

ABERDEEN CITY COUNCIL

COMMITTEE	Council Statutory Meeting
DATE	16 May 2012
DIRECTOR	Stewart Carruth
TITLE OF REPORT	Aberdeen and Peterhead Prison Visiting Committees – Appointment of City Council Representatives
REPORT NUMBER:	CG/ 12/038

1. PURPOSE OF REPORT

The report requests the elected members to consider the appointment of Aberdeen City Council's representatives on the Aberdeen and Peterhead Prison Visiting Committees.

2. RECOMMENDATION(S)

That the Council appoint:-

- (a) four people to serve on Aberdeen Prison Visiting Committee, in accordance with the detail at 5.2.1 and 5.2.2 of the report; and
- (b) three people to serve on Peterhead Prison Visiting Committee, in accordance with the detail at 5.2.4 of the report.

It would be possible to delegate the appointments to Group Leaders. Although it is preferred that representatives be appointed directly this afternoon.

3. FINANCIAL IMPLICATIONS

Democratic Services has traditionally supplied a Committee Services Officer to act as Clerk to Aberdeen Prison Visiting Committee. This has been done gratis on account of what is usually the relatively low workload implications.

However, the Cabinet Secretary on 5 December 2011, announced his decision to disband Visiting Committees. On the basis of the latest update from the Minister, it is anticipated that Visiting Committees will be disbanded as of 1 April 2013, and the new service will begin. Therefore the services of Democratic Services will no longer be required from then on.

4. OTHER IMPLICATIONS

N/A

5. BACKGROUND/MAIN ISSUES

Aberdeen and Peterhead Prison Visiting Committees

5.1. Background

5.1.1 Many elected members will be familiar with the role of Prison Visiting Committees which, very broadly, act on behalf of the First Minister as independent observers concentrating on the conditions in prisons and, in particular, the treatment of prisoners.

5.1.2 Some form of independent oversight of prisons in Scotland has existed for well over a century. The modern context of the Visiting Committee is a sophisticated one which assumes harmony between the Committee and the Governor but, ultimately, provides for the possibility that the Committee might not be satisfied by remedial action taken by the Governor in response to its concerns, and for the referral of difficulties to the First Minister.

5.1.3 Ideally, and this is certainly the case at present in Aberdeen and Peterhead, the Governor welcomes the involvement and participation of the Visiting Committee in the strategic planning process but, ultimately, the Committee has no veto in value judgements reached in the course of that process. However, the absence of ultimate managerial responsibility does not entail lack of real influence.

5.1.4 Every member of a Visiting Committee has the right to enter the establishment at any time and to have access to every part of it, and to every prisoner. This right must of course be exercised with common sense, and with due regard to the routines of the establishment. A visiting rota is arranged, with a minimum of two members visiting every fortnight. The new Committees have to be appointed by Aberdeen City Council and Aberdeenshire Council, and, ideally, the City Council representatives - for Aberdeen *and* Peterhead - would be appointed at today's meeting.

5.2. Appointments

Aberdeen Prison Visiting Committee

5.2.1 The legislation determines that Aberdeen Prison Visiting Committee should have six members in total, four appointed by the City Council and just two by Aberdeenshire Council. Of the

four to be appointed by the City Council, there need be no elected member at all. However, traditionally, the Council has gone for two elected members (no more than two can be appointed) and two external members (i.e. non-members of the Council).

5.2.2 There is some confusion about this issue. The legislation is framed in such a way as to emphasise that Councillors should not outnumber "external" members, meaning that, at the very least, there should be parity between the two categories. However, it is not the case that that parity is itself obligatory, and all four City Council representatives could be "externals".

5.2.3 The current City Council appointments on Aberdeen Prison Visiting Committee are as follows:-

Councillor Kiddie (Convener of the Committee)
Councillor Allan
Eileen Lawson (external)
Fraser Forsyth (external)

Eileen Lawson has confirmed that she would wish to continue her membership on the Committee. Whilst Councillors Allan and Kiddie, and Fraser Forsyth have been elected as Councillors in the Local Government election for the Aberdeen City area.

Peterhead Prison Visiting Committee

5.2.4 The Council also has to make appointments to the Peterhead Committee, which is supported by Aberdeenshire's legal department. There is a slight difference here, however; the statutory rules for Peterhead stipulate that the Council needs to appoint only *three* representatives. Again, all three can be external members but, in this case, external members *can* be outnumbered by Councillors and so here the choice is between three externals, two externals and one elected member, or two elected and one external (i.e. three elected is not possible).

5.2.5 The current City Council appointments on Peterhead Prison Visiting Committee are as follows:-

Councillor Donnelly
Ms Heather Morgan
Mr William Stark

5.3. The Association of Visiting Committees for Scottish Penal Establishments – Appointment Procedure

As members may recall the Association of Visiting Committees for Scottish Penal Establishments has promoted the idea that local authorities should adopt a new procedure for the appointment of external members, this to involve advertisements

in the local press to invite people living within reasonable travelling distance of the prison in question to apply for membership to the Visiting Committee. Accordingly, a Council would establish a Visiting Appointments Panel, and this panel would conduct a recruitment process leading to the establishment of a pool of suitable candidates from which, subsequently, the Council would make the necessary appointments.

5.3.2 A number of local authorities have decided to follow this new procedure for the selection of external members, however this is not mandatory and to date, the Council have chosen not to adopt this new process. In light of the Cabinet Minister's announcement of his decision to abolish Visiting Committees, it would seem cumbersome to implement this for what could be the Council's last external appointments to the Committee. That being said, it is a decision for Council to make.

5.4 Future of Visiting Committees

5.4.1 As referred to above, the Cabinet Secretary for Justice on 5 December 2011, announced his decision to disband Visiting Committees and to replace the current function of the Visiting Committees with a dedicated independent prisoner advocacy service which will be delivered by a consortium of third sector organisations across the whole prison estate. The Government is now conducting the required process for this change. This is a lengthy process which includes the requirement for a draft order and explanatory document still to be laid before Parliament, and a subsequent public consultation process also to be held. It is worth highlighting that the decision has not been welcomed by Visiting Committees for a number of reasons, and in this regard the Association of Visiting Committees continues its campaign to reverse the Minister's decision.

5.4.2 Given, the early nature of the process, and the ongoing dialogue with the Association of Visiting Committees, it cannot be said that an ultimate decision has been made, however the likelihood is that Visiting Committees will cease. On the basis of the latest update from the Minister, it is anticipated that Visiting Committees will be disbanded as of 1 April 2013, and the new service will begin. Therefore, the appointments made by Council today would be for the entirety of the period leading up to the commencement on the new service.

6. IMPACT

Corporate - The Council is statutorily obliged to appoint members to the Committees; the value judgements underpinning the existence of the Committees are outlined in the narrative.

6. BACKGROUND PAPERS


Letter from Cabinet Minister to Prison Visiting Committees dated 5 December 2011 (attached at Appendix 1)

Letter from the Scottish Government in relation to Prison Visiting Committees and elected member arrangements post-election dated 25 April 2012 (attached at Appendix 2)

9. REPORT AUTHOR DETAILS

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5 December 2011

Dear Colleague

I am writing to you to inform you of the outcome of the consultation on independent monitoring of prisons and have attached a copy of the Analysis Report for your information.

I would firstly like to thank you for your hard work and dedication in the role you carry out as a volunteer, I appreciate the time, effort and commitment that you have brought to your role. I place a high personal value on the role that is played by those who make the commitment to volunteer in the pursuit of public service. I appreciate this has been an uncertain time for you as you waited for the outcome of the recent consultation. I thank you for your patience in this regard and I am pleased that I can now confirm the decision I have made and the thinking behind that decision.

I am sure that you will share my view that it is crucial that prisoners have the right to an independent service to raise issues they have regarding their treatment and rehabilitation, and also to be confident that these issues are dealt with effectively. I have carefully considered and balanced the wide range of views expressed in the consultation and have concluded that the evidence supports my decision that the time is now right to replace the current function of the Visiting Committees to reflect the changing environment in which we operate.

The current service will be replaced by a dedicated independent prisoner advocacy service which will be delivered by a consortium of third sector organisations across the whole prison estate. I am committed to continually improving our public sector and ensuring it operates to maximum efficiency and this change is one part of a wider set of reforms, including moving to a single Police Service, and a single Fire and Rescue Service, as well as other changes to rationalise the number of public bodies and simplify the landscape. This new service will support prisoners who may otherwise have difficulty using established routes to access mainstream services, with the aim of improving prisoner links with the community.

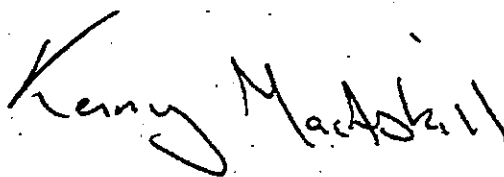
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Visiting Committees were established in the 19th Century when prisoner care was significantly different from the current day. Over this time the prison landscape has changed and it is right that the support for prisoners should do so too. Prisons today are more accountable, transparent and open than when the Visiting Committees were first set up. HM Chief Inspector of Prisons carries out routine inspections, announced and unannounced follow up inspections and provides a detailed report with recommendations. There is also a wide range of service providers who regularly visit and work in prisons who deal with prisoners on a regular basis. The skills set for the advocacy service will require the provider to have a local knowledge of working with offenders and will require them to support prisoners in improving communication with families; literacy issues; referrals in and out of prison; establish links with the local community and prisoners returning to communities. Service providers will have both advocacy experience and qualifications where appropriate. The advocacy service will visit the prison on a regular announced basis. The tendering process for the service will commence early in 2012 and I envisage the new service to be up and running later in the year. Until the new service is in place Visiting Committees will continue to operate as they currently do. My officials will provide updates on proposals and timings as they develop.

In reaching my decision I weighed the evidence from a wide range of sources. The view of prisoners themselves was an important element in reaching that decision. In addition to the formal consultation, my officials facilitated prisoner focus groups, speaking with approximately 150 prisoners from four different prisons. The prisoners involved in the focus groups made it clear that they would be in favour of a dedicated service that they could use to speak to about issues which are of concern to them and which could provide advice and support independent of the Scottish Prison Service. The Analysis report can be found on the Scottish Government website at www.scotland.gov.uk/Publications/2011/12/01141729/0

Again, I would like to take this opportunity to thank you again for your dedicated work and commitment and I wish you well in any future or continuing role you play in volunteering in the delivery of public service.



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25 April 2012

Dear Anil,

I thought it would be helpful to set out our position on Visiting Committees in advance of the Local Authority elections and provide guidance on how we envisage the Visiting Committees to continue until the new replacement service is in place. This is proposed for April 2013.

As you will be aware, in the recent parliamentary debate on visiting committees it was recognised that an independent prisoner advocacy service would contribute to better offender outcomes, which the Scottish Government is committed to deliver. The debate did however raise concerns about the future independent monitoring of prisons. The Scottish Government accepts that monitoring is required and has committed to address this by continuing to work closely with partners to help shape the thinking about how we ensure there is effective independent monitoring of prisons.

The Cabinet Secretary for Justice will be publishing a section 14 order to remove the prison visiting committees under the Public Services Reform (Scotland) Act 2010 at the end of May 2012, together with a proposed draft order and an explanatory document, which will also be published on the Scottish Government website. The consultation period will last for 60 days. This will provide a further opportunity for the Government to seek a broad range of views on the proposals.

Until the new service is in place Visiting Committees will continue to operate as they currently do. Therefore the elected member complement for each of the current Visiting Committees will still be required after the May elections.

I would be grateful if you can disseminate this information with local council officials. Any questions regarding the above can be directed to Hannah Keates at hannah.keates@scotland.gsi.gov.uk or 0131 244 6925.

Yours ever,
Joe

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