Prison Service suggested that there was a need for "an alternative form of secure establishment – not one that keeps women locked securely inside, but one that keeps women secure". He mentioned establishments run by the Norwegian prison service, akin to hostels, where women live and from where they can go out to work or to undertake education or programmes to improve their personal and social skills.⁷²

131. In an English and Welsh context, Baroness Corston said that she would like to see more women's centres established as an alternative to custody. While the precise organisation of such centres varies, in general they support women offenders and those at risk of offending by providing a variety of relevant services, such as family and housing support. Baroness Corston stated that she had seen evidence of "women's lives being turned around" and their "developing skills and self-esteem" as a result of going to such centres.⁷³

The 218 centre

132. In Scotland, the 218 centre in Glasgow is probably the closest example of the type of establishment described above. 218 is a social and health care service which works with women who have been referred by agencies directly involved in the criminal justice field i.e. the judiciary, criminal justice social work and SPS staff. The service, which operates from a building in Glasgow City Centre, offers a residential unit and a day programme. There is a six bed detoxification unit and an eight bed supported accommodation unit, which are projected to be used by 85 and 50 women respectively during the course of a year. The centre's primary aim is to reduce the re-offending rates of the young women it supports.

133. The effectiveness of the 218 centre was being evaluated as this report was being written. While the Committee cannot therefore comment with authority on its effectiveness, it is worth highlighting that it attracted very strong praise from virtually all witnesses who mentioned it in evidence. The Cabinet Secretary said he supported the 218 centre but also recognised that it may not be the best option for all female offenders, given their individual needs.⁷⁴ The sheriffs who gave an informal briefing to the Committee said that the equivalent of a 218 centre in Edinburgh would be a welcome disposal.

134. Witnesses recognised that while it might not be possible to have an actual building in other parts of the country, the services offered at 218 could be replicated as appropriate. The high cost of the 218 centre was also mentioned, although its true value may be difficult to measure unless factors such as its success in preventing re-offending are taken into account.

135. On a broader note, various witnesses considered that if there were more centres like 218, they should not just help women who had offended. Several witnesses were in favour of

more work being done with females at risk of offending, to try to prevent them becoming involved in the criminal justice system.

136. While the use of remand is a relatively complex justice matter, the Committee would like to highlight oral evidence provided by Cath Smith, of Glasgow City Council. Ms Smith said that when sheriffs and stipendiary magistrates visited the 218 centre, there appeared to be an increase in bail being used constructively as opposed to women being remanded. She stressed that:

“If we could just deal with the remand situation, that would change things significantly. If we could manage to bail just one woman—whether to 218 or on bail supervision—instead of remanding her at Cornton Vale, that would be a huge achievement.”⁷⁵

Conclusions and recommendations on alternatives to imprisonment

137. The Committee has already noted that, if passed, the Criminal Justice and Licensing (Scotland) Bill may reduce the number of women being imprisoned in Cornton Vale on short-term sentences. The corollary of this reduction may be an increase in the number of women who receive a community penalty instead. While the Committee has not taken detailed evidence on the financial implications of this shift, it is fair to assume that there will be a need for greater resources for women serving community sentences. Given the evidence highlighted above, there will also be an even more pressing need for relevant authorities to ensure that such sentences are properly tailored to women. The Committee welcomes the admission by Scottish Government officials that gender differences around community penalties have not always been recognised in the past, and welcomes the fact that the Bill will seek, in part, to redress this.

138. In terms of specific alternatives to custody, the Committee recommends the 218 model as one that offers dedicated and specialist services specifically tailored to female offenders. **While the centre is currently being evaluated, it did attract very strong praise from virtually all witnesses and the Committee therefore considers that there is merit for the type of service it provides to be replicated in other parts of Scotland where there is a demonstrable demand.** The Committee is pleased to note that a residence requirement could be attached to the Scottish Government’s proposed new community penalty orders. This means that a court could, for example, require an offender to stay at the 218 centre or in a local authority’s supported accommodation.

139. Given the similar backgrounds of female offenders – which are very familiar by now to relevant authorities – **the Committee believes that it would be particularly helpful for 218 and similar centres also to provide services to women who are at risk of committing crime.**

PREVENTING RE-OFFENDING

140. Having considered how women become involved in crime and their experiences of prison and community sentences, this section examines measures that can be taken to prevent women re-offending. It looks first at the concept of throughcare and then considers the related issue of information gathering. Specific targets to prevent further offending are also considered.

Throughcare

141. In theory, the support that is provided to women upon their release from prison should be a continuation of the assistance that is provided in prison, rather than being something distinct. This on-going support is typically referred to as “throughcare” and involves offenders building links with service providers in prison, which they can develop upon release into the community. Prisoners serving sentences of four years or more are subject to statutory supervision on release. A supervising officer will maintain contact with the prisoner during the custodial sentence and be responsible for their supervision on release. There is currently no statutory support for short-term or remand prisoners. However, local authorities do provide voluntary throughcare services to any prisoner who requests it for up to one year following release. Voluntary throughcare aims to help prisoners settle back into the community and can make links to a wide range of services, depending on the needs of the prisoner.

Health

142. SPS staff were particularly supportive of the concept of throughcare, perhaps in recognition of the sheer number of women that they have to deal with and the complexity of their problems. As noted in paragraph 109, they outlined a series of improvements that could be made in terms of health care links.

143. There is a further example which demonstrates the extra support that female ex-offenders may need but which may be extremely challenging for service providers to deliver. It was suggested that some ex-offenders may fail to turn up for health appointments on several occasions and thereby run the risk of being struck off the service. While witnesses called for greater understanding to be shown to such women, others pointed out that most health services were already very stretched.

Housing

144. Housing is another area of crucial importance to prisoners upon their release. From a gender perspective, the Committee was told that women were much more likely than men to lose their homes when they are imprisoned.

145. A specific housing issue flagged up by Douglas Edwardson, Aberdeenshire Council, demonstrates the precarious situation that many offenders can find themselves in:

“Housing benefit arrangements often determine whether a person who has been convicted and sentenced and is in Cornton Vale ... can retain their tenancy. The housing benefit people pay benefit for up to 13 weeks. If a sentence is longer than 13 weeks, housing benefit will stop and the individual will require to pay the full rental cost. That is a major determinant of whether people will sustain tenancies We reach the incredible position in which someone's whole life – their tenancy and their home – might be at risk depending on how they behave while they are in prison ... We try to sustain people's tenancies and to give them a home for themselves and their families but, under the system that we have, that can easily be taken away.”⁷⁶

146. A further benefits-related example was provided by Lorna Lumley, an ex-prisoner who gave oral evidence to the Committee. She said that she had repeatedly – but unsuccessfully – made phone calls upon release from prison to try to ensure that she would be able to access a crisis loan.⁷⁷

Health and Housing

147. There are examples of overlapping gaps in health and housing throughcare. A

particularly bleak example was provided by Doctor Willie Black, a consultant forensic psychiatrist:

“... quite often, I do not know where prisoners are being liberated to; nor do the prisoners themselves. I find myself having to provide somebody who has a severe mental illness that we have managed to treat in prison with a "To whom it may concern" letter, which we hope they do not lose before they get signed up with a general practitioner.”⁷⁸

148. He pointed out that it would be far better if accommodation could be allocated well in advance of such prisoners being released.

Mentoring

149. For throughcare to be successful, expert witnesses stressed the importance of women building consistent and trusting relationships with an outside worker before they are released. Given this and given tighter budgets across the public sector, the Committee was interested to hear witnesses discuss the benefits of mentoring for female offenders.

150. For example, south-west Scotland CJA has established a project whereby mentoring services support women who are on community sentences. The Committee was told that, in its first year, the project helped to reduce breach rates from more than 30 per cent to about 14 per cent, leading to a reduction in the number of women going to prison.⁷⁹ The Committee also highlights the success of the voluntary organisation Circle, which provides community-based support that aims to prevent further offending by ex-offenders. A recent report by Circle stated “none of the [36] women who had worked with the service for at least six months had re-offended”.

Information about female offenders

151. While a separate issue, it is helpful to highlight in this section that various witnesses considered that not only could links be improved once women had left Cornton Vale, but that better information should be made available about women upon their entry to prison. The Committee hopes that presenting these issues together will encourage the SPS and other relevant bodies to consider the overall cycle of female offending, rather than seeing arrival and departure from prison as distinct processes.

152. An example of where SPS officials would welcome more information about female prisoners was provided by Ruth Parker, head of care at Cornton Vale. She said that it would be helpful to have further background information from the courts on people's issues when they enter custody and during the initial screening and assessment process. She added that:

“... it would be helpful to continue work on prisoners who come into custody rather than start again, and to continue in prison treatment from where it left off in the community and, likewise, to continue treatment in prison into the community”.⁸⁰

153. Doctor Nancy Loucks of Families Outside said that she would like women to be asked about caring responsibilities when they arrive at Cornton Vale, as there was very little reliable information available.⁸¹ The Committee was surprised to discover that women were not asked about their experience of domestic abuse upon arrival at Cornton Vale, despite the fact that they are asked about prostitution. It is also interesting to note that various forms are completed on women's behalf when they are admitted to prison. While this is perfectly understandable, it means that it can take the SPS some time to uncover an individual's literacy problems.

154. In short, there are gaps in knowledge about women upon their arrival in prison which may impact on the support that is thereafter provided to them.

Gaps in information about female offenders and female ex-offenders

155. While the Committee did not conduct a full audit of the information that is collected in relation to female offenders and ex-offenders, further examples of information gaps are provided below. These reinforce the point that better quality information is needed in order to offer more effective programmes of support to female prisoners:

- the SPS does not hold figures on the percentage of female offenders who have lost their employment, their tenancy, had their home repossessed, or children taken into care as a result of their imprisonment;
- while surveys of prisoners have shown a reduction in the number of prisoners using drugs, comparing admission with departure, SPS officials could not confirm whether this reduction was due to fewer drugs being available or the effectiveness of addiction services;
- no “absolute figures” are held by the SPS on the number of women who have moved house upon release from Cornton Vale in order that they can access the support services that they want;
- follow-up work has not been carried out on a group of women who have left Cornton Vale, to determine whether the programmes they accessed had a significant impact on their offending.

Improving throughcare and support

156. Having outlined its concerns about throughcare and information collection, the Committee welcomes the fact that active efforts are being made to improve these areas. For example:

- the report of the Scottish Government-led *Housing Advice Services for Prisoners Short-term Working Group* is expected to be published shortly after the publication of this report;
- Jobcentre Plus is reviewing all its processes with its prison advisers, with the possibility that benefits for prisoners might be fast-tracked;
- the SPS is devising a domestic abuse strategy, which will address concerns about female prisoners not being asked about their experiences of domestic abuse;
- Jane Martin, manager of criminal justice services at Dundee City Council, pointed out that when a person gets a short period in custody, the case is generally closed. However, the council is trying to keep such cases open “so that we can proactively follow the person from the point of sentence through prison and, ideally, out again”.⁸²;
- the Cabinet Secretary expressed his support for the mentoring of female offenders, although he was cautious about what could be done given the amount of money to be spent on the prison estate. **The Committee points out evidence from SACRO that mentoring projects can be provided on a voluntary basis which, if viable, could provide significant benefits at a comparably minor cost;**
- The issue of being more accommodating towards ex-offenders who fail to turn up for health appointments may well be addressed through the implementation of *Equally Well*, the report of the Ministerial Task Force on Health Inequalities, which set out the importance of giving offenders equal access to public services. In written evidence, the Scottish Government said that “We will be keeping women offender issues to the fore as we take forward this strategy and linking to the work of other government strategies to tackle disadvantage in Scotland”.⁸³

157. Perhaps more significant than the above examples, Scottish Government officials confirmed that the health service was looking to take over responsibility for health care in Scottish prisons within the next three years. As part of the Criminal Justice and Licensing (Scotland) Bill, the Scottish Government has also initiated work on a new offender management programme. Broadly speaking, this work will aim to involve a much wider range of bodies in dealing with offenders. It will also seek to improve information sharing across the criminal justice system and will take an offender-based rather than a process-based approach so that the needs of the offender can be considered all through the system. Provisions in the Bill will also change the way that the release and supervision of prisoners is undertaken and will allow gender specific systems and services for all offender groups to be designed.

Conclusions and recommendations on throughcare and information gathering

158. The Committee fully appreciates the efforts being made by SPS staff and other relevant bodies to support female offenders. That said, the examples provided above demonstrate that there is perhaps not as much information collected on female offenders and female ex-offenders as might reasonably be expected, especially when the relative merits of imprisonment and community penalties are actively being considered. This is an important point because the theory of rehabilitation of female offenders and the provision of support to them is based on the proposition that the underlying reasons why women commit crime can be tackled. Better information about what is and what is not effective would inform this debate. **The Committee therefore recommends that the Scottish Government and the SPS undertake a comprehensive audit of the information they hold about female offenders and female ex-offenders, with a view to improving the services that are provided to them.**

159. In terms of throughcare, the Committee recognises that work is actively underway to try to improve the links between support provided in the prison and in the community. The Committee supports this effort and reiterates its view that greater statutory support may have to be provided to women serving short-term prison sentences.

160. Some of the specific actions being taken to improve throughcare are summarised in paragraph 156. From examining this list, it is apparent to the Committee that there is a wide variety of actors involved, from the SPS to the Scottish Government to Jobcentre Plus. **The Committee believes that there is a need for the Scottish Government to report on how these and any other relevant activities inter-relate, how action is being co-ordinated, how success is being measured and to provide a timeline within which any relevant action will be taken.**

161. Given the concerns it has expressed about the mental health of female offenders, **the Committee also asks the Scottish Government to consider whether the health service could take over responsibility for health care in Scottish prisons within a much shorter period than is currently envisaged.**

Prostitution

162. A very specific issue that the Committee wishes to highlight in this section relates to prostitution. At the 218 Centre, Members heard from one woman that spent convictions for prostitution must be disclosed in applications for employment in retail and childcare. She explained that because her convictions for prostitution had to be disclosed in job applications she had not been able to obtain employment. She felt that this was unfair as other types of conviction did not need to be disclosed after a specified period.

163. In written correspondence, the Cabinet Secretary for Justice told the Committee that the Scottish Government had no intention of changing the current legislation governing the retention of criminal convictions for prostitution. He explained that, under the Rehabilitation of Offenders Act 1974, the general rule is that, once a conviction is spent, the convicted person does not have to reveal it and cannot be prejudiced by it. However, there are some types of employment such as work in the childcare and health professions where disclosure is required to protect the public.⁸⁴

164. The Committee appreciates that a balance has to be struck between rehabilitating offenders and protecting the public. However, it is not clear to the Committee why women convicted of prostitution would pose a threat to children and vulnerable people. **The Committee questions the logic of the Scottish Government's position and seeks further clarification from the Scottish Government on this matter.**

Targets to prevent re-offending

165. In discussing the support available to prisoners in Cornton Vale, SPS staff made clear that interventions would only be effective if women were treated as responsible adults rather than as victims, and that the prisoners themselves needed to take responsibility for altering their behaviour:

"I am not trying to understand prisoners to the nth degree. We are trying to address the drug problem, but we are part of a network in which the woman is at the centre, of course, and she must decide that she is fed up with her lifestyle and to move on to another lifestyle. We are there to help, support, motivate and—I hope—be part of the solution to get people off drugs and to stay off them."⁸⁵

166. The Committee heard a similar rationale for supporting offenders in the community, with a view to preventing their further offending. As noted, CJAs are statutory bodies which are required to take measures to reduce re-offending. Mr Hawkes, Chief Officer of the Lothian and Borders CJA, told the Committee that:

"... the national strategy on which CJAs were founded was based on the assumption that offenders have a range of health, housing, employment, literacy, addiction and learning disability needs. The idea was that if adequate services were provided when required, that would address the needs that lead to offending. The argument—it is almost a hypothesis—is that what sets offenders apart, broadly, is the fact that they are a group of people who are excluded from opportunities within their communities for a variety of complex reasons, which we understand. Offenders are hallmarked by the over-significance of that list of needs. The hypothesis says that if we address that range of needs, we will, in turn, address offending behaviour."⁸⁶

167. Mr Hawkes explained that the CJA national strategy requires a 2 per cent reduction in re-offending by 2011. While there is a CJA target on re-offending, the Cabinet Secretary for Justice confirmed in oral evidence that he had not made any projections as to how the Scottish Government's policy on short-term sentences would affect female re-offending. He confirmed that his focus was on outcomes such as safer and stronger communities, and getting women to address their offending behaviour.⁸⁷

Conclusions and recommendations on targets to prevent re-offending

168. The hypotheses outlined by SPS and CJA officials suggest that programmes can be provided by relevant authorities to address the needs of women who offend, thereby helping to prevent or reduce their re-offending.

169. Bearing in mind this view, the Committee notes that the CJA national strategy requires a 2 per cent reduction in re-offending by 2011. **The Committee highlights again the successes achieved by the charitable body Circle (paragraph 150) and by the south-west Scotland CJA (paragraph 150) and considers that such results demonstrate that the CJA national target could be met and perhaps even exceeded.**

170. The Committee notes that the Scottish Government does not appear to have a target for reducing re-offending that is comparable to the CJA target. **While the Committee appreciates the Scottish Government's focus on outcomes such as 'safer and stronger communities', it questions whether it having a more defined target could help to focus and co-ordinate efforts.**

THE GENDER EQUALITY DUTY AND LEADERSHIP ON FEMALE OFFENDERS

171. This report has given a flavour of the very wide range of measures being undertaken that will have a direct bearing on female offenders. Given just how much activity is underway, the Committee is mindful of a chapter in Baroness Corston's report which posed the question "Who's in charge?" and which called for better UK government leadership on female offenders.⁸⁸

172. The question of who has overall responsibility for dealing with female offenders raises fairly complex justice issues that are beyond the scope of this report; the Committee's primary interest was in understanding how relevant bodies cater for female offenders. That said, there were some relevant issues raised in evidence about leadership and responsibility – dovetailing around the application of the Gender Equality Duty ("the duty") – which the Committee would like to highlight.

Gender Equality Duty

173. Various witnesses admitted during the course of the Committee's inquiry that the specific profile or needs of female offenders had not always been fully considered. For example, Mr Hawkes said that "... services for women were not developed adequately prior to the formation of the CJAs".⁸⁹ The Committee welcomes such honesty and the recognition from other witnesses that more work has to be done to raise the profile of women offenders even further.

174. During its first oral evidence session, the Committee was told that the eight CJAs were using equality impact assessments with regard to their area plans and their budget decisions, and that this would "filter down" to the local authorities.⁹⁰ The Committee questioned whether the duty could simply "filter down" or whether it could be ensured that the Scottish Prison Service and local authorities meet their obligations under the duty. The Committee was extremely concerned to hear that the key bodies in the criminal justice system had not, at that point, met to discuss the implications of the duty for the way they deliver their services.

175. Scottish Government plans to establish an offender management programme are discussed above. The Committee notes with interest that the Cabinet Secretary has "asked officials to apply the gender equality duty as an objective across all aspects of the offender management programme".⁹¹ While the Committee welcomes this approach it is not clear why

relevant officials have to be asked to apply this duty, rather than it being something that would be done automatically.

176. The Committee trusts that application of the Gender Equality Duty – which is a statutory requirement – will be done for other relevant policies and programmes, not simply in relation to the offender management programme.

Leadership

177. As to the broader issue of who has overall responsibility for female offenders, the Committee notes, for example, the Cabinet Secretary's response to the question of whether the SPS should have a statutory duty to rehabilitate prisoners:

"we as a society need to recognise that although prison has a particular duty and the SPS tries to do additional work, rehabilitation ultimately takes place in the community, when people return to a community in which houses, jobs, child care and mental health services are available. I do not preclude or rule out a statutory duty, but it seems better to get on and do what is necessary than to create legislation that will not deliver the impact that is needed."⁹²

178. The scope of the SPS draft women offender strategy is, understandably, limited to the management of women in prison. It does, however, recognise that the SPS should work with partner agencies "to help women experience a successful transition back into their communities"⁹³.

179. There is a clear emphasis being placed on communities playing a role in helping the rehabilitation of female offenders. There is also an increasing awareness that a wider range of public bodies have a role to play in supporting and rehabilitating female offenders. **The Committee considers that this approach endorses the emphasis it is placing on the need for better throughcare provision.**

180. Given Baroness Corston's views, the Committee asked the Cabinet Secretary **whether there was** clearer accountability and responsibility in Scotland for meeting the needs of women who offend or who are at risk of offending. The Cabinet Secretary said that "clearly, the justice department has that responsibility"⁹⁴.

Conclusions on leadership

181. The Committee acknowledges that a great deal of work is underway by various bodies that aims to address the issues facing female offenders. However, female prisoner numbers have continued to rise over recent years despite various attempts to prevent this, while there are still women with severe mental health problems being sent to prison. Other examples of improvements that could be made are identified throughout this report, for example, in providing better quality information on female offenders; overseeing the efforts that are underway to improve throughcare; and, seeking to co-ordinate targets on preventing further offending by women. **The Committee looks forward to receiving a response from the Scottish Government that demonstrates leadership on such matters.**

182. The Committee welcomes the honesty of various witnesses who have admitted that female offenders' different needs and circumstances have not always been taken into account. The Committee sees evidence to suggest that this gap is being addressed and considers that correct application of the Gender Equality Duty will continue to drive this

process. That said, it is clear that the full ramifications of this legislation have not always been considered by public bodies and that it may lead to some difficult judgements having to be made. A challenge for decision makers will be to understand how gender differences can be recognised and acted upon, without running the risk of stereotyping female offenders or ignoring their individual needs.

183. The Committee concludes by echoing the remarks it made at the start of this report; that the Scottish Government and the Scottish Parliament have a golden opportunity to take action to meet the specific needs of female offenders. In the words of SACRO, “Perhaps too much emphasis has been given in the past to analysing the profile of women offenders rather than devising solutions to the problem.”⁹⁵