

Ministers Reflect Kenny MacAskill



5 December 2018

Biographical details

Scottish parliamentary history

2007–16: Scottish National Party Member of the Scottish Parliament for Edinburgh Eastern

1999–2007: Scottish National Party Member of the Scottish Parliament for Lothians

Scottish government career

2007–14: Cabinet Secretary for Justice

Kenny MacAskill was interviewed by Akash Paun and Tess Kidney Bishop on 10 December 2018 for the Institute for Government's Ministers Reflect project.

Kenny MacAskill reflects on deciding to release Abdelbaset al-Megrahi from prison, merging the Scottish police forces and preparing for the 2014 Scottish independence referendum.

Tess Kidney Bishop (TKB): If we go back to 2007 when you first became Justice Secretary, what was your first day in the job like?

Kenny MacAskill (KM): It all passed in a bit of a blur. You were very much bemused. Nothing can really prepare you for Government. You're introduced to your private office, who are always very attentive but they are entirely new to you. So I found it very strange. Nothing untoward: to be fair, like going to a new school, going to university, the first day in any job... The staff were very supportive and you got walked through the building, so to speak. And, of course, then it was up to the Court [of Session in Edinburgh] to take the oath of office. I remember coming out of the building and you were whisked into the government car and away once you'd formally become the minister, so it passed in a blur.

TKB: And had you done any preparation for coming into a ministerial job?

KM: Well, I'd been shadow spokesperson in justice and had been in Parliament since 1999, so I'd seen ministers in operation, but it's still a significant change, and nothing can prepare you for it. I remember speaking to a colleague who had been a Labour minister and I think they were the same: nothing can prepare you for it. It is a quantum difference.

TKB: Having been a shadow minister, did you already know what your priorities were going to be when you came into the job?

KM: Yeah, that was a fortunate position. I knew the priorities, I knew what was on the agenda, I knew what I felt was essential to stop, what was essential to support and where we wanted to go. And I think I was very fortunate in that. I was well briefed, I had a plan. My recollection is that that was welcomed by the staff because what they wanted to know was a sense of direction. Much of what you do is just keeping the show on the road. Any administration of any colour would do it but when you give what your priorities are they welcome that.

TKB: So how did you actually communicate those priorities to the civil servants?

KM: I sat down with them in what they call the 'senior staff meeting' and I laid out the priorities we had, which were a visible police presence and increasing police numbers; a coherent penal policy, making sure we got the right people in and not locking up ones that didn't need to be there and could be dealt with in the community; tackling serious

organised crime; and getting a handle on addressing Scotland's, you know, uncomfortable relationship with alcohol. So those were the key priorities.

TKB: And they [the civil servants] were receptive to that?

KM: They were very receptive. They'd had difficulties. The worst thing, they thought, was a minister who didn't really know what to do. They wanted direction. They might disagree with the minister, but they wanted direction. So I think when you had a plan, that was it: they knew what we wanted, they could go away and work on it. And I found them remarkably loyal, remarkably inspired, many of them, very supportive of what you were doing, not party political, but in terms of the direction of travel. And I think they just welcomed that there was a sense of purpose.

TKB: Then very soon after starting the job, you were hit by a big crisis with the Glasgow Airport terror attack. How did you manage the response to that so soon into a new job?

KM: Well, my first recollection is going into the resilience room, the emergency room, as we called it then, and the staff were all hard at work on all these things that had been prepared for and were prepared for continuously in every administration. It kicked into gear. You could see it on the big screens that we had, the calls were coming in. It was a bit of a blur again, and it passed, but I was taking command a lot. The Lord Advocate was outstanding, made it quite clear that this was Scottish jurisdiction. She was in charge of the law and the prosecution in Scotland, and I think that put some from the Metropolitan Police and the Special Branch in their box. She was remarkable in rising to the occasion. And to some extent, my role was supporting the police, supporting enquiries, speaking to the media and reassuring the public. So I think the star of the show was the Lord Advocate. But I think what it did do was lay down parameters. Devolution was in situ, there was a different administration, we were not going to roll over and just simply kowtow. We were happy to cooperate, we worked very effectively with police forces and the security services south of the border, but this was our jurisdiction.

TKB: In terms of the media angle and managing communication with the public, what were you doing to reassure them?

KM: Well, we were on television, and we also had to go to the mosque in Glasgow because there was real concern in the ethnic minority community. And, again, I recall very well that the Assistant Chief Constable, John Neilson, was quite outstanding, reassuring them that it wasn't one of their members, one of their sons, that protection would be provided by the police. I was there, as was the First Minister. So we gave reassurance to the community that was threatened lest there be a backlash or terror or just ne'er-do-wells venting their spleen. So I can say the police were outstanding. So we did that.

Then it was about going on television just as the situation began to be clear, that they had been tracked down and that the situation was safe. Because there was one stage

where it was thought that there was another car or cars out there and that another atrocity was going to be attempted. So it was about reassuring people on the 24/7 news cycle, but also engaging with the Islamic community in particular to make sure that we could afford them protection.

Akash Paun (AP): To go back to the point you were making about establishing that this was for the Scottish Government and police to deal with, were you having to make that point directly to the Home Secretary?

KM: No. The Met kind of flew up and there was... I can't remember precisely what triggered it. But Elish Angiolini, the Lord Advocate, was quite clear on television: "This is Scottish jurisdiction, it's a crime perpetrated in Scotland and we're going to deal with it. End of story." And that set the tone. The only other matter I recall was that, because I'd gone on television and said this wasn't perpetrated by somebody from the community in Scotland or their sons, we were briefed that the security services had been on the phone saying: "You can't say this, you can't say that." And we went along to the mosque and up stood the Assistant Chief Constable of Strathclyde, who said: "This is not one of your boys, we know it's not from this community here." So I think the security services were put in their box by Police Scotland.

AP: Right. And did you learn any lessons from that for how to deal with the British Government which, as you said, was having to come to terms with the fact that you had a nationalist government in Scotland?

KM: I don't think we learnt any lessons, I think it was just part of the learning curve. I mean, it was so early. It was only the July [after the attack on 30 June], as I recall. We'd only come in in the May, so it was weeks into office, and we were still very young and fresh. But I think what it did do was help you to assert yourself, because you're suddenly flung in at the deep end, you're put in front of the camera, you had to go to the mosque that was packed with frightened people. And equally, a huge debt of gratitude is owed by the [Scottish] Government to both the Lord Advocate and the Assistant Chief Constable, both of whom were exemplary in their actions.

TKB: Were there things you learnt in the rest of your time in office about managing crises that you wish you'd known then?

KM: I think probably that you've got to take charge. Initially when you go in you're: "What's it all about?", because people are doing a lot of things and it still is a sit-down decision-making thing. But I think it is about taking charge, listening to advice, making sure that all parties... Actually, I always remember the First Minister changed the name of the emergency room to the resilience room, trying to send the message that there wasn't panic when incidents came through. We did have other terrorist threats, but we obviously also had the pandemic flu, that came in pretty quickly thereafter; we had winter weather; we had the fuel crisis [in 2012]; it was a whole array of matters. So it was about

taking charge, reassuring public opinion. We were politicians, so we knew about the requirement to brief the media, which I think sometimes is a benefit the politicians bring to the table. The expertise and the advice that you get from the services around the table is remarkable, but the how to deal with the media and what will frighten and what will calm public opinion, I think, is what the politicians are required to use their judgement for.

TKB: Moving forward a few years, the thing you became most well-known for in your time in office, I guess, was the release of Abdelbaset al-Megrahi. Could you tell us a bit about the decision-making process behind that and how you balanced the different types of advice you must have been receiving?

KM: Again, I found the support I was given by the civil service, especially by my private office, remarkable and first class, and I was working very closely with them. It all fell into place, so to speak. It became quite clear first of all that there was a prisoner transfer agreement being signed by the United Kingdom [and Libya]. That happened early on in our time in office in 2007. Initially it had been dealt with by the First Minister as it was constitutional. I think there had been a failure to recognise that there was devolution, there was a different administration. It was quite obvious that there was only one Libyan prisoner in Scotland. I think there only ever had been one Libyan prisoner. This was a deal for Megrahi. The First Minister made it quite clear that that was unacceptable. I was involved in that, but more peripheral to the First Minister. That was then superseded when, in 2008, it became clear that Megrahi had been diagnosed with prostate cancer. Again, there was no immediate rush because it wasn't terminal at that stage. By the time it got to March, when the prisoner transfer application was finally lodged, it became quite clear that the likelihood was that there would be a compassionate release application at some stage. So although I was only dealing with one, it was clear that there was going to be another one coming in. And therefore I decided to take evidence. Well, I had to take evidence given the nature of the decision, it's quasi-judicial.

Rather than go through it again with the same victims, with the same individuals when that might be distressing, I allowed comment on compassionate release, even though that was not before me at the time. I simply followed the rules and guidance. We made it quite clear at the outset. We knew that to some extent we were being sold a patsy here. We had to just stick by what was correct, and there's laws and guidance for that. The prisoner transfer application I rejected. I would normally always grant a prisoner transfer application. I rejected it because I got the evidence from Eric Holder who was US Attorney General, and had been Deputy US Attorney General at the time of the discussions that brokered Camp Zeist [the special Scottish court set up in the Netherlands for the trial of Megrahi and a second man accused of the bombing and acquitted], who made it quite clear that Kofi Annan, the UN [United Nations], the UK and the US had signed an agreement with Libya that there would be no regime change, that there would be these people put up for trial, and that if they were convicted, sentence would be served in

Scotland. I did ask David Miliband [then Foreign Secretary] about that and he simply said: “It’s up to you what you do,” and wouldn’t comment. I took the view that Holder, who I spoke to on the phone, was a credible witness, having been there at the time. And he was adamant it had been signed, so I rejected the prisoner transfer application. The application for compassionate release with laws and regulations in Scotland has criteria that are required to be met. It has to be that the individual will pose no threat, which clearly wouldn’t be the case because he would have been back in Libya; agreed by the Parole Board, which it was; and a prognosis of three months or less life expectancy. That’s a decision not made by the Justice Secretary but by the Director of Health and Social Care of the Prison Service in Scotland. [He] Andrew Fraser had investigated this and spoken to the consultant surgeon, had spoken to other surgeons, and said three months was a legitimate prognosis. I think that was because at the time it was quite clear that Megrahi was refusing further treatment and the probable likelihood was he would have died then or about that period. It was on that basis that I granted the compassionate release. He did live longer but that was because he had something to live for. He actually started accepting treatment and the drug that lengthened his life expectancy was not at that stage provided on the NHS in Scotland, although it now is.

AP: You’ve described how you followed the guidance and procedures as laid down. Does that mean you didn’t feel at the end of it that you had much discretion or was there still a point when you could have gone either way?

KM: I decided not to make a decision either way until I’d heard all the evidence. But when I’d heard all the evidence, it became quite clear to me that the prisoner transfer agreement should be refused and that he met the criteria [for compassionate release]. And on that basis, I felt release should be granted. I could have overruled the criteria – that could have been challenged by judicial review – but I also felt that it was how we abided as a people. Every prisoner transfer application in Scotland before then and subsequent to then, by myself and by any of my predecessors or successors, had always been granted if the criteria had been met. I viewed that that was part of how we lived as a society, how we viewed things as a community, and on that basis I granted it.

TKB: There was obviously a lot of media, including international media, attention around it, which would have been quite unusual for a Scottish minister. What is your advice for ministers on dealing with that level of interest from around the world?

KM: I think just keep focussed. I have been asked about that, and I’ve said it’s the same as playing football. The football’s coming down from on high, you keep your eye on the ball, you don’t get buffeted by what’s around you, you just focus. To some extent, it was a microcosm of every other decision. The focus was greater than probably any other colleague has had to endure since, although others elsewhere have to do that. So all you can do is concentrate on what’s before you and follow the rules and trust your judgement, and that’s what you do. To some extent, you know, whether it’s one camera or 10, it makes no difference. And I was insulated because of security criteria that were

ramped up, some of which, to be fair, Westminster's ministers probably have to endure on a daily basis. But I became subject to, not lockdown, but I was given a government car 24/7. I was never given armed officers or anything like that, but you were constrained in some ways. So you became not isolated but detached. You could see things happening, you knew the media was there, but there was never a great deal of media intrusion. There was a huge conference with just the camera pool and a limited number of journalists. But then the difference was you didn't just deal with Scotland or London media, you'd be dealing with international media. You don't normally do CNN, you don't normally do Al Jazeera, but because of the circumstances you did. So it was actually just the same, just bigger.

AP: For the first four years of the SNP Government, the party was in a minority. What challenges did you face as a minister as a result of that parliamentary situation and the absence of an automatic majority for government legislation?

KM: I think it was more than just simply being a minority government, because there will be minority governments. There is one at the moment and there have been in other jurisdictions. We were the first nationalist administration and that was seismic. People will look back at that. So there was difficulty because you couldn't get your legislation through without brokering a deal with the other side. But you had to look at the political situation. The Labour Party just went into freefall, I mean they just couldn't believe it, as has been written by others. They thought it was almost a divine right to rule in Scotland and couldn't believe that they were no longer in administration. And they still haven't managed, I think, to resolve how they come to terms with opposition. So their behaviour was just frankly quite atrocious. The Tories didn't want Labour in, and therefore they didn't want us to do much or get a great deal of success but they didn't want them in, so they weren't going to bring us down.

I have to say I do remember we never anticipated it. When you were in office, you thought it would last two weeks and then it was two months. I remember by the time we got to Christmas, going out for a meal or a drink and having a candid chat to colleagues, you know: "How did we get here?" At any stage it looked as if you could fall. And, of course, the longer we stayed in, the stronger we became, and the harder it was for others to pull us down. So there were difficulties for us, but there were huge difficulties for other parties. And to some extent we reacted better to Government than the other parties reacted to opposition.

AP: And what sort of specific things do you recall having to do to advance your agenda given the absence of a majority? Were you regularly dealing with the Opposition spokespeople, were you doing deals over particular legislation, that kind of thing?

KM: We set out our manifesto... Because of the nature of Parliament, you always knew on almost everything you would be able to get a majority on something – because there were some things you just didn't do because you knew you were never going to get them. But on the police numbers the Tories were always going to support us, as, indeed, I think broadly Parliament did. Some issues on alcohol you knew you were going to get the other opposition parties: the Liberal Democrats, the Greens were going to come with you. On prisons, the Liberals were prepared to come with us in moving from short custodial sentences to community disposals. We'd hoped to go for a presumption against a sentence of less than six months' imprisonment, but they would only go to three months. We just had to compromise at three. So you're able to get most of it through, even if you had to compromise, such as: "All right, three months it'll be", even though frankly it should have been six.

AP: So you were usually able to find at least somebody to support you...

KM: We met regularly with the Opposition spokesmen. All ministers do that, you know, chats with Labour or whoever is in opposition. We probably did it more often just to keep them briefed, and obviously special advisers would go back and forward. My own style of governing was just: "This is what I'm going to do", and make sure that we thought we'd be able to get a majority. And you have to deliver it with whoever it was that would support it.

AP: At the outset, as you said, there was lots of speculation that it wouldn't necessarily last that long. But by the end of that period, I think you'd shown that minority government could work very effectively. Then, in 2011, the party won a majority quite unexpectedly. So what changed as a result of that in your recollection?

KM: The majority changed, although I do remember we did have discussions at the outset that we should still think on the basis that we're a minority, psychologically. The real change was, once you became a majority, you were getting a referendum [on independence]. The Edinburgh Agreement was signed pretty soon thereafter, and it was all systems go for 2014. So the majority didn't change, I think, a lot of the machinations of operation within Parliament. What it changed was the driver, and the real agenda ultimately became the referendum of 18 September 2014. That became the focus. I had to keep the day job. I had to deliver because it was important the Government was capable, credible and competent, not just to have won the election but to make sure we would try and win the referendum. So my job became to keep the show on the road. But everything was overshadowed by the referendum.

AP: We'll come onto that in just a moment. Before we do so, in that period after 2011, you did also push through some other major reforms, such as the merger of Scottish police forces. So I'd be interested in how you managed that process. How did you deal with the police and other stakeholders to successfully implement what was quite a major and, I think to some people, a controversial change?

KM: Well, I took the view it was a virtue from a necessity. You know, I had been lobbied by civil servants that we could save money by moving towards sharing chief constables and amalgamating services. I'd always said it's not worth going there. And then, of course, not only did we win in 2011 but we'd had the financial crash in 2008. It was quite clear that if we continued as we were then some of the smaller police services such as Fife and Dumfries and Galloway would frankly just not be able to do their day jobs. Strathclyde and Lothian would have muddled through, but the smaller ones were going to be incapable of delivering their jobs. To some extent, that's what's playing out south of the border at the moment. So we had to change. We then had to decide what we were going to change. And that was why we went away and looked internationally. There were arguments for going to three or four police services. The arguments against going to three or four were that it didn't make any significant savings and you still had the difficulties over "My PD [personnel device] is better than your PD, we're not doing that, our system's better than yours." So it wouldn't make the change. And I always remember what persuaded me. I remember meeting people from Finland who said: "Look, we went from 32 to 14, and then two years later we just went to one. If you're going to change, change once." And that I thought was remarkable advice. So we decided we were going for a single service. That was the best way in Scotland. South of the border, you would have regional services, not one. But in a country of five million people, it was the way to go.

Then you had to build a coalition and allies. Now, the Police Federation were actually very supportive because they could see that the only way to sustain police numbers was to amalgamate. The opposition tended to come from individual chief constables and politicians. You had some individual chief constables who were jealous of their own patch, but we were fortunate that Steve House, the chief constable of the biggest, Strathclyde, was very supportive. So you managed to form a coalition. It then had to win political support within my own party, with councillors or whatever. I remember going to a meeting with all the councillors who were worried about all this. I sat on one side with the General Secretary of the Scottish Police Federation, and the Secretary of the Fire Brigades Union on the other side. And I said: "Don't ask me what you should do, ask them". And they just stood up and went: "Single services."

And then, of course, you were able to allay all the silly points that were made. Sometimes not silly, that's rather unfair. But you'd get people in Fife saying: "Oh, we think it's a real virtue that officers should live locally." And you'd point out that a third of Lothian and Borders officers lived in Fife but served in Lothian because there was cheaper housing. The days when officers lived in the locality are long gone.

AP: That was one of the major reasons for opposition, this sense of it becoming over-centralised, was it?

KM: No, I think the major reason for opposition, as with everything after 2011, was the referendum. After 2011, everything became political. There was nothing off limits. And I could understand some opposition on the basis of whether you wanted this or that, but

the major opposition was simply because it was us and because there was the referendum. I mean, nothing became off limits. I would never, as a shadow spokesman, have attacked a chief constable unless it was something horrendous, but they became fair game. Anything and everything was an issue. Actually, Labour supported a single service, it just tended to snipe from the sidelines. The Liberals said it was all about local autonomy but never came up with any suggestions. The Tories actually initially started off supporting a single service and then I think decided they'd better be in opposition and not support the change. But it was the same throughout. We were supported by the Scottish Police Federation, we were supported by the Fire Brigades Union, and that was what was able to drive us through. We built that coalition, we knew where we were going and we delivered it.

AP: Okay. And obviously, the independence referendum was coming up at this point. So was that merger of the police forces partly, in your mind, about preparing Scotland for potentially being an independent state?

KM: No, the concept for single police and fire services was 2008. We just couldn't go on. And I look at what's playing out south of the border... I saw *The Economist* did an article recently supporting the single police service in Scotland. With the financial situation, it just could not be done. And there are challenges north of the border financially but nothing compared to what there would have been. So it had to be. And it was also an opportunity to make a virtue of a necessity. We had constabularies who didn't make a priority of domestic abuse, we had police constabularies that would file it in a copy that there had been domestic violence. That was unacceptable. You had a situation where the police helicopter was held by Strathclyde but actually the need often was in Dumfries and Galloway or with missing people in Tayside. So you could get the benefits of scale.

The opposition tended to come from within the service. You would get officers who were Northern Constabulary, that's the Highlands, who would say: "We're different." And I would say to them: "Argyll and Bute", which, to yourself sitting in London, probably actually is part of the Highlands, but it's Strathclyde Police. And I'd say: "But Argyll and Bute officers, what's the difference between you and them?" And they would go: "Ah, but they're different." It was just fear of the unknown.

I remember being down in Dumfries and Galloway two weeks after we'd created the single police service. And I met with officers and I said: "What's happened?" And they went: "Ah, well, we'd a missing person in Solway Sands." "What did you do?" "We got the police helicopter." "And then what happened?" "Well, there was an armed robbery and they were going down to England." "What happened?" "Well, Strathclyde Police and the National Armed Response Unit, went down the M74 corridor." "And what else happened?" I spoke to the Rape Unit. They said: "Oh, it's perfect" – well, not perfect – "Special Resources came in." Because I always remember speaking in Fife, and they would say: "Look, if we have a murder in Fife, it will turn the whole CID [Criminal Investigation Department] upside down. We'd solve a murder but nothing would get done in house

break-ins or rapes or anything else, because everything was on the murder.” Whereas when you’re a single police service, you create a Major Incident Team, an MIT. So rape in Dumfries and Galloway, murder in Fife, whoomph, in went 24 officers nationally. That allowed the local officers to get help, it allowed the local officers to keep the show on the road. So I think there was a recognition that the service improved.

AP: And then as far as independence is concerned, what plans for success of the independence cause were being made in your department or within the Justice Directorate of the Scottish Government in the run up to the referendum?

KM: The real ethos as far as I was concerned was to keep the show on the road because you had no chance of winning the vote if things were breaking down. So you had to make sure that when the single services went live on 1 April 2013, we didn’t have a millennium moment. Most people you talked to now don’t remember when Police Scotland came into being: five years ago, 10 years, 15. So, you know, it was about keeping the show on the road. Obviously there was a constitutional unit. It was kind of semi-detached, but they were working with some of my staff on some things, how we would deal with the security service, how we would deal with immigration, all those preparations.

AP: Where did you foresee major challenges or just new tasks that would have to be undertaken after independence?

KM: Well, the constitution was basically dealt with by the First Minister’s Office. There’d be discussions with me, papers would come before me and I would be asked by civil servants, but it was peripheral to me. My job was to keep justice and run it as efficiently and competently as possible. I remember having discussions with civil servants about the security services, where do they stand: are they military, are they civilian, all the disputes over Five Eyes [intelligence alliance of the UK, US, Australia, Canada and New Zealand] and things like that, about GCHQ [Government Communications Headquarters] and how would we interact with that. Would we have a separate immigration service? All these things. So there were discussions on that. They were parallel and to some extent I was involved with them. But my critical role, I always took the view, was to make sure justice was run well.

AP: Had you done much thinking about what kind of relationship you would have to have with the UK Government around justice issues if there had been a Yes vote?

KM: I didn’t anticipate anything. To some extent we got on reasonably well, I have to say. I never had any real difficulties. I think there were idiocies that came about. For example, you had the ridiculous situation that terrorism is theoretically a reserved issue. And yet the Glasgow Airport attack, when it happened, it’s Police Scotland, it’s the Justice

Secretary, it's the Lord Advocate. I had a situation where Police Scotland would tell me everything I needed to know, even probably things that if you were reading the law tightly, correctly they shouldn't have told me, but they'd tell me. Equally, they didn't tell me things that probably I didn't need to know, and I never asked. With the relationship with the Home Office, I never really had any issues there. The legal system in Scotland is distinct and different, so you tended to operate separately. Ken Clarke [Secretary of State for Justice, 2010–2012] I found very cooperative. Some others were less so. Jack Straw [Secretary of State for Justice, 2007–2010] was very much bonhomie. Quite often, I have to say, with my own civil servants, there would be this nervousness about what was reserved and they'd be down to Westminster. What you forget is, frankly, nobody in the Home Office cares about Scotland. They would actually say: "We didn't know it was reserved, and if that's what you want to do, on you go." We'd be polite enough to ask and they were polite enough eventually to come back and say: "Ah, just do it." It didn't register with them, they'd enough on their own plate. So there weren't really a great deal of big issues.

That did change with things like the VAT on police. That was just simply malevolence by the Treasury. When we established Police Scotland, when you went from constabularies which were not VAT-able, or could get the VAT back, to a single service, there were arguments that you would have to pay VAT. Now, we knew that, but also knew that the Police Service of Northern Ireland was exempt from VAT. We knew that there were agencies in England that were exempt from VAT. So we were told the risk was that when you go from regional services you'd lose the VAT, but there were ways around it. The position was you'd still make significant savings even without VAT coming back, but it'd be useful to have the VAT coming back. Our situation with the Treasury was whatever we asked for they just said no. When we said: "Well, what is it we need to do to be able to get it?", they just said: "We can't tell you that." So that was purely political. It's since been resolved, and the Tories claim that they've given this great thing back here. The Treasury were simply at it. So that was the malevolence that we had. Then there were issues over, I can't remember, some NATO conference or something like that, over who's paying the police bill, and over security for party conferences. But other than that, it was actually reasonably harmonious.

You know, we worked very well with Northern Ireland because there were significant counter-terror and organised crime links. I had a very good relationship with David Ford, who was my counterpart in Northern Ireland. I had a very good relationship with Northern Ireland.

TKB: And did you work much with Welsh ministers?

KM: No. We interacted and spoke to them and I think the most I've been involved with them is giving advice on criminal justice reforms, both during and since. But in Northern Ireland there was an excess of criminality, loyalist gangs, Continuity IRA, people-trafficking. And also the border between Larne-Cairnryan [the ferry route between

Scotland and Northern Ireland] and Belfast. So Wales, no. In fact I probably had more of a relationship with the Republic of Ireland than I had with Wales.

TKB: You mentioned at the very beginning that you were impressed with the civil servants. How did you work to get the most out of them and get them to give you the advice that would help you?

KM: Well, I always thought people work better with encouragement. And they worked hard. I found they rose to the occasion. There was occasional advice that I thought was lamentable, but in the main I thought they were outstanding. People do work better with encouragement and promotion. I also liked the civil service and I think they respected the opportunity to challenge. I did welcome it. It wasn't quite: "That would be a brave thing to do, Minister", but I learned I could say things and they learned that they could say: "Well, you do this, all right, aye, I'll follow that." The senior staff meetings were critical, very important, to say what you wanted to achieve, a general 'brains trust'. I think I also created a general trust. Because I'd been fortunate to have been in opposition, I was well briefed.

I also remember the advice when I came in: change your phone number. I never did. So the Police Federation, the Police Superintendent, all these people had my phone number. They would occasionally get in touch with me to say: "Actually, we've got an issue here", or whatever. My format was always I would go to civil servants to say: "I've had a phone call from such and such, what do you say?" I wouldn't go behind their back. I would be open. Sometimes I would say: "Well, I'll go back and tell them, we know you're at it sort of thing." Other times I would say: "Well, we need to do something about this." So you don't undermine their trust.

But I think it was actually useful that they knew that I was well briefed, that I knew the subject. Because I also remember a former Labour health minister telling me about being told things and then being told the entire opposite by the rank and file. I always remember I was the first Justice Secretary that had a monthly meeting with the Scottish Police Federation. My predecessors had gone to the conference once a year and hadn't taken questions. I just said: "Look, I meet with them all the time, so we're meeting monthly." I met with the chief constables monthly. And it was a fair point; if I'm going to meet one I had to meet them all. So I met the stakeholders. And actually I think there was initially a kind of reluctance, because civil servants like to shelter you, but they granted the experience and wisdom of that because it also created a camaraderie, a loyalty, and you got greater support from organisations when there were challenges. They felt part of the buy-in. So I think it was about encouragement. It was about openness. It was about them feeling they could say: "Well, actually that won't work". And I would go "I see where you're coming from, I agree, let's change." So I think they've got to be able to feel they can speak out.

TKB: And what were you doing to keep track of what the civil service were doing, how your policies were being implemented?

KM: That's just regular briefings and updates. There's obviously some things that just slipped by the wire or went back, and I regret that we didn't make more of restorative justice because we'd get told that it's very difficult, and we weren't making progress. It's about priorities. Where you said these were the clear priorities, it got done. If you said restorative justice, that's a good thing... To be fair to the civil service, it is very difficult. Less progress was made but it was a difficult period. So I think the key areas they drove on. But this was at a time when civil servant numbers were being reduced, there were other challenges coming in, there was additional work but less people, so I look back and think the work done was actually remarkably good.

TKB: How important to your work was the cross-cutting, strategic performance framework the SNP introduced in 2007?

KM: To me, not at all. I have to say I find a lot of these management-speak things just drifted over my head. I know that perhaps more senior staff and the directors general might find them better, and I'm comfortable with that. For me, I knew what I wanted to do, I knew what my agenda was. And in Justice you're also driven by events. I always remember the directors general telling me that when I first went in: it is the savage murder, the knife crime, the rape, the horrendous car crash with young men driving at speed. So you're always reacting to things. So you had to balance between reacting to what came up and keeping your eye on the agenda that you were wanting to deliver, as well as other issues, everything from Megrahi to the referendum.

TKB: And on those longer-term issues, were you working with ministers in other areas?

KM: Criminal justice can only deal with so much. The police and the prisons are the ultimate receptacles for it. The issues are actually health, education, employment, all these factors. So I actually found getting cross-ministerial working groups helpful, especially on prisoners, to make sure that when they leave there's a seamless transition. Can they have accommodation to go to? Can they have a doctor's appointment? There were things that justice had to do to change the day of release, because there's no point releasing them on a Friday, and the services are shut and they can't get registered and they're back in before the Monday. And sitting down especially with health, where there was a lot of nervousness, to say: "Well, you've got to address a lot of this because a lot of this is mental health", it's the single biggest issue in Scottish prisons.

TKB: And how did you manage your relationship with the First Minister in that time?

KM: As I would say to schoolkids that came in, I was at school with Alex [Salmond]. He's four years older than me but I've known Alex Salmond since he was a boy and I was a boy. We'd been in the party, we'd had our ups and downs; I've probably had more arguments

with him than many a cabinet secretary, many an opponent, but we're also very close. So I had a good working relationship with him. Actually, I always took the view Alex didn't interfere in justice. There were things he wanted to know. He wanted to know if there was going to be an issue and if something happened he wanted to know. Other than that, what he wanted was that I dealt with it capably and competently, and it wouldn't be something that'd have to trouble him. So he let me get on with things. I had to keep him advised. I had to let him know if something happened and then he wanted to be briefed immediately, understandably. Other than that, he had his own key areas plus this focus on governing the country to get on with. So he just let me get on with it, other than checking in. And he can be a demanding man, but with good reason.

TKB: Some of that is probably borne out by the fact that you stayed in the role for so long, and definitely a lot longer than most other ministers. Did you feel seven years was the right amount of time?

KM: It was seven and a half, actually! I think in hindsight probably less is best. I think you do run out of steam. And I can flippantly say that you were going to the same conferences, and they would say: "Here he comes again, the same jokes, how much he loves us, but no more money yet again." So there was a timescale. I mean, I was reaching the end and I think you run out of steam. I would have thought maybe five years max is probably the most you should do. I did seven and a half but there was good reason: we were coming into the referendum, and with Police Scotland you wouldn't change then. But seven and a half is probably too long in a portfolio. You need a bit of freshness. The only thing I would say is the benefit I had was having been in opposition, so I hit the ground running, knowing what I was doing, knowing what I wanted to do. If you suddenly get switched in portfolios from justice to employment, you don't know what you want to do in employment because you've not been thinking about it. So the danger is you probably end up saying: "Well, what was the last guy doing, I'll just keep the show on the road", until you can find out. So I was fortunate that way, but I think there is a sell-by period.

TKB: What was your experience of actually leaving government after all that time?

KM: I think everybody has mixed emotions. You know, I knew in my heart of hearts it was coming to the end of the road. It didn't have the same thrill. My private secretary had moved on and we'd been very close. And also there was the referendum. The referendum was what I'd been focused on. Once the referendum happened, that was it. And I'd always been going to go in 2016. Had we won the referendum I would have stayed on to set up the immigration system and then I would have gone in 2016. As it was, I just served my time because of the by-election and I went in 2016. But I think I knew. I knew I'd done all I could do. The First Minister had gone, it was time for a new team. We'd lost the referendum. It was for others to take the baton and go back up the hill. And therefore you're sad in many ways because your whole body clock is geared towards 24/7. It's a strange thing, you wake up early in the morning and you don't have the meetings. And

so there's sadness but there's a realisation that, yeah, it was time to move on and it was time for others to take over.

AP: And looking back at those seven and a half years that you had in office, what's the achievement that you're most proud of from that time?

KM: I actually think it's the CashBack for Communities Scheme. We set up this thing where we took proceeds of crime money from those who have harmed their communities, and we pour it into alternative outlets for youngsters. And I was remarkably proud of that. It was a good job. It was just a scheme that came around. And I'm very proud of that because a lot of these organisations, they were living on the margins, morale was sapping, the last one out put the lights out. And all of a sudden a wee bit of money was made available. So I was really proud of that. So much in justice is about doing down and repressing, this was nice, you know, this was good. We did lots of CashBack events where kids who wouldn't have been given a chance were trying art, trying music, and we broadened it so that people were supporting the scheme were getting added value from other organisations and other individuals.

AP: Yeah, because most of the other things we've been talking about are dealing with problems and violence...

KM: Yeah, when somebody's been hurt. So this was nice. You were taking drug money and so on and putting it to good use.

AP: Finally, if there was one piece of key advice you would give to someone coming into office, whether a justice minister or more generally as a minister in the Scottish Government, what would it be?

KM: Know your brief, network and then go round the network again. I think it's important that you know what you're doing, you know what you want to do and you know the players out there, not just in your own department.

TKB: Just one more thing. How important was your legal background to being Justice Secretary?

KM: Not really, I don't think the Justice Secretary would have to be a lawyer. I think it was helpful but, equally, it was helpful that I didn't go straight into the role. I think had I been elected to Parliament in '99 and then been involved in justice either as a shadow or gone straight in as minister, I would have thought like a solicitor, I would have acted like a defence agent, my perspective would have been that. So I knew the lie of the land, I knew the vocabulary, I knew the legalese. But equally, by 2007 I'd been out of it for eight years, so I also was a bit more butcher-turned-gamekeeper. I knew the tricks, so it was: "Don't give me that one, I did that too!" So it was helpful in some ways, but I think it would be entirely unhelpful if you don't have some break that allows you to change from the mindset.

Citations

This archive is an open resource and we encourage you to quote from it. Please ensure that you cite the Institute for Government correctly:

In publications (e.g. academic articles, research or policy papers) you can footnote or endnote the interview you are quoting from as follows:

Transcript, [Name of Interviewee], [Date of Interview], Ministers Reflect Archive, Institute for Government, Online: [Web Address of Transcript], Accessed: [Download Date].

For example: Transcript, George Young, 21 July 2015, Ministers Reflect Archive, Institute for Government, Online: <http://www.instituteforgovernment.org.uk/ministers-reflect/person/george-young>. Accessed: 15 December 2015

On social media, please hyperlink to the site: www.instituteforgovernment.co.uk/ministers-reflect. You can also use [#ministersreflect](#) and mention us [@instituteforgov](#) if you are quoting from the archive on Twitter.

Journalists wishing to quote from the archive are free to do so, but we do ask that you mention the Institute for Government as a source and link to the archive in online articles. Please direct any media enquiries to nicole.valentinuzzi@instituteforgovernment.org.uk.

The Institute for Government is the leading think tank working to make government more effective.

We provide rigorous research and analysis, topical commentary and public events to explore the key challenges facing government.

We offer a space for discussion and fresh thinking to help senior politicians and civil servants think differently and bring about change.

Copies of interviews undertaken as part of this project are available at:
www.instituteforgovernment.org.uk/ministers-reflect

Email: enquiries@instituteforgovernment.org.uk
Twitter: [@instituteforgov](https://twitter.com/instituteforgov)

Institute for Government
2 Carlton Gardens, London SW1Y 5AA
United Kingdom

Tel: **+44 (0) 20 7747 0400**
Fax: **+44 (0) 20 7766 0700**