



Consultation on proposals to change the release point so that those eligible individuals are released after serving 30% of their sentence

CJVSF response

Thank you for the letter dated 3rd February, seeking CJVSF's views on a proposed change to the automatic early release of certain short-term prisoners. CJVSF is a collaboration of voluntary sector organisations working within justice in Scotland. We met with some of our members on the 5th of February 2026 to discuss the proposed changes and invited comments from all members by email and telephone. Our responses to the questions posed can be found below.

1. What are your views on changing the release point for certain short-term prisoners to 30%?

CJVSF is acutely aware of the current pressures within the penal system in Scotland and the need to address the immediate and longer-term impacts of an unsustainably high prison population. The risks, harms and collateral impacts of prison overcrowding are well established, including [those laid out 10 years ago by HM Chief Inspector of Prisons for Scotland](#). Our members continue to work alongside our various partners in prisons and communities to support individuals and families impacted by the justice system.

However, CJVSF members have also consistently raised concerns at the decisions to date that continue to unsustainably transfer the crisis within prisons, to the community. CJVSF has ongoing and serious concerns about the effectiveness of previous releases, lack of meaningful resource to support good outcomes for people and communities and the absence of long-term solutions to unsustainable prison numbers. On this basis, CJVSF members do not feel able at this present time to support the proposal to change the release point for certain short-term prisoners to 30%. We also note the incredibly short timescale to respond in full to a consultation on such a significant change.

This particular response continues to focus short-term crisis-response efforts at one specific point in the justice system, i.e. the point of release from prison. Members' specific concerns at this strategy are centred on the impacts and risks for:

- The individuals leaving prison early and their families
- Access to services by other groups not eligible for early release
- Victims and their families
- Third Sector staff and the wider justice sector
- Prison numbers beyond the very short term

- Public confidence in the justice system
- Capacity within the justice sector to work on other much-needed reforms that will be necessary to resolve this issue in the longer term.

Members are concerned that the proposed course of action will, rather than reducing pressure within the system, simply continue to transfer the crisis from prisons on to exhausted and under-resourced community services. The sector has already been asked to deliver three short-term crisis responses (two Emergency Early Release programmes and STP40) within a two-year period on top of their normal service provision. Unreasonable expectations are being placed on the third sector, with staff not being given the time they need to plan and develop the crucial relationships with people ahead of release that we know are necessary to support service engagement and positive outcomes, including release planning for basic needs such as medical appointments and bed spaces on day of release. Risk management and care planning is also impacted when there is no time for joint planning between partners.

The requests for assistance with multiple short-term crisis responses are taking place within the context of freezes and cuts to third sector funding and this is impacting the ability of services to respond to people's needs. The erosion of funding arrangements for the third sector services over several years is being strongly felt across the sector.

Without the necessary community support and services in place for people, the risk of harm to individuals, families and communities is increased. Risk management and care planning is also impacted when there are truncated timescales for joint planning by and between partners. Members are therefore concerned about the impacts of this, for example the potential for increased levels of homelessness, drug-related harms and deaths, suicides and the impacts on specific cohorts with specific needs, such as children & families, veterans, victims, people in recovery and those with specific trauma-related challenges in the transition of leaving prison. Members frequently support people with multiple complex needs, and part of providing trauma informed and person-centred care is clear consistent relationships, guidance and timelines to work within.

The current housing emergency means that access to housing for people leaving prison remains an ongoing challenge and members report inconsistent practice in relation to implementation of the SHORE standards across the country.

Under Emergency Early Releases, governor vetoes can be used to protect people's access to residential rehabilitation places. Governor vetoes would not apply to STP30 and members are therefore keen to understand what additional measures, if any, would be put in place to ensure people's access to residential rehabilitation on release is protected.

Members also highlighted the potential impact of the proposed change on children and families, noting that parental contact or resumption of care of their children is far less likely if people are presenting as homeless on the day of release. The impact on children of parental (or another significant adult's) death due to drug-related harm or suicide after leaving prison was also raised as a concern. Families are also reporting that, in some instances, benefits are not being set up in advance of people being released, which creates an additional financial burden for the family.

Adopting short-term crisis responses also has implications for other groups accessing services, such as people on remand and people serving sentences that are not being released early, because resources are consistently being diverted to the crisis response. This prevents usual service delivery whereby third sector partners can develop relationships that support positive changes and outcomes for individuals. As a result, the longer this crisis goes on, and the more short-term response measures that are adopted, the less effective the third sector (and other partners) can be in performing its critical role.

The gaps in monitoring data around outcomes for individuals leaving prison early (for example on homelessness, drug-related deaths) is one that needs to be urgently addressed if future policy decision-making is to be based on robust data and evidence. Even if the only policy objective was to reduce prison numbers, various data gaps in relation to return-to-custody information makes it difficult to determine the likely impact of the proposed policy. A key question that remains unanswered is: *Do people released early have a higher risk of returning to custody and, if so, to what extent are early releases increasing, rather than reducing, the overall prison population in the medium term?*

Without accurate and consistent data, we do not know whether this approach may in fact make the current situation worse. Inconsistencies in the way that returns-to-custody have been measured across the various early release programmes over the past six years further compounds this issue. For example:

- **For STP40 (non-emergency early releases) in spring 2025:** Figure of 5% for individuals that returned to custody prior to their 'original' Earliest Date of Liberation. (Source: [SPS \(September 2025\) Prisoners \(Early Release\) \(Scotland\) Act 2025 Data Report](#))
- **For 2024 Emergency Early Release Programme (summer 2024):** Figure of 13% for individuals that returned to custody prior to their 'original' Earliest Date of Liberation AND before 11th December 2024. (Source: [SPS \(February 2025\) Early Release of Prisoners and Prescribed Victim Supporters \(Scotland\) Regulations 2024- Returns to Custody Analysis](#))
- **For 2020 Covid-19 Emergency Early Release Programme:**
 - Return to custody measured within six months: An answer to a [parliamentary written question](#) in February 2025, asking about reoffending rates within 6 and 12 months of release states that, *"For the May 2020 Coronavirus specific emergency early release process, as of November 2020, 142 of the original 348 individuals who were released early had returned to custody."*
 - Return to custody measured within four years: An [FOI response](#) from May 2024 states: *"348 individuals were released under the emergency Covid powers. As of 11 April 2024, 250 had returned to custody at some point. We don't hold the information on the total who have reoffended since release (e.g. any individuals who may have committed a crime but not received a custodial sentence for it)"*

What is known is that previous early release programmes have not resolved the prison overcrowding problem and have impacted capacity within the sector to work on other much needed reforms. When a further crisis response begins, the functioning of the entire justice "system" is severely inhibited as resources and focus is diverted to

delivering the short-term response. Members are therefore also concerned about the wider risks to public confidence in the justice system. A different approach is required at this critical juncture, one that involves a decisive shift away from an over-reliance on imprisonment towards community-based approaches. We need to turn off the tap by investing in communities and evidence-based approaches that stop people entering and returning to prison. If we do not do this now, members are clear that the prison crisis will not be resolved and we will remain stuck in an ongoing cycle of short-term crisis response measures that fail to address the underlying causes of the problem.

These messages are echoed in various significant reviews and inquiries that have taken place in the last 12-18 months, including the Criminal Justice [Committee's Inquiry into the harm caused by substance misuse in Scottish Prisons](#), and the recently published [Scottish Sentencing and Penal Policy Commission report: "Justice That Works"](#). It is essential that we learn from the significant lessons and work to date, if Scotland is to truly transform its justice system from crisis management, to one that works for people and communities.

Some members have questioned whether, rather than focusing any early release programme on time served, it would be more effective to focus immediate efforts in reducing the prison population on other (or multiple) cohorts: for example, taking actions to reduce the number of people on remand or the number of long-term prisoners. Others suggested a more person-centred approach, for example expanding compassionate releases or finding ways to allow older people with significant care needs to be relocated to community-based settings that may be better equipped to meet their needs. However, concerns about the timing, short-term nature and lack of available community resources to effectively support further additional release programmes remain.

2. What are your views on excluding those serving sentences for domestic abuse and sexual offences?

Members are keen to understand more about the rationale used to determine the exclusion of certain offences and what risk assessment criteria has been utilised in this decision. For example, members observed there is significant variety in rates of reoffending for various types of offending.

3. What are your views on making equivalent changes for children detained in secure accommodation?

Secure accommodation has a specific role in providing residential care to the small number of children who may be a significant risk to themselves, or others in the community. According to [secure care page on The Scottish Government website](#), *"Their needs and risks can only be managed in secure care's controlled settings."*

We would therefore welcome clarification as to how children's needs and risks will be managed if the equivalent changes were to be made for children currently detained in secure accommodation. In particular, members are keen to understand what actions would be taken to ensure continued compliance with the [Secure Care Pathway and Standards](#) and children's rights under UNCRC.

4. What are your views on the changes applying to short-term prisoners serving sentence for fine defaults and contempt of court?

Sending people to prison for fine defaults risks criminalising poverty. Rather than reducing the automatic release point, members proposed a more person-centred approach could be taken to reducing the number of people in prison serving sentences for fine defaults and contempt of court.

5. What are your views on the proposed transitional approach to initial releases?

We are unclear from the letter what the proposed transitional approach would encompass. Having sought clarification at the weekly Operational Delivery Group meeting for Emergency Early Release, our understanding is that a broadly similar approach to STP40 is proposed, whereby individuals that become eligible for early release would be released in specified tranches until such a point as it becomes business as usual. There does not yet appear to be a proposed end date for the use of tranches nor a proposal for how many tranches would be required.

More detail on the proposed transitional approach would be necessary before offering a comprehensive view. However, broadly speaking, we agree it would make sense to spread the initial surge of releases over multiple tranches rather than to have a single release surge if the proposed change to release points goes ahead. Adopting the use of tranches is not, by itself, sufficient to mitigate the risks and ensure effective implementation. For example, the ongoing housing issues will still apply, even with a transitional approach, and third sector partners would still be expected to support additional people coming into the system without additional capacity or resource to do so which would mean diverting support away from other people.

6. Do you have any other comments?

CJVSF welcomes the opportunity to respond to this consultation. As noted above, we appreciate that the population pressures within prisons are acute and are having significant, ongoing impacts. However, CJVSF cannot support a policy response that continues displacement of this crisis onto the community which is already under immense strain. CJVSF will continue to work with all partners to develop and implement sustainable strategies and solutions that reduce risk and improves outcomes for all, across the whole system.