

Independent Sentencing and Penal Policy Commission

CJS Response to Call for Evidence

May 2025

Contents

Introduction	2
Question 1 - What changes could be made to community sentences and other alternatives to prison to reduce crime, protect victims, and create safer communities?	3
1. A Definitive Shift Towards Prevention	5
2. Expanding the Use of Problem Solving Courts	6
3. Further Limitations on the Use of Sentences Under 12 Months	7
4. Expansion of Structured Deferred Sentences	9
5. Refining and Adapting our Approach to Community Sentences	11
6. Shifting Investment Towards Prevention and Community Justice	15
Question 2 – In your view, what are the priority issues affecting Bail and Remand? In Scotland what needs to change and why?	17
1. Reducing the Use of Remand by Improving Access to Bail	17
2. Enhancing Support Options	19
Question 3 – In your view, what are the priority issues affecting release from prison custody? In Scotland, what needs to change and why?	21
Question 4 – Are there any recommendations from the McLeish Commission or subsequent reports by other bodies that haven't been put into action yet but could still be beneficial?	22
Appendix 1 – Supplementary Suggestions for Improvements to Community Justice Sentences	25
Appendix 2 – Supplementary Suggestions for Improvements to Bail and Remand	36
Appendix 3 – Supplementary Suggestions for Improvements to Release from Custody	46
Appendix 4 – Community Justice Scotland – Expert Advisory Group (EAG) Session Report: Solutions to the Prison Crisis	57

Introduction

We thank the Independent Sentencing and Penal Policy Commission for this opportunity to submit evidence to inform its work and for the Commission's engagement with Community Justice Scotland (CJS) to date.

This submission has been informed by discussions with both local and national community justice partners, academic and practice experts and uses the expertise and evidence CJS has developed since its establishment in 2017 as the national leadership body for community justice in Scotland. This submission represents CJS's consideration of the key challenges, opportunities and potential solutions in the Scottish criminal justice system today.

Given the relatively short window for submissions and the likely volume of responses the commission will receive, we have tried to keep our submission as short and as accessible as possible. We have answered each question, setting out key things we believe will make the biggest positive difference to sentencing and penal policy in Scotland; we have also added a supplementary appendix for Questions 1-3, setting out a broader range of changes that could improve outcomes under each heading.

We have also included an additional appendix containing a paper produced following a meeting of the CJS Expert Advisory Group on the current prisons crisis in Scotland. This paper sets out some key international and research learning on penal policy change and sets out some key steps needed for effective reform.

Should the Commission require additional information on any of the points raised or would like to explore any of the areas further, we would be happy to assist and we look forward to working further with the Commission throughout the remainder of its duration.

Question 1 - What changes could be made to community sentences and other alternatives to prison to reduce crime, protect victims, and create safer communities?

Community sentences have long been established in Scotland as an effective response to offending behaviour. Our annual Outcome Activity Annual Report highlights some of the innovative and effective local approaches to addressing offending in the community.¹

The efficacy of community approaches over prison is reflected in the adoption by the Scottish Government of the Vision for Justice² and the National Strategy for Community Justice,³ which set out the ambition to fundamentally shift the balance from custodial approaches to using interventions and disposals that are rooted first and foremost in our communities.

Despite this ambition, however, the use of community sentences by courts has varied considerably over the past decade. The initial surge of judicial interest in and use of community options following the introduction of the Community Payback Order (CPO) and the first presumption against short sentences in 2010/2011 has not been sustained over time. The use of community sentences has in fact decreased, with CPOs falling from a high of around 16,500 per year to a low of around 12,000 per year in the run up to the Covid-19 pandemic.

At the same time, despite a significant drop in the years following 2011, courts are still handing out high numbers of short custodial sentences, with around three quarters of all custodial sentences (around 6000) given by the courts being sentences of less than 1 year.⁴ Figures for the most recent year available suggest that this equates to an average of around 1080 people a day in the prison estate,

¹ <https://communityjustice.scot/whats-new/insights/community-justice-outcome-activity-annual-report-across-scotland-2023-24/>

² [The Vision for Justice in Scotland - gov.scot](#)

³ [National Strategy for Community Justice - gov.scot](#)

⁴ [Criminal Proceedings in Scotland, 2021-22 – Updated - gov.scot](#)

representing nearly 14% of the average daily prison population.⁵ It is clear, therefore, that the continued use of short periods of imprisonment, while a presumption against their use is in place, is a key factor in the current prison crisis.

More generally, the current prison population crisis demonstrates the unsustainability of Scotland's enduring approach to imprisonment; despite the pressures that have pushed the system to breaking point, national programmes of work and emergency legislation have not proved enough to interrupt the sustained, inevitable trajectory of a system that is lost in a series of perpetual crises. We are not alone in this and all across the UK and Europe, countries are coming to terms with the same problem: while crime has decreased globally over the last decades, our prison populations have continued to grow. There is, however, another path open to us and others have begun the journey along it with impressive results.⁶

CJS believe that in order to interrupt this trajectory, Scotland needs to set a new course that realises the ambition of a fundamental shift towards community based approaches to dealing with offending behaviour. We believe that community justice is an idea whose time has come and that now is the time for policy, legislation and, crucially, funding for local and national community justice partners to be aligned to deliver the change we need for Scotland's communities.

In order to achieve this we believe we must focus on 6 keys areas:

1. A definitive shift towards prevention
2. Expanding the use of problem solving courts
3. Further restricting the use of short periods of imprisonment
4. Expanding the use of Structured Deferred Sentences
5. Refining and Adapting the community sentencing options we have already; and,
6. Fundamentally shifting our investment towards prevention and community justice approaches

⁵ [Scottish Prison Population Statistics](#)

⁶ See Appendix 4

1. A Definitive Shift Towards Prevention

At the heart of a shift towards a community first approach and a radical expansion of Scotland's use of community sentences, is the need to refocus our justice system on preventative and collaborative approaches to addressing crime.

Prevention in a justice context means adopting approaches that are evidence based and that support rehabilitation and desistance for people who commit crime, stopping them from committing more crime and ensuring fewer victims and safer communities in future.

We know from the vast array of research and practice evidence that community sentences are more effective than custody in promoting desistance and rehabilitation and therefore ultimately in reducing reoffending. This is especially the case when community based interventions are compared with short custodial sentences.⁷ A successful community sentence reduces the likelihood of future offending by addressing offending behaviour and supporting desistance and works effectively when delivered by skilled professionals equipped with the resources to use their specialist expertise in communities in partnership with other services. A decisive shift towards prevention, therefore, requires a decisive shift towards community justice.

We believe that in order to do this effectively there must be a fundamental change in how services are set up and how they deliver. At the heart of justice is prevention – preventing more crime and victims – yet for this to be the case we need ‘prevention services’ that not only look at those who enter the system after having committed a crime (tertiary prevention) but have within their ambit those who are identified as ‘at risk’ (secondary prevention). There are significant and well documented challenges to service delivery being undertaken differently across 32 local areas – a prevention first approach is not about simply brigading-up those current services, but much more about a service redesign based on evidence, need, outcomes and finance. This requires cohesive and fully integrated teams made up of health, drug and alcohol

⁷ <https://www.gov.scot/publications/reconviction-rates-scotland-2020-21-offender-cohort/>

services and others, working and delivering together with a public health ethos and practice, managing and addressing both risk and need.

This would dramatically shift culture and practice and we believe would, ultimately, reduce costs across the system, prevent people coming into the system, help those exiting the system and interrupt much of the intergenerational impacts that we observe in justice involved people.

2. Expanding the Use of Problem Solving Courts

Key to prevention, and to fulfilling the vision of the concluding report of the Christie Commission, is adopting a person-centred and trauma informed approach to justice, working with people and communities to understand and address problematic behaviours and criminogenic needs as a means of supporting people out of the justice system.

Too often, however, this does not happen; too often the system prioritises traditional outputs and processes over good outcomes for people and communities by continuing to prioritise the use of short periods of imprisonment that do nothing to prevent future offending. Overstretched social workers are not able to focus on the relational work they were trained to do and instead must focus on statutory responsibilities and increasing amounts of paperwork. Courts are so overly busy that there is often not the time to conduct the requisite social work reports before a decision is made, even where there is capacity to do so. Where community sentences are used, these are often delivered by under-resourced paraprofessionals or are delivered by the voluntary sector with precarious, short term funding.

We believe that in order to resolve these issues our justice system and our approach to sentencing must be refocused on problem solving. Evidence on the use of Problem Solving Courts shows them to be an effective means of addressing an individual's offending behaviour, even for so called "prolific offenders" who have cycled in and out of the justice system for most of their lives. By adopting a problem solving approach, focusing on the individual and their needs and behaviours, and by bringing together relevant agencies and professionals to provide support and supervision where necessary, these courts work with people to support their

rehabilitation and desistance from crime. Sheriffs would become pro-active, bespoke sentencers, considering the requirements of public, victim and offender and what is most likely to lead to their behaviour change and increase chances of desistance.

These approaches have been used with positive results in Scotland, England and Wales and across the world.⁸ Refocusing our approach to justice in this way would take considerable effort and require substantial investment, however CJS consider that such an approach is necessary to realise the ambition of a preventative justice system that effectively addresses offending. We would ask the Commission to consider how they might be further developed and rolled out across Scotland with a view to them becoming the default approach in Scotland's Sheriff courts.

3. Further Limitations on the Use of Sentences Under 12 Months

In light of the need for a fundamental shift towards community justice and prevention and given the pressures on the prison population, CJS consider that now is the time to further limit the use of custodial sentences of under 12 months.

While evidence as to the effectiveness of the extension of the presumption against short sentences remains inconclusive,⁹ it is clear that mere presumption has not produced a definitive shift in judicial behaviour and courts are continuing to issue a significant number of sentences under 12 months. As indicated above, around 6000 people annually are given a short custodial sentence of less than a year and on any given day around 1080 people are held in Scottish prisons serving a sentence of under 12 months. This equates to the population of a large prison.¹⁰ The international evidence is also clear: custodial sentences are not an effective means of reducing crime and often have the opposite effect.¹¹

⁸ [cji_problem-solving-courts-final-0109-web.pdf](#)

⁹ [Extended presumption against short sentences: monitoring information - January - December 2020 - gov.scot](#)

¹⁰ For example, the design capacity of Scotland's largest prison, HMP Barlinnie, is 987.

¹¹ <https://www.journals.uchicago.edu/doi/10.1086/715100>

Professor Cyrus Tata and others have long pointed to the unsuitable nature of a presumption against short periods of imprisonment as a means of fundamentally influencing judicial sentencing behaviours.¹² The wide leeway given to the judiciary under the presumption means that they are able to continue to impose sentences of under a year whenever they consider it “appropriate” to do so.

We would therefore urge the Commission to consider how the use of sentences of under 12 months could be restricted to all but the most exceptional circumstances. There are a number of possible ways this could be achieved.

Altering the presumption against short periods of imprisonment – the presumption against sentences of under 12 months could be altered through legislative changes to section 17 of Criminal Justice and Licensing (Scotland) Act 2010 to limit the circumstances in which a custodial sentence could be imposed. For example, limiting exemptions to the presumption to grounds of protecting the public and changing and limiting its use to cases of immanent risk of serious harm to an identifiable individual, would reserve the right for sheriffs to impose a custodial sentence for public protection on the few occasions it might be necessary but would otherwise establish community disposals as the only appropriate response in the majority of cases.

Removing sentencing powers from summary courts – an alternative approach would be to remove the power of summary courts to issue custodial sentences by legislation by altering Section 5 of the Criminal Procedure (Scotland) Act 1995 to remove the power of Sheriffs to impose a custodial sentence of less than 12 months. This would make all summary courts de facto problem solving courts, significantly restricting the number of sentences of under 12 months that are imposed, and would still retain the option for their use in Solemn or High Court proceedings, where cases generally relate to a higher degree or risk and harm.

Should a Sheriff in Summary proceedings consider that a custodial sentence of under a year is absolutely necessary, this could be facilitated by developing a

¹² [Tata 2015 sentencing and penal policy in the New Scotland.pdf](#)

process similar to that of remittal to the High Court and the case could be referred for a sentencing decision to an appropriate individual, for example to a Sheriff Principal or to a panel of Appeal Sheriffs, for consideration of a sentence of less than 12 months.

Automatic commutation of sentences of less than 12 months to community sentences – In some European jurisdictions, short custodial sentences are automatically commuted by law to non-custodial sentences. For example, in Spain sentences that would normally equate to a custodial sentence of two years or less are automatically awarded as Suspended Sentences in certain circumstances. These approaches can lead to reduced reconviction rates and have been used as a key driver for decarceration.¹³ We would therefore welcome consideration of how a similar approach to sentencing might be adopted in Scotland.

Sentencing guidelines – CJS would welcome the development of clear sentencing guidelines for the judiciary on community sentences that set out clearly the need to use community disposals in the first instance for all summary proceedings and clearly indicate the limited circumstances in which a court may wish to impose a custodial sentence of less than a year. These guidelines could be introduced alongside any of the options set out above but would also continue to have merit if introduced on their own, as experience of recent guidelines issued by the Scottish Sentencing Council has shown them to be an effective means of establishing sentencing policy and ensuring judicial buy in.

More generally, in addition to guidelines on community disposals, CJS would welcome consideration of the development of sentencing guidelines on the sentencing of people with care experience. We consider this to be a necessary step to address the over representation of care experienced adults in the justice system and an integral part of keeping The Promise.¹⁴

4. Expansion of Structured Deferred Sentences

¹³ [Suspended sentences in Spain: Decarceration and recidivism - José Cid, 2005](#)

¹⁴ [keepthepromise-adult-criminal-justice-briefing.pdf](#)

Alongside the introduction of problem solving approaches at court and further restricting the use of short periods of imprisonment, CJS consider that significant improvements could be made across the justice system by expanding the use of Structured Deferred Sentences (SDS).

Structured deferred sentences allow the judiciary to defer sentencing a person convicted of an offence pending the outcome of their engagement with the court over a period of time as they begin to address any underlying causes of their offending behaviour and demonstrate their ability to be in the community safely. Recent figures suggest that the use of SDS has increased over recent years in Scotland.¹⁵

This is an approach that works well for a range of different people¹⁶, and evidence suggests that people who are at risk of a custodial sentence often go on to receive a lighter touch community sentence or even admonishment than would likely have been the case otherwise.¹⁷

For less serious offences or for those people that are assessed as not requiring additional support or supervision or as being at lower risk of reoffending, using an SDS type approach in the first instance could work in the same way that suspended sentences do; where people are able to demonstrate compliance and no further offending over a period of time, courts could choose to admonish, rather than impose a community or short custodial sentence.

When combined with problem solving courts there could be a significant reduction in the number of people receiving short sentences and even community sentences, suggesting that this approach could be effective even in the absence of further legal restrictions on the use of short prison sentences.

¹⁵ [Justice Social Work Statistics in Scotland: 2023-24 – Part 1 - gov.scot](#)

¹⁶ [Belfast Substance Misuse Court | Centre for Justice Innovation](#)

¹⁷ [Justice Social Work Statistics in Scotland: 2023-24 – Part 1 - gov.scot](#)

CJS would therefore ask the Commission to consider how the use of SDS could be expanded in Scotland and how an SDS-first approach to sentencing could be adopted.

5. Refining and Adapting our Approach to Community Sentences

In Scotland, we have a wealth of options available at court which can be utilised in different ways to address offending behaviour in the interests of justice and public protection. It is our view that new sentencing options are not necessary – the current disposals available to sentencers can afford the flexibility that professionals in the community need to conduct supervision, support rehabilitation and deliver offence-focussed work that will reduce the likelihood of reoffending.

There are, however, a number of changes to existing disposals that could increase their efficacy and improve outcomes for the people subject to them.

Community Payback Orders: Unpaid Work – CJS would welcome a review of Community Payback Orders (CPOs) with a view to improving certain aspects of their use.

CPOs are by far the most frequently used community disposal utilised by courts in Scotland, with 12,632 issued in 2022/23.¹⁸ The annual CPO report published by CJS details the significant work being undertaken locally to deliver CPOs and highlights some of the key strengths of current delivery and improvements over recent years.¹⁹

Unpaid Work (UPW) requirements are the most commonly imposed element of a CPO and this can be an effective, visible means of giving people the opportunity to make amends for the crime they have committed whilst also developing skills for employment and addressing their offending behaviours to support their desistance from crime over the longer term.

¹⁸ [Criminal Proceedings in Scotland, 2022-23 - gov.scot](https://gov.scot/Topics/justice/criminal-proceedings)

¹⁹ [Community Payback Order: Summary of Local Authority Annual Reports 2023 – 24 - Community Justice Scotland](#)

There is, however, significant variation in approach to UPW across the country and while many local areas are delivering an effective service, others remain overly focused on delivering UPW activity that offers little opportunity for personal development or addressing offending behaviours. In part this is driven by a lack of funding and capacity due to overstretched JSW and paraprofessional staff. However, innovative approaches, such as accredited programmes and qualifications completed through UPW, and connecting UPW delivery to community need, so considerable promise for future development.

CJS would therefore welcome consideration of how the delivery of CPOs and UPW in particular could be developed to ensure it is purposeful, supports people to address their need and maximises opportunities to support people into employment.

Community Payback Orders: Intensive Support Options – Alongside providing people with an opportunity to make amends and pay back to their communities, a key feature of the CPOs is the opportunity they provide to rehabilitate people through addressing behaviours and any areas of need that might be driving offending behaviour. This can be supported through a range of CPO elements, such as through Programme, Addiction, Alcohol or Mental Health requirements, although these are used much less regularly than UPW or Supervision requirements.²⁰ Anecdotal evidence also suggests that these needs are commonly addressed through ongoing supervision processes, however local areas report a range of effective approaches to delivering specialist support as part of a CPO.²¹

Some people in the justice system will require support for rehabilitation that goes beyond this. There are a significant number of people in our justice system that cycle in and out of community sentences and short periods in custody and many of these people have been in the system since a young age and for a long time.²² These people often have complex needs that cannot easily be addressed through universal public services; indeed, services such as health and housing have often refused to

²⁰ See n14 Supra

²¹ See n16 Supra

²² See for Example Table 11 - [Reconviction Rates in Scotland - 2020-21 cohort tables](#)

work with them and the justice system is the only system that catches them and holds on to them.²³

In order to rehabilitate these people we need dedicated support for addictions, mental health and housing delivered in a justice context and to do this effectively requires specialist staff, such as mental health workers, housing support staff and addictions nurses, to be integrated into JSW teams to support delivery. In Northern Ireland this has been done effectively in the delivery of Enhanced Combination Orders, the evaluation of which suggests that intensive support delivered in this way can be an effective way of improving outcomes for people subject to them.²⁴

We believe that a similar approach would be beneficial in Scotland and could lead to a range of benefits including a reduction in the use of short custodial sentences, significant cost savings, increased judicial confidence in community sentences, and improved outcomes and a reduced likelihood of reoffending for those subject to the order. This could be delivered without legislative change to current community orders, through either Supervision, Programme, Health, Addiction or Mental Health requirements depending on the case. The challenges in doing this at present are either financial – few JSW teams would have sufficient resources to allocate staffing to funding specialist workers – or they are about limited collaboration in the delivery of services across silos – services (and existing staff) are not able to collaborate effectively on the ground to provide this support.

We would therefore welcome the development of an approach to delivering intensive support as part of a CPO in Scotland, through either a test of change or pilot project, with a view to how this can be rolled out across

More generally, to increase the rehabilitative potential of CPOs, CJS considers that the limitation of Other Activity requirements for a CPO to 30% or 30 hours of the duration of the length of the order should be removed and be determined by the trained professionals who oversee cases. This would provide JSW additional

²³ [Hard Edges Scotland full report – Lankelly Chase](#)

²⁴ [Enhanced Combination Order \(ECO\) | Centre for Justice Innovation](#)

opportunities to undertake important correctional work aimed at addressing offending behaviour and supporting rehabilitation and reduced reoffending.

Reviewing the use of DTTOs – The use and efficacy of Drug Treatment and Testing Orders (DTTOs) has been subject to discussion across policy areas for some time and the use of DTTOs has been declining significantly in recent years.²⁵

Following a Justice Analytical Services (JAS) literature review of DTTOs, which noted that court mandated treatment often prove less effective than voluntary treatment,²⁶ CJS sought to gain further insights from local areas on their use. Many areas reported that they felt the DTTO was an “archaic and punitive order” that is not designed on the basis of the available evidence base on “what works” with those in recovery. In particular, the testing element of this order was highlighted as a problem. However, other areas have identified the need to have an order in place for individuals presenting with complex needs and are able to demonstrate good models for delivery of DTTOs that allow individuals to receive wrap around support.

CJS would therefore welcome consideration of a further review of the DTTO approach. CJS consider that other sentencing options, such as CPOs or the use of an SDS approach could be more appropriate means of achieving positive outcomes for people with drug and alcohol addiction issues.

Electronic Monitoring – Electronic monitoring (EM), such as ankle bracelets using radio frequency (RF), GPS tracking, and alcohol monitoring bracelets is considered a positive tool in the justice system for many reasons. Used appropriately, it reduces the prison population as it allows people to remain in the community rather than being in custody. There is also a significant amount of international research that supports EM as being a cost-effective mechanism as it is significantly cheaper to monitor someone electronically whilst maintaining the necessary level of supervision for public protection purposes than it is to incarcerate them.

²⁵ [Criminal Proceedings in Scotland, 2022-23 - gov.scot](#)

²⁶ [Community sentencing options for people with substance use problems: review findings summary - gov.scot](#)

EM supports rehabilitation and reintegration as people can often continue working, attending training or participating in community-located treatment programs. It also helps maintain family and community ties, which are crucial for both successful reintegration and also reducing recidivism. A critical aspect of EM is its use in the role of public protection as it can report on restricted activity (e.g. curfew periods) or determine geographic restrictions (e.g., staying away from victims or certain areas through the use of GPS) – all of which enhances public safety. Used in this way, it acts as a deterrent as people know they are being monitored which encourages compliance with court orders and licenses. However, EM should not be regarded as a panacea nor should it replace the need for face-to-face interactions to support people in the community.

The use of EM in Scotland has been almost exclusively RF (e.g. through Restriction of Liberty orders, Home Detention Curfew and, more recently, EM in Bail, etc.). While this is a tried and tested mechanism that retains some utility, there has been little progress in adopting newer, more effective technologies such as GPS tracking and alcohol monitoring bracelets. CJS has, for many years, been proactive in promoting the use of these modern technologies and would welcome much greater and faster implementation of them as they are well-researched and well-evidenced.

Alongside EM, there requires to be an enhanced level of support for those who need it. Not everyone would need such a service, but where necessary it both enhances compliance and help people struggling with complex personal needs. The more we can retain people, appropriately and safely, in the community through using these new technologies, the better outcomes there will be for those people, their families and the wider community.

6. Shifting Investment Towards Prevention and Community Justice

To realise the ambition of a preventative justice system, focused on problem solving approaches that take a truly person centred approach to addressing offending, will requires a substantial and sustained redirection of resources into the community justice system.

Despite some increases in recent years, as we have noted consistently in our submission to the Criminal Justice Committee's Pre-Budget Scrutiny process, community justice has been consistently under-funded in comparison to other aspects of the justice system and represents only a vanishingly small percentage, around 4%, of the total justice spend in Scotland.²⁷

Community services need to be sufficiently resourced and coordinated to respond to the needs of people involved in the justice system, from the point of arrest, through bail or release from custody or the completion of a community sentence, while they are in the community. Some of the proposals we make – increased problem-solving at court, more use of Structured Deferred Sentences, electronic monitoring with packages of individualised support – have specific implications for community resources, in particular Justice Social Work. Any of these changes in the absence of increased investment in community justice would therefore risk overburdening an already stretched system.

Increased investment in community justice would allow the expansion of existing services and for the development of new support services across the country. These could be delivered both by justice social work and by the voluntary sector, increasing the availability of interventions across the country. It would support investment in the justice workforce and would allow expansion of training, including training for those providing vital services as paraprofessionals in local justice social work teams and in the voluntary sector. Together these benefits would go a long way to addressing judicial concerns about the availability and consistency of community sentences.²⁸

To enable this kind of funding, Scottish Government will need to invest significant amounts of money. In the longer term, we believe this preventative approach to justice will bring considerable savings across budgets. However, there may be shorter term savings too and in-budget transfers may be feasible to support the transition. For example, removing all prisoners serving less than a year in prison would, have a significant impact on the prison population, reducing the average daily population by around 1000, roughly 13% of the total average daily population. Doing so would also significantly reduce churn in people entering prison, reducing

²⁷ [CJS Evidence to Committee on Pre-Budget Scrutiny - Community Justice Scotland](#)

²⁸ [community-sentencing-stakeholder-event-march-2022-report.pdf](#)

complexity, and would significantly reduce SPS operating costs. As a percentage cost saving this would be substantial and could easily exceed the amount required to effectively deliver these sentences in the community, which could cost in the region £38m.²⁹

For further examples of activities that could improve the use of community sentences and other alternatives to custody, please see [Appendix 1](#).

Question 2 – In your view, what are the priority issues affecting Bail and Remand? In Scotland what needs to change and why?

At present, too many people in Scotland are being remanded; on 1 May 2025, 2031 individuals were remanded in Scotland, accounting for 26% of the total prison population (7825). Many people who are on remand go on either to receive no criminal conviction or are given a community sentence upon conviction. Research evidence is clear that remand is as least as damaging as a short prison sentence.³⁰ Given the current prison population crisis, reduction of the remand population is therefore a clear priority.

CJS consider that there are two key priority issues that need to be addressed to improve Scotland's approach to bail and remand: Reducing the use of remand by improving access to bail, and enhancing the support available to people awaiting trial or on bail.

1. Reducing the Use of Remand by Improving Access to Bail

²⁹ Unpublished analysis conducted by CJS – available to the Commission on request. Assumes all short sentences are delivered as CPOs.

³⁰ [Commissioning of voluntary throughcare and mentoring services: Research findings December 2023 - Community Justice Scotland](#)

As a first step towards improving our approach to bail and remand, the justice systems needs to reduce the use of custody pre-trial and to improve access to bail for people accused of an offence.

We believe that this should be done from the earliest point of contact with the criminal justice system, for example by reducing the use of police custody through an increase in the use of Undertakings. By reviewing current risk assessment practices to align them with national standards and by focusing on reducing the use of police custody, we would expect to see a decrease in the number of people appearing from police custody who then go on to be remanded.

In line with this, CJS consider that we need to change our approach to bail assessment more generally in order to focus resources and improve outcomes. Bail decisions are frequently made on the basis of limited evidence due to the difficult circumstances in which courts operate, with high caseloads and court based social work services covering multiple local-authority areas meaning the time available for conducting bail assessments is limited. Even where bail assessments are being conducted, Sheriffs frequently make decisions that do not follow JSW recommendations for a range of reasons. Adopting a problem solving approach at court, as outlined in our response to Q1 above, would support a fundamental shift in how Sheriffs can assess bail decisions by bringing together a range of professionals to assess risk, understand need and plan appropriate responses to keep people in their communities where it is safe to do so.

More fundamental change, however, is required to limit the use of remand. While the changes to bail introduced by the Bail and Release for Custody (Scotland) Act 2023 will take time to bed before we can see if they will have a positive impact and reduce the use of remand, CJS believe that continued high use of remand justifies consideration of additional legal changes to reduce its use. One such change could be to refocus the use of remand in summary cases by limiting the use of remand only to those cases that satisfy a test of ‘imminent risk of serious harm’, where this is supported by clear evidence. This would remove the use of “administrative remand” to ensure appearance at court and would further tighten the use of remand for summary cases introduced by the Bail and Release from Custody (Scotland) Act 2023.

Finally, where remand has been deemed necessary, CJS would welcome exploration of how the system can ensure the routine review of remand to ensure remand remains necessary. Anecdotal evidence suggests that while such reviews do take place, they do so infrequently and rarely for cases at Sheriff Court level. These reviews could be made mandatory where an individual spends a prolonged period on remand, for example, a review could be required in every case where an individual had spent 30 days on remand.³¹

2. Enhancing Support Options

In order to improve bail and remand it is also necessary to expand the support available to people whilst awaiting trial or on bail. Many people accused of offences face significant difficulties in engaging with justice processes and as a result frequently fail to attend court or breach bail conditions, resulting in them being remanded.

At present a significant number of people are failing to attend court as a result of: a lack of information and the poor design of court summons, difficulties with comprehension and literacy, addiction and mental health issues, and changing accommodation.³² The result is that almost 20,000 Failure to Appear (FTA) warrants were issued for arrest of people that failed to attend court in the period between March 2023 and March 2024, with FTA warrants equating to around 60% of all warrants actioned by the police during that period.³³ This drives an increase in the use of remand, both in the case that has led to the warrant but also potentially in any future cases, as previous FTA warrants are often considered sufficient grounds for to oppose or deny bail.

The number of these warrants could be reduced considerably through adopting evidence based approaches to court communications and utilising a “nudge” based approach to increase attendance. For those that are at risk of non-attendance due to

³¹ For reference, as of 1st April 2025 the median amount of time spent on remand for individuals was 69 days - [Safer Communities and Justice Statistics Monthly Data Report: April 2025 - gov.scot](#)

³² At the time of submission, the only official communication issued to an accused prior to their court case commencing is a written letter from COPFS posted to their home address.

³³ Unpublished data shared with CJS by PSoS June 2024

other factors, evidence from the New York Criminal Justice Agency suggests that outreach services to support attendance are an effective way of reducing non-attendance warrants;³⁴ given the high number of FTA warrants being issued, CJS would welcome the development of an outreach service to support court attendance.

Similarly, where bail is granted to an individual, they often face considerable challenges in complying with the conditions imposed upon them.³⁵ There were 7,208 convictions for bail-related offences in 2021/22, an increase of 14% on 2020/21 (6,331) and the proportion of bail-related offences as a percentage of all bail orders granted in 2021/22 was 29%.³⁶ Establishing a consistent approach to bail support and compliance nationally and developing services across the country will be key to reducing the remand population. CJS are currently in the process of developing options for the piloting of bail support services on behalf of the Scottish Government: we would welcome a commitment to future funding of a pilot approach and further national rollout following any successful proof of concept.

CJS would also welcome consideration of how we can achieve the expansion of supported electronic monitoring across Scotland, including the rollout of GPS and alcohol monitoring bracelets. While not a panacea, the use of EM technology as part of bail can be highly effective when used in appropriate circumstances and when combined with support services and could further increase the use of bail in cases that might otherwise be remanded.

For further examples of activities that could improve our approach to Bail and Remand, please see [Appendix 2](#).

³⁴ [CJA | Outreach](#)

³⁵ <https://journals.sagepub.com/doi/10.1177/26338076241265980>

³⁶ <https://www.gov.scot/publications/criminal-proceedings-scotland-2021-22/pages/20/>

Question 3 – In your view, what are the priority issues affecting release from prison custody? In Scotland, what needs to change and why?

Scotland has made some progress towards improving release from prison over recent year, through initiatives like ‘Sustainable Housing On Release for Everyone’ (SHORE), the newly commissioned national voluntary throughcare service Upside, and other community-based innovations. However, to make a real impact, there must be a shift from fragmented, reactive models to a coordinated, preventative, rights-based approach which is person-centred and better prepares people and the environment to which they are returning when released. That model needs to start from day one of custody.

More than that, however, Prisons must be refocused to become places of preparation for life out of prison to ensure people are supported to resettle and reintegrate into the community on release. If prison does not work, people cannot come back to the community; if case management does not work then are not prepared for coming back to the community; if progression doesn’t work then people can’t resettle into the community. If there are not effective release planning, processes or support for people on release then people will not resettle in our communities and may come back to prison.

For people sentenced to a short-term sentence this means improving prison regimes, integrated case management, multi-agency release planning and support in the community is critical. Scotland should also consider, as is recommended Gauke Review, limiting the period of recall, a Texas style ‘points system’ to reduce their sentence by participating in programmes, work etc. (notwithstanding the issues already present in the prison estate re: accessing programmes, etc.)

For people sentenced to a long-term prison sentence this involves the majority of the above but also improving risk management processes, access to programmes (in custody and in the community) and serving some of the sentence in the community will support progression and reduce people’s risk of reoffending on release. Scotland

should consider reintroducing the release at the 2/3 point of the sentence, introducing a rolling release programme similar to Home Detention Curfew (HDC).

As well as changing regimes in the current custodial estate to allow a refocus to preparation for release, Scotland should give serious consideration to changing the custodial estate to create 'community-facing prisons' which, amongst other things, allow greater community connection in advance of release. Greater focus on safe and appropriate community access at an earlier stage in the sentence supported by an effective and efficient case management process through a progression system that is fit-for-purpose would support a more preventative and community justice focused approach to release and reintegration.

Expanding the remit of voluntary throughcare and more funding for statutory throughcare and broader support on release is essential to achieve this effectively.

A cap on the daily prison population or an ambition to close existing prisons could act as a stretch ambition to focus minds and action and has been used elsewhere; in Scotland we had a significant and commendable achievement in Scotland for a shift in imprisoning young people.

For further examples of activities that could improve our approach to release from prison, please see [Appendix 3](#).

Question 4 – Are there any recommendations from the McLeish Commission or subsequent reports by other bodies that haven't been put into action yet but could still be beneficial?

CJS have identified over 40 reports related to the Scottish Justice system that have been published in the years since the conclusion of the McLeish Commission in 2008. Some of these are cross-cutting, whole-system reports on justice, others look

only at tightly defined areas of the system or practice, others relate to other sectors but have a bearing on how our system operates; all of them contain numerous recommendations, very few of them have ever been reported against and fewer still have had all of their recommendations implemented.

It is clear, therefore, that there is a significant implementation gap between report recommendations and practical action and legislative change to drive system change. Whatever the conclusions of its final report, we would urge the Commission to give consideration to what effective implementation of its recommendations should look like and we would similarly call on the Scottish Government to accept and implement any concluding recommendations, including a commitment towards publishing regular updates on progress towards implementing them.

As far as CJS is concerned, the key outstanding recommendations from the past 17 years that have yet to be put into action in a justice context are the concluding recommendations of the Christie Commission on the future delivery of public services, namely that:

- **public services are built around people and communities**, their needs, aspirations, capacities and skills, and work to build up their autonomy and resilience;
- public service organisations **work together effectively to achieve outcomes** - specifically, by delivering integrated services which help to secure improvements in the quality of life, and the social and economic wellbeing, of the people and communities of Scotland;
- public service organisations **prioritise prevention, reduce inequalities and promote equality**; and
- all public services constantly seek **to improve performance and reduce costs**, and are open, transparent and accountable.³⁷

At present we believe these principles are all too often lacking in the approach to sentencing and penal policy in Scotland. The structures and services focus on systemic processes rather than people and communities; the organisations in the system work too often in isolation, focusing on outputs and process rather than

³⁷ Emphasis in original - [Christie Commission on the future delivery of public services - gov.scot](https://www.gov.scot/publications/christie-commission-on-the-future-delivery-of-public-services/pages/1-1-introduction.aspx)

outcomes for the people accessing them; and we prioritise approaches and services that ignore prevention and that compound and reinforce inequality.

We consider that the fundamental changes to sentencing and penal policy that we propose above will go a long way to realising the vision of the Christie Commission. Reorganising our courts to focus on problem solving through bringing together relevant agencies and work with the person accused or convicted of an offence and achieving positive outcomes for them, refocusing our use of prison on preparing people for a return to their communities and, foremost of all, by refocusing on a preventative approach through prioritising community approaches to offending, Scotland will create a system that is more effective, costs less and leads to a safer country in which more people and communities are able to live lives free from crimes and its effects.

We would welcome consideration by the Commission of other ways in which a more preventative approach could be encouraged across the justice system.

One approach which may be effective is the use of dedicated prevention budgets, that ringfence preventative spend in much the same way that current budgets have dedicated elements for capital and resource spending.³⁸

Evidence also suggests that where prevention is left poorly defined in a policy context and it is not the responsibility of any one organisation but rather “falls between the cracks” of the actors in the system, progress to shift towards preventative models is limited.³⁹ We consider that a positive step could be to empower (or create) an agency at a national level that can oversee, coordinate, drive and support collaborative and preventative approaches to justice, and whose responsibility it would be to drive forward this agenda.

³⁸ <https://demos.co.uk/research/revenue-capital-prevention-a-new-public-spending-framework-for-the-future/>

³⁹ *Why Isn't Government Policy More Preventive?* Cairney, p. and St. Denny, E., OUP, 2020

Appendix 1 – Supplementary Suggestions for Improvements to Community Justice Sentences

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
<p>Create problem-solving courts, particularly for;</p> <ul style="list-style-type: none"> • people where addiction and substance use are key factors in their offending • prolific offending 	<p>A significant proportion of the people on remand, short sentences, or who have failed to complete community sentences before have multiple needs, including substance use, alcohol use, homelessness, mental health issues, and significant experience of trauma. This cohort are often involved in prolific offending including shop lifting, theft, antisocial behaviour. Standard justice approaches are not well suited to recognise or respond to addressing individual needs which have often contributed to the offending behaviour. Therefore, additional consideration is needed by the justice system in order to meaningfully address the causes of their offending, and help them have their needs met.</p>	<p>Problem-solving courts evidence:</p> <p>POST-PN-0700.pdf</p> <p>Practice within Scotland:</p> <p>Hamilton Sherriff Problem-Solving Court</p> <p>A dedicated alcohol and drug problem-solving court is changing lives in South Lanarkshire - Community Justice Scotland</p> <p>Aberdeen Problem Solving Approach:</p>	<ul style="list-style-type: none"> • Funding for expansion of existing practice, set up of new problem solving courts in areas where high need indicated by high use of remand, e.g. Dundee • Training on problem solving courts • Training on desistance theory 	<ul style="list-style-type: none"> • Decrease in use of remand • Increase in use of SDS and supervised Bail • Increase in compliance • Increase in completion rates • Improved outcomes for people

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	Problem solving courts are well evidenced as a means to deal differently with cases particularly where there are multiple needs associated with offending. They provide an opportunity for the justice system to work effectively with social work and community-based services to improve shared outcomes.	Review of the Aberdeen Problem Solving Approach: research findings - gov.scot Examples: Family Drug and Alcohol Courts (FDAC) Centre for Justice Innovation		
Improve/increase resource for court-based social workers to gather information, spend time with people and make meaningful assessment of needs.	<p>Sentencers need the right information to make the best decisions at court appearance, and the best way to get that information is giving JSW capacity to use their training and skills to assess the individual, and have access to the information needed from across agencies, to inform a recommendation.</p> <p>At present, court-based social workers are tasked with making an assessment of the accused to inform the court of what should be taken into account and what factors may be relevant in making a fitting sentence. Time is short, the setting (usually a small room within the court) not ideal for trauma-inform</p>	4. Role of the Court-Based Worker - Justice social work - reports and court-based services: practice guidance - gov.scot COSLA and Social Work Scotland submission to Criminal Justice Committee on Pre-Budget Scrutiny 2025-26 Submission by SWS on Bail and Release from custody sets out	<ul style="list-style-type: none"> • Training to increase quality of court reports • Training for judiciary on risk management tools and community disposals to aid understanding • Information sharing mechanisms at court/ between agencies • Increase resource for CBSW • Increase S27 funding 	<ul style="list-style-type: none"> • Increase in quality of information provided to sheriffs • More effective sentences • Increase completion rates • Positive outcomes for individuals

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>interview, and access to relevant information from other agencies challenging. The Bail and Release from Custody</p> <p>Resource is required to alleviate the primary issue, and further work is required to address the others.</p>	<p>resource and logistics concerns re assessment to inform courts Response 853326577 to Bail and Release from Custody (Scotland) Bill - Scottish Parliament - Citizen Space</p>		
<p>Creation of more multidisciplinary teams (JSW, health and addictions, third sector service providers) to support on-site assessment and referral</p>	<p>This could enhance JSW assessment for court reports which then assists in judicial decision making through production of information to inform sentencing.</p> <p>It is also an opportunity for early engagement with services to address needs in parallel to the justice process.</p>	<p>Practice within Scotland: Hamilton Sherriff Problem-Solving Court</p> <p>A dedicated alcohol and drug problem-solving court is changing lives in South Lanarkshire - Community Justice Scotland</p> <p>Scottish Government (2023) Review of sentencing options for people who use drugs</p>	<ul style="list-style-type: none"> Local CJ partners including SCTS and COPFS leveraging resources to co-locate a team in the court (e.g. most relevant partners to assess need and access services, e.g. substance use, JSW, third sector etc) Hamilton court model (JSW based model) National funding 	<ul style="list-style-type: none"> Increase in quality of information provided to Sheriffs to inform decision making. Increased access to services to support better individual outcomes Increased compliance with bail Increased use of SDS

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
Increase the use by sheriffs of recommendations made by JSW in sentencing decisions	<p>Despite evidence supporting community sentencing, there remains a gap between recommendations and actual sentencing outcomes. In 2023–24, justice social workers recommended custody in only 7% of cases, yet 14% of cases resulted in imprisonment. Bridging this gap requires enhanced awareness and confidence in community justice options.</p> <p>Custodial sentences, in particular short custodial sentences, do not support desistance, and in fact seriously undermine the process by creating loss of connection to family and community.</p>	<p>Supporting documents - Justice Social Work Statistics in Scotland: 2023-24 – Part 2 - gov.scot</p> <p>Supporting desistance and CJSW:</p> <p>Desistance – general practice principles – HM Inspectorate of Probation</p> <p>17824_wlp_criminology_manual deel 3_bw corr.ps</p> <p>Desistance-and-Sentencing-A-Review-of-Research.pdf</p>	<ul style="list-style-type: none"> • Require sentencers to detail rationale for alternative approach/rejection of recommendation • Make this published/available for scrutiny to allow better understanding • Training for judiciary on desistance and JSW practices • Awareness raising and engagement work with Sheriffs to support understanding of community justice approaches 	<ul style="list-style-type: none"> • Greater alignment between sentencing and JSW recommendations • Reduced use of custody • Increased use of SDS • Increased compliance
Allow greater flexibility in order design by JSW rather than sentencer	Overly specific orders made at the point of sentence can limit the scope for JSW to use the breadth of their expertise in developing an approach that will meet	Supporting desistance and CJSW:	<ul style="list-style-type: none"> • Explore potential for JSW-led sentencing, i.e. JSW shape the order • Pilot development 	<ul style="list-style-type: none"> • Increased compliance • Increased desistance from offending

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>the needs of the individual and deliver the best possible outcomes for reducing the likelihood of future offending.</p> <p>Similarly, desistance research shows that where an individual is empowered to make their own choices, there are better outcomes. Sentences should take full account of recommendations by social workers (as above) but where possible they should proactively allow the JSW and service to shape exactly what the specific content of activity linked to the order will be.</p>	<p>Desistance – general practice principles – HM Inspectorate of Probation</p> <p>17824_wlp_criminology_manual_deel_3_bw_corr.ps</p> <p>Desistance-and-Sentencing-A-Review-of-Research.pdf</p>		
Increase the use of Diversion.	<p>Diversion can be used to redirect people at an early point in their involvement with the justice system and contribute to better longer time outcomes.</p> <p>As the Diversion from Prosecution: Joint Review states, “Early intervention can help address the underlying causes of offending, avoid the person being drawn further into the criminal justice system and reduce or prevent further</p>	<p>Context - Diversion from prosecution: joint review - gov.scot</p>	<ul style="list-style-type: none"> • Implement the recommendations from the joint review • Increase resource allocation to JSW and third sector to support diversion schemes that meet needs • Introduce a ‘presumption to divert’ in prosecutorial decision making, partnered with resource targeted at coordinating and potentially increasing local needs-based services to respond. 	<ul style="list-style-type: none"> • Increase in diversion • People report positive individual outcomes following diversion • Fewer people reoffend

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	offending, to the benefit of the person, victims and communities.”			
Evaluate peoples experiences at court in order to inform ongoing improvement of court processes	<p>The experiences of the accused are not readily captured. Where they are, it is often clear that people don’t understand what is happening to them in court. If there was ongoing improvement taking into account the experiences of the accused, this would be in the interests of a fair and transparent judicial process.</p> <p>There should be ongoing evaluation by courts of people’s experiences to ensure they feel heard, are aware of their rights, are aware of opportunities for access to services etc.</p>	<p>See for example:</p> <p>Court Watch</p> <p>Transform Justice - CourtWatch London</p> <p>Independent Review of Criminal Courts in England and Wales:</p> <p>Independent Review of the Criminal Courts - GOV.UK</p>	<ul style="list-style-type: none"> • Independent inspection (for example following the HMIPS model used to inspect prisons) which makes an assessment of the court in relation to key outcomes and processes. This could involve direct observation of court sessions, and evidence gathering from the experiences of accused, victims and witnesses, and professionals. • Court Watch model – ensuring transparency and accountability by facilitating independent observation of proceedings 	<ul style="list-style-type: none"> • Individuals have improved experience at court and understand the justice process and what is happening to them better. • Increased public awareness of court processes and functions
Sentencers to have regard to the impact on children and family in sentencing	“There is an international legal obligation on States Parties to the Convention on the Rights of the Child to take account of the best interests of the child when sentencing or taking pre-trial measures in relation to parents or primary carers.” Families Outside 2018	<p>Best-Interests-of-the-Child-when-Sentencing-a-Parent-UPDATD.pdf</p> <p>Safeguarding Children when Sentencing</p>	<ul style="list-style-type: none"> • Implement learning from the Perth and Kinross Child Impact Assessment project across Scotland. 	<ul style="list-style-type: none"> • Improved outcomes for children affected by parental imprisonment.

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>We know that parental imprisonment has a huge impact on children, including trauma, being put into care, loss of possessions and home. Sentencers should have full regard to the impact of any sentence (including community sentences) on parents and care-givers.</p>	<p>Parents : Information for sentencing courts – Dr Shona Minson</p> <p>Microsoft Word - FinalChildImpactReport_16-11-09.doc</p>		
Increase the effectiveness of Community Payback Orders	<p>Community payback orders and the various requirements available to the courts frequently work well, however local partners have identified elements around delivery which could improve CPOs for individuals.</p> <p>Progression of unpaid work hours remains challenging due to logistical issues – this can be especially so when delivering UPW in a remote and rural setting, where distances pose a significant barrier to delivery.</p> <p>The increased complexity of need of people on orders and the limited access to services, including challenges, makes effective working</p>	<p>Community Payback Order: Summary of Local Authority Annual Reports 2023 – 24 - Community Justice Scotland</p>	<ul style="list-style-type: none"> • Increase funding to local areas to support improved delivery • Review and reissue CPO guidance • Work with local areas to increase availability of housing for those on CPOs • Ensure there is extra funding made available to rural areas to support with transport to services or with services • Take out the section in the guidance which stipulates that unpaid work jobs can only be given to those on a CPO if it can't be given to a paid professional. • Ensure UPW increases employability skills through national guidance and sharing or good practice. 	<ul style="list-style-type: none"> • Partners self-report improvement on the delivery of CPOs. • Improved access to employment for people on orders • Increase completion rates with CPO • Improved outcomes for people on CPOs. • Reduced JSW staff turnover and improved wellbeing • Reduction in short prison sentences • Reduced Reoffending

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>difficult. Limited funding is consistently identified as a barrier to effective working.</p> <p>Despite some good practice, integration of employment opportunities into CPOs and UPW is limited.</p> <p>There is also limited opportunities for lived experience to inform design and delivery of services.</p>		<ul style="list-style-type: none"> • Encourage effective use of other activity hours to support the person with their needs which could have contributed to the offending behaviour. • Ensuring there are lived/ living experienced people support with the design and delivery of CPOs, including peer mentor support and support with unpaid work placements. • Ensure unpaid work is accredited and pathways into employment after CPOs are completed are in place. Add this into CPO guidance for local areas. • Improve Staff recruitment and retention through additional funding and improved conditions 	
Invest in unpaid work workforce - training and increased resource to increase quality and utility of UPW order content	<p>Unpaid Work hours can be a transformative tool for encouraging desistance from offending, helping someone change their path. This means that the workforce coordinating delivery of these orders are in a unique and incredibly important position.</p> <p>But this section of the workforce has been relatively neglected in terms of development and investment nationally.</p>	Community Payback Order: Summary of Local Authority Annual Reports 2023 – 24 - Community Justice Scotland	<ul style="list-style-type: none"> • Training for paraprofessionals, JSW and judiciary on the principles, uses and application of UPW as a tool for desistance 	<ul style="list-style-type: none"> • Improved quality of UPW delivery across Scotland • Increased completion rate for UPW hours

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	There is significant variability across Scotland in what unpaid work looks like, the capacity and training level of those supporting its delivery, and the purpose it ultimately serves.			
Understand better why people fail to comply with community sentences and develop targeted improvement projects to support local and national improvement	<p>At present, we do not know enough about why some people fail to complete community orders and what is required to reduce failure.</p> <p>People fail to comply with community sentences for a number of disparate reasons. Some evidence indicates people sometimes choose not to comply because it is harder for them to comply with a community sentence than it is for them to go into prison for remand or a short custodial sentence.</p> <p>We need to better understand the drivers for failure to comply and develop community-based solutions that can meet these needs and support compliance, positive outcomes for individuals, and desistance.</p>	<p>Priority Action 5 Community Justice Outcome Activity Annual Report across Scotland 2023-24 - Community Justice Scotland</p> <p>Community-Payback-Orders-Analytical-Review-of-Unsuccessful-Outcomes-final.pdf</p> <p>Exploring and Explaining Non-Compliance with Community Supervision The British Journal of Criminology Oxford</p>	<ul style="list-style-type: none"> • Undertake dedicated research on compliance and breach in community sentences. • Develop national improvement recommendations and projects based on research findings • Investment in support models for people at risk of breach 	<ul style="list-style-type: none"> • Fewer breaches • Increased completion rates

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	A targeted improvement approach could provide action learning with national implications. Take a local ongoing improvement approach identifying common causes of compliance failure/breach and implement iterative improvement, with any transferrable learning shared nationally.	Academic Beth Weaver et al. 2020		
Improve processes for responding to breach	<p>Breach of community orders (or bail) can result in failure to complete and custody.</p> <p>People fail to comply for a variety of reasons, and we know that people with a number of challenges in their lives, such as addiction issues, are likely to 'fail' several times on their route to recovery. It is therefore incredibly important that breach is responded to in a way that takes this into account and does not result in overly punitive justice responses.</p>	<p>Community-Payback-Orders-Analytical-Review-of-Unsuccessful-Outcomes-final.pdf</p> <p>Priority Action 5 Community Justice Outcome Activity Annual Report across Scotland 2023-24 - Community Justice Scotland</p>	<p>Review evidence base for causes of breach/failure to comply with conditions/failure to complete</p> <p>Development of guidance and training with and for JSW and sheriffs on responding to breach - recovery, relapse, desistance</p>	<ul style="list-style-type: none"> • Fewer custodies resulting from breach
Improved access to accommodation for people completing community sentences	A lack of safe and suitable housing is a barrier to compliance to any conditions set. It is a barrier to desistance and can	This is an example of housing support - Moray's homelessness support partnership	<ul style="list-style-type: none"> • Development of a supported accommodation model for people in the justice system 	<ul style="list-style-type: none"> • Improved housing outcomes • Reduced reoffending

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>affect lives of others such as children/relationships etc</p> <p>The model of supported accommodation is not new, however there is little to no provision at present for people involved with the justice system. Many people are housed in privately-owned accommodation in poor conditions, paid for by the local authority, and with no support.</p>	<p>renewed Moray Council News</p> <p>Good practice identified locally - Unpublished CJS paper available on request.</p>	<ul style="list-style-type: none"> • Increase participation of housing services in delivery of CPOs 	<ul style="list-style-type: none"> • Improved engagement with social services

Appendix 2 – Supplementary Suggestions for Improvements to Bail and Remand

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
Reduced use of Police custody	<p>Reducing the use of police custody will reduce the likelihood of an individual being remanded following appearance from Police custody.</p> <p>There is also an opportunity to support consistency on the assessment of risk and suitability for community over custodial outcomes</p>	<p>During the pre-covid comparator year of 2019/20, there was a monthly average of 3300 custody reports from Police Scotland. In 2024/25, this has reduced to a monthly average of 2280 with significant reductions month on month since August 2024</p> <p>Between April and Feb 2024/25 there were 1800 undertaking reports with a corresponding reduction in remand (reducing inflow) over the same period.</p>	<ul style="list-style-type: none"> Review of risk assessment practice within Police custody to bring in line with national, assessed models Continue to safely and appropriately increase use of undertaking (and evaluate approaches) Consideration to supported undertaking where appropriate (direct link to arrest referral scheme development) 	<ul style="list-style-type: none"> Increase in the use of undertaking Reductions in total number of individuals appearing from Police custody and remanded Low numbers of breach of undertaking Increase in uptake of support options at point of Police custody
Reductions in the number of non-appearance Warrants	Reducing the use of warrants for non-appearance could reduce the prison population as these are one of the drivers of current high levels of remand.	During 2023/24 8.2% of summary trial business was impacted by FTA. An increase from 4.5% during 2019/20	<ul style="list-style-type: none"> Introduce the Nudge Project to improve compliance: COPFS led text messaging services to inform individuals of court dates at points prior 	<ul style="list-style-type: none"> Reduction in percentage of summary trials impacted by FTA Reduction in total FTA Warrants issued across all scheduled court appearances

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>Warrants for non-appearance utilised in the reasons for denying Bail both at the material time and in the future.</p> <p>Non-attendance at court has significant impacts for victims and witnesses, for example increased the length of time before cases conclude. It also has a significant impact on Police, COPFS and Court capacity.</p>	For the period 31/03/2023 to 31/03/2024, 32,515 Warrants were issued. 61% (19,726) are for FTA.	<p>to their required attendance</p> <ul style="list-style-type: none"> • Explore other improvements to communication with accused around court appearance (e.g. COPFS letters, defence agent outreach) • Introduction of Bail Compliance support improvements across existing support provisions, and/or additional Bail compliance support services (see below) 	<ul style="list-style-type: none"> • Improved journey times for victims and witnesses
A tiered approach from Bail to remand in Scotland	<p>There are a range of bail options open to courts.</p> <p>In order to reduce unnecessary remand, a tiered approach to bail could reduce the use of remand, whereby a case would need to progress through Bail, Bail with Support, Bail Support and Supervision, and Bail Support and Supervision (with EM), before a person is remanded.</p>	CJVSF Paper: Future Models For Alternatives To Remand	<ul style="list-style-type: none"> • Should relate to all summary cases as a minimum • Legislate for no remand until satisfied (and evidenced) all tiers have been exhausted • Implement the need for the Judiciary to provide evidence for escalation in tier, which can be effectively monitored to improve necessary community provision that meets demand/need 	<ul style="list-style-type: none"> • Increase in Bail • Increase in Bail Supervision • Increase in people accessing support while on Bail • Increase in supported EM • Reduction in remand • Reduction in breach of Bail • Improved outcomes for individuals in receipt of community-based 'tiers'

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>This could provide people with early access to support that reduces further offending whilst improving/maintaining community links (housing, employ, health etc).</p> <p>It would also provide a proportionate and effective response to breach by escalating response through tiered support options.</p>		<ul style="list-style-type: none"> All Bail with EM supported by relevant needs-based services 	
Bail Compliance Support/Service	<p>There is a need to address high levels of bail breaches and to reduce FTA Warrants.</p> <p>Support to comply with bail conditions and court appearance is an effective way of improving court attendance and reducing remand.</p> <p>This could lead to Improved victim confidence in the justice system and its timely function</p> <p>Improved attendance and compliance would also reduce</p>	<p>Bail Offences (other than absconding) account for 3.5% of total recorded crime in Scotland within the last 5 years</p> <p>There were 7,208 convictions for bail-related offences in 2021/22, an increase of 14% on 2020/21 (6,331)</p> <p>The proportion of bail-related offences as a percentage of all bail orders granted in 2021/22 was 29%. This is the highest</p>	<ul style="list-style-type: none"> The provision of additional, voluntary support to achieve improved compliance through a service and/or supports for those on Bail but not suitable for BS provided by JSW To cover a range of identified compliance needs including housing, health, transportation and navigating requirements Potential incorporation of restorative (indirect) and therapeutic supports Potential third sector/mentoring role 	<ul style="list-style-type: none"> Reduction in breach of bail offences Reduction in further offending Reduction in FTA Warrants Increased attendance across all scheduled court appearances Improved understanding and compliance in those in receipt of service/support on Bail Improved outcomes across those in receipt of services/support on Bail

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	court backlogs and wait times, reduce the demand placed on policing and would improve early access to support for those on Bail.	<p>percentage in the most recent 10 years (17. Bail and undertakings - Criminal Proceedings in Scotland, 2021-22 - gov.scot)</p> <p>Evidenced variation in breach rates by LA.</p> <p>CJS Paper: Custody Research: FTA Warrants/Breach (Available on request)</p> <p>Complex lives and procedural barriers: Detainees' "life happens" explanations for breaching orders - Natalie Gately, Suzanne Rock, James L Finney, Cate Parry, 2024</p>	<ul style="list-style-type: none"> • Bail Compliance/Support Options Appraisal completed by CJS due September 2025 • Identify a suitable pilot and appropriate measures for evaluation • National roll out following any successful demonstration of improved outcomes 	
Reform the process for Bail Assessment across Scotland	JSW resources at court are limited and at present bail assessments are usually only undertaken where COPFS have indicated that bail is opposed. The Bail and Release from Custody (Scotland) Act 2023 will further increase demand for reports from JSW.	<p>7 of 32 LA's in Scotland achieved over 50% conversion from Bail Assessment to case commencement in 2023/24</p> <p>Huge variation in assessment of suitability exists across Scotland</p>	<ul style="list-style-type: none"> • A standardised triage and assessment sift process for bail at court • Use of standardised 10 point, weighted questionnaire to identify individuals most likely to achieve BS 	<ul style="list-style-type: none"> • Increased conversion from assessment to case commenced • Increased confidence and satisfaction across JSW, Judiciary and defence • Reduced use of remand

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>It is therefore necessary to focus JSW resources to ensure that assessments are not being undertaken where they are not necessary (e.g. where bail without additional conditions is likely to be granted or for cases where there is a near certainty the individual will be remanded). One way of doing this would be to target JSW resources on assessing those at greatest likelihood of receiving Bail Supervision (BS) through a standardised approach to BS assessment.</p> <p>Evidence from New York shows that a standardised assessment tool can be an effective approach, although it will be required to adapt the approach to this purpose and the Scottish context.</p> <p>Such an approach could improve access to Bail over</p>	<p>Bail and Release (Scotland) Act 2023 S1 and S2 (implementation 14 May 2025).</p> <p>New York CJA Bail Tool:</p> <p>CJA Court Services</p>	<ul style="list-style-type: none"> Questionnaire testing and refining period led by JSW in identified areas 	

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	remand through improved information provision.			
Enhanced Bail Supervision	<p>Intensive, enhanced Bail Supervision and Support could be an effective alternative to remand that reflects the needs of an increasingly complex population</p> <p>Enhanced support options would address higher levels of breach of bail, improving sheriff, victim and public confidence in bail over remand, whilst also improving early access to support for those on Bail.</p>	<p>The proportion of bail-related offences as a percentage of all bail orders granted in 2021/22 was 29%. This is the highest percentage in the most recent 10 years (17. Bail and undertakings - Criminal Proceedings in Scotland, 2021-22 - gov.scot)</p>	<ul style="list-style-type: none"> • Designed based on a comprehensive needs assessment of the current remand population • Intensive support for those posing a higher risk • Exploration of the inclusion of restorative (indirect) and therapeutic services • Legislate to ensure BS is a statutory duty on JSW/LA • Inclusion of a 'breach pathway' where not already in place 	<ul style="list-style-type: none"> • Increased conversion from assessment to case commenced • Increased confidence and satisfaction across JSW, Judiciary and defence • Increase in BS successfully completed • Reduced breach of BS • Improved outcomes for those on BS (needs-led)
Bail Housing/Accommodation	<p>A lack of safe and suitable housing is identified as key reason Bail is denied in Scotland by PDSO Scotland.</p> <p>It is also a barrier to compliance to any conditions set. It is a barrier to desistance and can affect lives of others such as children/ relationships etc</p>	<p>Community Accommodation Service: England and Wales: Nacro Community Accommodation Service (CAS-2) Nacro</p> <p>Approved Premises (AP) Prison Reform Trust</p>	<ul style="list-style-type: none"> • Supported bail accommodation in place across Scotland • Prioritisation for those on the cusp or remand • Community integration focus: link to CJP, ADP and other relevant strategic partners and local service provision • Link to community volunteer programmes to support residents, and also 	<ul style="list-style-type: none"> • Increase in Bail accommodation across Scotland • Increase in Bail with supported accommodation by LA • Reduction in Bail breach • Improvement in outcomes and wellbeing across individual residents and the local community

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	The model of supported accommodation is not new, however there is little to no provision at present for people involved with the justice system. Many people are housed in privately-owned accommodation in poor conditions, paid for by the local authority, and with no support.		to universal supports and local community groups	
Electronic Monitoring Expansion	<p>Increasing access for more individuals to EM as an alternative to remand would support a reduction in the prison population.</p> <p>Increasing and improving use of EM would also reduce breach of Bail through more flexible, realistic options.</p> <p>When combined with appropriate support, this would also reduce further offending.</p>	<p>Electronic Monitoring - CEP Probation</p> <p>Probation measures and alternative sanctions in the EU</p> <p>Electronically monitored bail: FOI release - gov.scot</p> <p>Experiences with SCRAMx alcohol monitoring technology in 100 alcohol treatment outpatients - PMC</p>	<ul style="list-style-type: none"> • No EM without support package(s) • Introduction of GPS technology • Introduction of Alcohol Monitoring Bracelets (in line with current research and evidence) 	<ul style="list-style-type: none"> • Increase in EM and BS (cautiously – monitor also for no ‘up tariffing’) • Increase in EM monitoring • Reduction in EM Bail breach • Uptake across new technologies • Reduction in alcohol use and alcohol-related offending • Increase in victim perceptions of safety (linked to EM and GPS) • Improved outcomes across individuals on EM with a support package (needs-based)
Reduce Periods of Remand	Legal maximum periods for time spent on remand could reduce prison overcrowding. This would	JAS dashboard for CJB	<ul style="list-style-type: none"> • Introduce legal limits that stipulate: 	<ul style="list-style-type: none"> • Reductions in the average time spent on remand by summary and solemn

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	support maintaining community connection (housing, health, employment) and improve mental health.	Data from JAS indicates that around 44% of people on remand spend longer than 90 days on remand, with around 33% spending more than 140 days on remand: Safer Communities and Justice Statistics Monthly Data Report: April 2025 - gov.scot	<ul style="list-style-type: none"> ○ No more than 140 days on remand (solemn) ○ No more than 120 days on remand (summary) • Timescales to link with LA housing, employment 'gap', GP registration period maintained and needs-based services • Plan for liberation must be provided to inform remand and bail decision making 	<ul style="list-style-type: none"> • Increase in the use of BS and BS EM (as alternatives to custody) • Broader impacts: maintaining housing, employment, health (GP) and other services.
Routine Review of Remand	<p>At present, reviews of remand are used infrequently. Increase their use could support release from custody, reducing remand numbers on a more frequent basis.</p> <p>Successful reviews would interrupt lengthy remand periods which reduce support to the individual and improve access to consistent support for individuals in the community</p>	<p>On 1 May 2025, 2031 individuals were remanded in Scotland. This accounted for 26% of the total prison population (7825)</p> <p>During 2023/24 there were 9312 arrivals into remand. This is 17% less than in pre-pandemic year 2019/20 (11,232)</p> <p>In addition to the above, there were more people sentenced to prison (including transitioning from remand) in</p>	<ul style="list-style-type: none"> • Routine remand review built in to every remand sentence at appropriate points • Legal Aid system revised to compensate defence agents for such reviews • Prison JSW to consider accompanying reports (proportionately) • Review of S80 of the Criminal Procedure (Scotland) Act 1995 act which determines 'material change' is necessary to provide clarity and consistent application • JSW/throughcare support in court 	<ul style="list-style-type: none"> • Increase in bail reviews • Reduction in number of people on remand • Increase in those supported on release from custody from court

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
		<p>2023/24 (6328) than in 2019/20 (7967). This evidences smaller outflow than inflow</p> <p>As of 1st April 2025, the median period of time people were spending on remand was 69 days.</p>		
Improved Release from Remand at Court	<p>There is a need to improve preventative support on liberation from court. At present there are few dedicated support options on release from court, meaning individuals are being released at short notice, without access to resources or even their belongings.</p> <p>This can lead to considerable distress for people and potentially serious negative consequences, especially when an individual has health needs such as medications or is without accommodation.</p>	<p>On 1 May 2025, 2031 individuals were remanded in Scotland. This accounted for 26% of the total prison population (7825)</p> <p>In April 164 people were liberated from prison from remand. 25% of total liberations within the month (654)</p>	<ul style="list-style-type: none"> • Increase appearance on remand by virtual means from prison (assessed and appropriate) • JSW and third sector support provision in court • Data and information sharing to support knowledge of those attending from court to JSW and third sector • Consider expansion to current, national throughcare support model to accommodate 	<ul style="list-style-type: none"> • Increased supported release from court • Uptake of voluntary support from court • Increased third sector service provision in courts

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	Improved support at court could ensure people are supported at a time in which they are vulnerable and during which we know support is crucial. This would reduce further offending and reduce return to custody.			

Appendix 3 – Supplementary Suggestions for Improvements to Release from Custody

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
SPS should redefine its core activity from rehabilitative to a greater focus on preparation for release to community	<p>Currently high (and increasing) population impacts on prison regime which means that SPS cannot realistically transform lives and rehabilitate people.</p> <p>In practice, this mean that regime and population cannot support rehabilitation or effective preparation for release. Nor does it allow the SPS staff / Personal Officers to undertake the necessary preparatory work with people.</p> <p>Recognition that care and opportunity in prison impacts progress through and out of prison on desistence journey.</p>	<p>Expert Advisory Group (EAG) paper (see Appendix 4)</p> <p>CJS Pre-budget scrutiny 2024</p> <p>HMIPS Prison thematic reviews on ICM, Risk Management and Progression.</p>	<p>SPS needs to review its core function in terms of a shift from primarily rehabilitative to a much greater focus on ensuring people are in a state of preparedness to return to the community.</p> <p>SPS needs to review and alter processes such as Integrated Case Management (ICM), Risk Management Teams (RMT) and give much more emphasis on how to train and support staff to undertake the roles that enhance preparedness, e.g. Personal Officers, First Line Managers, etc.</p> <p>This will require a manageable prison population allowing a regime which supports</p>	<ul style="list-style-type: none"> • People being better prepared for return to the community leading to fewer recalls. • Increased and more efficient use of systems like ICM / sentence planning, RMT / progression, etc..

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>Significant inequalities in healthcare in prison.</p> <p>As sentence lengths increase the greater the risk of institutionalisation of those serving such sentences which means better preparation for returning to the community is required that will enhance both engagement during time in custody and compliance post-liberation.</p>		<p>preparation (see also other proposals for reducing the prison population) but this cannot be an excuse for not changing the approach of SPS and Governors in Charge.</p>	
<p>Prisons should be more 'community facing'. The use of smaller local prisons is more beneficial than the large prisons that are being built.</p>	<p>In Scotland, "community-facing prisons" refer to facilities that are designed to support prisoners in maintaining connections with their communities and preparing for reintegration after release.</p> <p>Prisons are part of the larger community and prisoners should be thought of as citizens, but there is an inherently non-inclusive element to them which means – by definition – prisoners don't get to mix in the</p>	<p>Community justice Sustainable alternatives to custody: Community justice: Sustainable alternatives to custody : Sustainable alternatives to custody (Audit Scotland 2021)</p>	<p>The 'Community → Custody → Community' model is positive and should be further utilised as an overarching model for strategic planning across the system.</p> <p>SPS require to manage prison populations in order that people can serve their custodial term closer to the area in which they will reside when released.</p> <p>Give serious consideration to HMP Glasgow construction, and</p>	<ul style="list-style-type: none"> • Greater number of people serving their custodial term in community-facing prisons that have physical proximity to their home area – in particular those coming to the end of longer-term sentences • Better preparedness for return to the community that enhances compliance and lessens recalls

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>community and experience “pains of confinement”.</p> <p>The ‘<i>Community → Custody → Community</i>’ model is positive and should be further utilised.</p> <p>A key enabler for progression and release.</p> <p>Creates closer link between the person and their support mechanisms in the community where they will reside on liberation</p>		<p>review the strategic approach to estate management and capital spend with community facing and creating places of preparation at the heart of SPS’ approach.</p>	
<p>Integrated Case Management (ICM) - The ICM manual should be extensively reviewed, updated and distributed to all relevant partners with a clear implementation process to embed new arrangements.</p>	<p>Well documented issues with case management in prisons – from thematic review including the function of Prison Based Social Work and the inclusion of Community Based Social Work in pre-release preparation.</p>	<p>HMIPS Prison thematic review on ICM, Risk Management and Progression.</p> <p>Care Inspectorate: Prison-based social work: thematic review (April 2024):</p> <p>Prison-based social work thematic review.pdf</p>	<p>This will require a manageable prison population allowing a regime which supports preparation (see also other proposals for reducing the prison population) but this cannot be an excuse for not changing ICM.</p> <p>More effective and efficient processes in prison – in particular ICM, RMT.</p>	<ul style="list-style-type: none"> • A more effective progression system – people back in the community quicker (i.e. not in custody). • People in custody have a better understanding of the progression systems. • Staff in the custodial setting have a better understanding of the progression systems.

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
			<p>There requires to be a dedicated function with appropriately trained and supported staff to undertake the ICM / RMT roles.</p> <p>SPS require to have a greater scrutiny and oversight of the progression processes with appropriate managerial mechanisms to ensure effective practice.</p>	<ul style="list-style-type: none"> Better preparedness for return to the community that enhances compliance and lessens recalls
<p>Explore role of PBSW in prisons and refocus this to more effective use of PBSW as a resource and also to better support preparation for release.</p> <p>Consider National arrangements for PBSW.</p>	<p>Currently the way in which PBSW works and is organised (i.e. on an individual prison and local authority basis) means there are significant inconsistent and inefficient work practices and systems that impact on the efficacy of PBSW and also the state of preparedness in terms of both pre-release and progression.</p> <p>In particular, PBSW is delivered differently in each of the SPS establishments due to the</p>	<p>Care Inspectorate Thematic Review of PBSW (April 2024)</p> <p>HMIPS Prison thematic review on ICM, Risk Management and Progression. (June 2024)</p>	<p>Reorganisation of PBSW work in line with recommendations from recent thematic reviews</p> <p>New paradigm of PBSW delivery based on a national model where operational activity was overseen from a single point</p>	<ul style="list-style-type: none"> A more effective case management and progression system that is focused on preparedness with PBSW at the heart of this. Better preparedness for return to the community that enhances compliance and lessens recalls

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	<p>idiosyncrasies of local culture, custom and practice.</p> <p>This also complicates how Community Based Social Work interacts with PBSW across 32 local authority areas</p>			
<p>Every prisoner should have a personal sentence plan that identifies key responsibilities, dates, etc. to ensure they are appropriately focused on release planning throughout their sentence</p>	<p>People in custody have no sense of how their sentence will progress or where they are in such processes – this means people are confused, disillusioned and disenfranchised which impacts on those serving, particularly, long term sentences.</p> <p>Having an individual, personalised, person-centred plan means they would be more engaged in the process, more likely to comply and better understanding of the need for effective preparation for release back into the community.</p>	<p>Joint inspection: A Thematic Review of Prisoner Progression in Scottish Prisons_0.pdf</p>	<p>Enabler: SPS needs to review its core function in terms of a shift from primarily rehabilitative to a much greater focus on ensuring people are in a state of preparedness to return to the community.</p> <p>Every prisoner should have a 'custody plan' unique to them with dates, responsibilities, etc. clearly stated. Applicable to people serving both long-term and short-term sentences.</p> <p>More effective progression systems leads to better use of supported access to the community, e.g. Castle Huntly, CCU's, etc.</p>	<ul style="list-style-type: none"> • A more effective case management and progression system that is focused on preparedness • Castle Huntley and CCUs being brought into more effective and frequent usage as a stepping stone for people to be better prepared for returning to the community • People in custody have a better understanding of the progression system which, in turn, leads to greater compliance and reduced recalls

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
Risk management Teams (RMT) - RMT processes should align with ICM and be chaired by staff who are competent and confident in the application of the FRAME principles.	RMT is the critical gateway for progression across SPS – this is a key factor in why progression is currently not effective in the custodial estate. RMT needs to be fed by a cohesive, consistent and timeous ICM process with all involved having a common understanding of the principles and practices of effective risk assessment and risk management (FRAME). Those who chair RMT must be able to lead in these decisions based on the FRAME principles. RMT is the single critical process for getting people access into community to assist their rehabilitation and, more importantly, their state of preparedness for reintegration. RMT, usually, has the right people round the table but not quite the right format and is not effectively linked to ICM. Presently, it also has very little / no involvement from people seeking to progress and their	Joint inspection: A Thematic Review of Prisoner Progression in Scottish Prisons 0.pdf	<p>Shared understanding of FRAME across all partners.</p> <p>RMT chairs should be both competent and confident in their leadership and decision-making – training and ongoing support is required.</p> <p>ICM needs to be reviewed in order to have effective links as a feed for RMT.</p> <p>The people in custody should be much more involve with the RMT process</p>	<ul style="list-style-type: none"> Increased frequency of RMTs to facilitate progression, thus moving people closer to a return to the community. Increased progression and greater access to the community for a significantly increased number of people serving long term sentences. Defensible decision-making at every RMT by chairs who are competent and confident. People in custody have a better understanding of the progression system which, in turn, leads to greater compliance and reduced recalls

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	understanding of individualised risk management plans.			
Greater and more frequent access to the community for people serving longer-term sentences.	<p>Progression is currently not effective across the SPS estate as people serving long term sentences cannot move on and miss opportunities to prove to the Parole Board that they have been tested in the community</p> <p>SPS and partners should create a process similar to Home Detention Curfew (HDC) but for longer-term prisoners, realising ambition of Bail and Release</p>	<p>Joint inspection: A Thematic Review of Prisoner Progression in Scottish Prisons 0.pdf</p> <p>The Prisons and Young Offenders Institutions (Scotland) Rules 2011</p>	<ul style="list-style-type: none"> • Where a person has reached the 50% stage of their sentence and been refused parole, a process of temporary release should be implemented for those assessed as low / medium risk (LS/CMI) and where the profile indicates 'Routine Case Management' in the community. • Part 15 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 could be used to expedite this as 	<ul style="list-style-type: none"> • Increased preparation for release back into the community through more effective testing. • Fewer number in the prison estate at any given time. • Evidence for Parole Board that people have been tested in the community leading to greater use of parole and fewer people being in the custodial estate over the period.

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	from Custody (Scotland) Act 2023.		<p>this legislation already exists. This could create a rolling programme of people being temporarily released on home leave for multiple and consecutive periods as defined in the 2011 Act</p> <ul style="list-style-type: none"> • EM improvements would be necessary to support this and, particularly GPS alongside appropriate levels of support in the community for each person. 	
<p>Throughcare support – short-term and long-term – expand both and improve release planning period for LTP. Better coordinated planning for all releases, but especially short-term to reduce the churn back to prison.</p> <p>Ensure basic continuity of care from custody to community.</p>	<p>Statutory throughcare improvements are required – same as STP but over a longer timeframe.</p> <p>Poor preparatory time for LTP – 3 months only.</p> <p>This needs improvement – 1 plan determining path through the sentence and longer term.</p> <p>Appreciating the importance of the first 72 hours post-release.</p> <p>Data poor on breach and recall.</p>	<p>Throughcare research from CJS including:</p> <ul style="list-style-type: none"> • Research summary paper • Research with people with lived experience of release or throughcare. • Literature review. <p>CJS cost paper.</p> <p>Thematic review of progression.</p> <p>HMIPS inspection reports (healthcare element by HIS)</p>	<p>More funding is required for throughcare support in the community. CJS' Options Appraisal for voluntary throughcare calculated that over £17M funding is required to expand provision to meet the needs of people leaving prison following a short-term prison sentence or following a period of remand.</p> <p>Better management of the statutory throughcare process would not necessarily require</p>	<ul style="list-style-type: none"> • Increased uptake in throughcare. • Reduced churn in short-term population between custody and community. • Improved continuity of care between custody and community (health, housing, finance, employment support). • People are better supported on release with resettlement and basic needs.

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
Earlier release processes facilitated by support on release.	For voluntary throughcare:	and Mental welfare commission reports on healthcare in prisons discusses issues with healthcare in prison and continuity of care between custody and community.	additional funding but any increase in statutory throughcare provision arising from implementing some of the recommendations on automatic early release, for example, would require additional funding but be significantly less costly than the equivalent in prison places. Scottish Government provided the Unit Cost of Statutory Throughcare in 2016-17 as £9,034. With inflation, this amounts to £10,637 in 2021-22.	
Greater support for people returning to the community that is flexible and responsive to complex needs.	<p>There is no consistent provision that exists between custody and return to home – this is particularly relevant for those who are of no fixed abode on release. There is a need to create a ‘ramp’ rather than a cliff-edge for those who need extra support to reintegrate back into the community – especially after a long term sentence.</p> <p>There is a need to explore models such as Halfway</p>	<p>The impact of supported accommodation on health and criminal justice outcomes of people released from prison: a systematic literature review Harm Reduction Journal Full Text (Harm Reduction Journal 20, Article number: 91 (2023))</p> <p>The Effects of Halfway Houses on Criminal Recidivism: An Updated</p>	Create facilities in the community where people with a range of complex needs can reside as part of the longer rehabilitation / reintegration process in way that both meets their needs and enhances public safety	<ul style="list-style-type: none"> Reduction in recalls as people are more effectively supported to return to their community.

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	Houses / supported accommodation – possibly even a core and cluster methodology. This would create a flexible form of accommodation that’s could be supported in the community for a number of reasons.	Systematic Review and Meta-Analysis (International Journal of Offender Therapy and Comparative Criminology 1–24 (2025)) Exploring the Impact of Halfway Houses and the Use of Revocations (Center for Effective Public Policy) CS9_23-Exploring-the-Impact-of-Halfway-Houses-and-the-Use-of-Revocations-Draft-003-5.pdf		
Custody, Rehabilitation & Reintegration Sentences – pre-cursor to a new idea about types of denial of liberty	At the point of sentencing, the Sheriff / Judge should indicate which portion of the sentence is custodial, which is rehabilitative and which is reintegration (i.e. served in the community) The ‘punishment’ of custody is the denial of liberty – there requires to be a wider and more flexible understanding and application of how liberty is	Independent Sentencing Review 2024-2025 - Response of the Sentencing Council for England and Wales	Precedent – already done with life sentences and extended sentences.	Clearer understanding or sentences and how they function Stronger system focus on rehabilitation and reintegration

What do we need to do?	Why do we need to do it?	Evidence Base	How will we do it?	What will success look like?
	denied in Scotland, e.g. better use of technology such as GPS tagging and alcohol monitoring bracelets.			

Appendix 4 – Community Justice Scotland – Expert Advisory Group (EAG) Session Report: Solutions to the Prison

Background

In January 2025, the Criminal Justice Board (CJB) expressed an interest in gathering academic and expert views on national and international approaches to addressing ongoing pressures across the justice system, including a burgeoning prison population.

Community Justice Scotland host a quarterly Expert Advisory Group (formerly Academic Advisory Group) and offered to hold a session on this topic.

EAG Session⁴⁰

Initially the session was based on what the academics could draw from international practices that could be used in Scotland to address the current prison crisis in the short or medium term, as requested by CJB. Feedback was received that it is not necessarily possible to take things that are working elsewhere and copy these in Scotland to make a difference in the short term and also that 'better' prison systems elsewhere, e.g. Scandinavia reflect political choices and

cultural developments that were made in the past.

The following points were discussed in relation to international success in reducing prison populations.

- **Netherlands** has seen success in reducing their prison population by 44% between 2005-15 and have since had to repurpose prison buildings. They have shown that enhanced mental health support leads to improved inmate well-being and lower reoffending rates.
- **Dutch and Canadian** prison systems incorporate robust mental health services and addiction treatment within their facilities. These include access to counselling, therapy and medication-assisted treatment for addiction.
- **Finnish and German** system focuses heavily on rehabilitation, offering educational and vocational training tailored to prisoners' needs.
 - Written into **German** legislation is that **remand** cannot be used unless it is certain that an individual will ultimately receive a custodial sentence.

⁴⁰ Please note that the information in this briefing was shared by the CJS EAG and has not been fact-

checked by CJS. The ideas proposed are not necessarily the views of CJS.

- **Canadian** Correctional Programmes demonstrate success in reducing substance abuse-related offences post-release and improving mental health outcomes for inmates.
 - By implementing these strategies, Scotland can effectively address overcrowding and recidivism, improve prisoner rehabilitation, and optimize resource allocation within the prison system.
- **Spanish** prison population has steadily decreased between 2009 (76,079) and 2023 (51,000) by 33%. The socio-economic drivers for this were:
 - Law modifications: reduction of sentences for minor offenses and decriminalization of certain behaviours.
 - Emphasis on alternative measures to imprisonment: community service and electronic monitoring.
 - Changes in crime profile: reduction in crimes associated with the economic crisis (thefts and robberies) following the post-2014 economic recovery.
- In Spain there is a focus on keeping vulnerable groups out of custody: programmes are aimed at preventing the incarceration of women, young people, and individuals with mental health issues, ensuring more appropriate alternative measures.
- Spain have taken measures against excessive pre-trial detentions (limiting use overall and promoting EM especially in non-violent cases).
- An (unpublished) review by one group member, from 2019, looked at 14 jurisdictions to explore how they reduced their prison populations. Each of the countries required to make changes to their justice systems as a

result of spiraling numbers and lack of budget.

- Key factors within the review that had led to successful reduction in prison population include the following:
 - Reducing the **lengths given for prison sentences**, particularly for drug related offences and actively pursuing the use of shorter long sentences and the use of short sentences
 - Restricting the use of **remand**
 - Achieving **political coalescence** across parties
 - Highlighting the **human rights** issues
 - Making use of **Diversion from Prosecution in serious cases** – and avoiding ‘net-widening’ in cases which may not otherwise result in court prosecution and conviction. In relation to this, the EAG highlighted a need for an exact definition of ‘diversion’, what it actually consists of, but particularly so if it were to be used in Scotland in serious cases. **Evidence based practice should be followed:** proportionate use of community sentences, plus provision of effective rehabilitation programmes and mental health support. The EAG emphasised that **community penalties must be used proportionately and moderately** so as to avoid proceeding against people who might not otherwise have been prosecuted through court. **Direct Measures also increase social exclusion (including through ‘criminal history’ records).** There are also due process issues. Direct Measures which are largely mechanistic and do little to bring accountability to those harmed and rehabilitation.
 - **Involve victims** in any change: meet the needs of victims and increase awareness of restorative

justice (remembering that rates of victimization are particularly high amongst criminalized people).

Restorative Justice services need to be much more widely available.

- More flexible regulations for granting **parole and other forms of early release** to prisoners with good behaviour and low risk of recidivism.

- **Digitalisation:** better prison management by use of digital monitoring and controlling systems for inmates and for conditional leave or alternative measures
- **Interinstitutional cooperation** (with social services, work mediation, ...)
- **Infrastructure:** renovation of prisons according to the enhanced focus on rehabilitation and reintegration programs

reduction in imprisonment. This is an area of political opportunity that may have been missed.

- Some of the suggested changes that were made internationally and that should be considered for Scotland are politically, ethically and morally difficult, but this does not mean that these should not be considered or implemented.
- Judiciary and victim advocacy organisations are not easily persuaded to see prison used less in the perceived absence of any viable alternative mechanisms of support, rehabilitation, censure and control in the community. However, it is not just a question of simply making alternatives available – as a strategy, that has failed repeatedly in Britain since the 1970s.

Implementing this in Scotland

Discussion throughout the session centred around why the changes made internationally might not be straightforward in implementing in Scotland.

- Scottish prisons are not set up to deal with short sentences well whereas a lot of those in Scandinavia have been.
- **Different crime types** in different countries: Scotland's drivers of long term imprisonment are sexual offences and historical sexual offences
- The Netherlands have capitalised on sustained reduction in crime. However, while Scotland also saw a reduction in crime, there was **not a corresponding**
- Imprisonment as 'the last resort' sounds progressive, but in fact makes imprisonment the default because there is nowhere else to send people in need. As a society, if we want to ensure people don't end up in prison because of their chronic needs (not their serious offending), then we have to create a long-term plan to cease using imprisonment for such cases.
- All penalties that impose mandatory or involuntary limitations of people's human rights need to be governed by the principle of limiting proportionality, whether they are situated in custody or in the community.
- Prison is often misrepresented as an all-purpose solution for many sorts of harms. In reality, it tends to perpetuate and exacerbate harms. It does this by responding to a culture of vengeance

(beyond rational retribution) that favours punishment and painful conditions, whatever the consequences, over rehabilitation, reparation and reconciliation for those remanded or given custodial sentences.

- Arrangements for training prison officers in Scotland fails to meet the high standards of some other European countries (e.g. Norway). It is essential to make improvements in this area in order to recruit and retain a high standard of officer. The workplace itself is of importance in retaining officers and maintaining staff wellbeing. Wellbeing is affected by working in overcrowded and under resourced prisons, insufficient training, confidence, competence and resilience.
- In Scotland, the right wing press, and significant sections of social media, advocate expressive, repressive and punitive responses to people who have committed serious crimes, irrespective of their costs and consequences, which greatly influence public opinion. This is a major obstacle to devising rational approaches to crime and punishment.
- Understanding public perceptions and better informing public opinion about sentencing, punishment and reintegration is vital. There is emerging research evidence that while a significant proportion of members of the public in Scotland believe sentencing is too lenient, they also tend to support sentences which *may* be similar to or more lenient than those actually passed in court. However, while this is a potentially powerful good news story, the official data about sentencing is so poor that it is currently not possible to show any conclusive evidence. There is an

urgent need to improve the quality of information about actual sentencing patterns, and to engage the public in well-informed dialogue about punishment and reintegration.

- Any solution to the present prisons crisis requires investment in medium and longer term solutions. Evidence from Scandinavian countries suggest that good penal practices takes time to build and require long-term planning.

What should Scotland's focus be?

Sentencing and progression

In Scotland longer sentences have been used over the years which is what has led to the increase in prison population.

Sentence inflation is the number one problem in Scotland.

Short prison sentences do not work in Scotland and this is related to the design of prisons themselves. Presently, these are more set up for long term prisoners. Better options are available in the community and those who are imprisoned require more bespoke options. Limited use of the PASS explains some but not all of the increases in imprisonment. This is better explained through increased sentence length and time on remand (however, the lack of good quality data in relation to the use of backdating sentences for time spent on remand is highlighted as a gap which must be addressed to understand the use of remand including possible disparities (e.g. male-female)).

*We should use prison resources better in relation to **progression**.* This is difficult at present and in order to achieve this, we must reduce overcrowding. This should not mean that this can be overlooked, or excused.

We should think about plans and pathways through prison for all sentences, these may be more or less complex (for longer or shorter sentences) but the planning should be carried out for all. None of this should mean that conditional release should be used simply as a way of reducing the population – this only breeds public cynicism.

Multifaceted sentencing

Prison can be designed and utilised differently. For example individuals free to work throughout the week and are held in prison over the weekend; community sentences being opted for in the first instance; prison could be better set up as a ‘custodial preparation’ organisation with their main focus being on preparing individuals to return to the community.

Where investment is needed

- There must be more investment in intervention, community sentences and community-based services. The balance between ‘mere’ supervision and effective support in the community needs to be addressed.
- We must make better use of bail supervision and support; however, this requires to be better resourced.

Human rights argument

In Scotland the human rights perspective should include considering the position of the aging population in prison, due to high proportions of this demographic and the issues caused by their health and social care needs to the individuals, staff and the estate.

Some individuals may not belong in prison nor a conventional care home thought should be given to alternative secure units that could be used to house and care for these individuals.

Messaging, politics and the media -

Enlightened self-interest for politicians

Cheaper and more effective messages should be used: these should focus on censure and accountability; cost effectiveness, reduce populist appeals, and should engage Scottish citizens in dialogue about criminal justice from school onwards. It is vitally important that community justice is seen as a more effective way than prison of achieving accountability for the harm done. There is a need to create relationships with media representatives and to provide them with specific messages around the social benefits of community sentences and their evidenced link to making necessary changes.

Transparency about sentences

Prison sentences in Scotland usually consist of a punishment part and community part. These can be considered to have been misnamed. Members of the public are increasingly aware that a portion of a ‘prison’ sentence is spent in

the community and tend to resent it – most of all because they feel it’s promising one thing but doing another. More appropriate labelling of this type of sentence (for example as ‘Custody and Supervision Sentences’) should be considered as this would lead to more transparency about what is involved and may could have a positive cultural effect.

Low risk sexual offences

Individuals who have been charged with sexual offences are viewed as ‘high risk’, however, the offences committed can vary significantly and the risk profile for an individual may not support an assumption of being at highest risk of reoffending.

Sentencer knowledge

Sheriffs must have clear knowledge of what programmes and treatment is available in the community.

Appropriately resourcing all community work is essential. More work must be conducted on community programmes to ensure that Sheriffs can have full confidence in these to increase the likelihood of being used. This is partly about encouraging positive local relationships.

It is also important to make clear that attempts to reduce Scotland’s use of imprisonment is not about blaming individual criminal justice professionals. Professionals are shouldering the burden of impossible dilemmas. It is about being

clear where we want to get to as a society and having a plan to get there.

Address any gaps in community programmes

There are gaps in community programmes for sexual offending and gang violence. There are issues in addressing this, such as high cost and the evaluation of these (in addition to the importance and time required to conduct treatment needs analysis to match the right people to the right programmes).

Programmed work in prison is not as effective as it could be. Thought should be given to how this could be improved.

Needs Analysis

This should be conducted on individuals going through courts in Scotland in order that the necessary programmes can be set up to cater for all (both in the community and in custody).

Whole systems approach

Consideration to applying the successful practice from this approach to the adult justice system, This includes a focus on wellbeing, tailored approaches, multiagency-delivered sentences and restorative practice.

Prosecutorial Diversion

Offences should be ‘bundled up’ where possible to improve efficiency across the justice system.

Waiving prosecution is important in some cases and may not always require support to be in place to address underlying issues, as can be the case in lower tariff cases. Deferred prosecution should also be possible alongside the delivery of a highly intensive service that addresses the needs of those associated with the offending. This would be truly diversionary, in a way that community sentences are not, even in more serious cases. The Whole Systems Approach as used in youth justice would be helpful if used in these cases.

Further consideration is required in relation to exactly what 'diversion from prosecution' would mean and look like for serious crimes in order to ensure that this is an effective and serious option that does not risk being less than reputable or encroaching on the good reputation of current good practices.

An improvement in obtaining relevant data in relation to, and further evaluation is required of, diversion practices within Scotland. There are unknowns in relation to diversion practices such as net-widening and social exclusion.

There requires to be a study of current practices to establish what diversionary practices are working well and what are not.

Community facing prisons

Prisons should be more 'community facing'. The use of smaller local prisons is

more beneficial than the large prisons that are being built. "Community facing" demands of prisons that they make use of services from the community, and prepare prisons for release back to the community. Prisons are part of the larger community in a political sense and prisoners should be thought of as citizens, but there is an inherently segregative element to them which means – by definition – prisoners don't get to mix in the community and experience "pains of confinement". The Community – Custody – Community model is positive and should be further utilised.

Data requirement

Higher-quality data is required on all aspects of the justice system in order to conduct system-wide analysis over data presentation. For example, the official data on sentencing, the use of Direct Measures and the use of remand is extremely poor and this hampers the ability to make improvements. This can look at cost savings, and determine which areas require a focus. Data linkage is currently very poor and it seems unlikely that this problem will be solved in the short or medium-term. Other ways of collecting samples of data will be needed. This could also help with efforts to inform public knowledge about the typical patterns of sentencing for different kinds of cases. Other countries have found that contrary to public expectations, sentences are not nearly as lenient as most members of the public think. Potentially, there is a potent story to be told.

First published **May 2025**

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