

Independent Sentencing and Penal Policy Commission

Call for Evidence

CJVSF Response

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

Change 1: Ensuring community-based options are fairly resourced

Information from the Scottish Government (2024)¹, that accompanied new proposed measures to reduce the prison population on 10 October 2024, acknowledged that “*The UN and international NGOs are clear that more community-based disposals should be pursued to reduce prison overcrowding and reoffending.*” For community sentences and other community-based options to be effective, however, they need to be fairly resourced.

The latest national Community Justice Outcome Activity Annual Report (Community Justice Scotland, 2025)², notes that “*Third-sector organisations remain **crucial partners** in supporting community justice efforts*”. Current funding arrangements for third sector partners, however, are rarely in line with fair funding principles³ and members continue to report problems with the current model, including:

- current (and potential further) funding cuts to some services, along with flatline budgets for other services causing further real-time cuts. Some providers are dipping into their reserves to keep vital services afloat - effectively subsidising public services - and this is not sustainable.
- short term and insecure funding cycles
- poor commissioning practices and

¹ Scottish Government (2024) *Prison Population*, Available at: <https://www.gov.scot/publications/prison-population-proposed-bill-on-release-point-for-short-term-prisoners-information-note/> (Accessed: 22 May 2025)

² Community Justice Scotland (2025) *Community Justice Outcome Activity Annual Report across Scotland 2023-24*. Online: Community Justice Scotland. Available at: <https://communityjustice.scot/whats-new/insights/community-justice-outcome-activity-annual-report-across-scotland-2023-24/> (Accessed 22 May 2025)

³ SCVO (2025) *What is Fair Funding?*, Available at: <https://scvo.scot/policy/fair-funding-procurement/fair-funding/what-is-fair-funding> (Accessed: 22 May 2025)

- monitoring and reporting practices that are focused on short term output delivery and short-term outcomes, rather than recognising the longitudinal nature of the changes and outcomes required to address complex societal issues.

It is also important to note that sentencing does not sit in a vacuum. Successful community sentencing is reliant on wider service infrastructure being in place to support people and this cuts across a range of policy areas, including housing, alcohol and drugs, employability and mental health.

In order to ensure sustainable, high quality services are available to support community sentencing options, there is an urgent need to progress fairer funding approaches for community based services, in line with the [actions proposed by SCVO \(2025\)](#)⁴. We would encourage the Scottish Sentencing and Penal Policy Commission to include a recommendation about fairer funding for third sector partners in its report. We also note that the recently published [report from the Independent Sentencing Review \(2025\)](#)⁵ in England and Wales includes a specific recommendation (recommendation 7.2) to increase funding available for the third sector.

Change 2: Adopting a more preventative approach

CJVSF members are supportive of the Government's ambitions to shift the balance between the use of custody and the community and are keen to see a more preventative approach being adopted to help keep people out of the justice system in the first place.

Effective prevention work to address the underlying causes of crime often requires a foundation of longitudinal relationships, services and partnerships. This means we need to create the conditions in funding and partnership arrangements for relationships to thrive, including relationships within families, in communities, between professionals and the people they support, and between professionals across agencies.

Change 3: Ensuring that community sentencing options are informed and improved by people's lived experience

Members highlighted the importance of ensuring interventions are designed and used in a way which meets people's needs and encourages and supports individuals to both comply with sentencing measures and to work towards better outcomes for themselves, their families and the wider community. An important way of developing more flexible sentencing models will be to involve people who have experience of participating in community sentencing processes. Members also noted the importance of having conversations with people who have not complied with community sentencing processes to better understand the reasons for non-compliance. Ensuring that regular

⁴ SCVO (2025) What is Fair Funding? Available at: <https://scvo.scot/policy/fair-funding-procurement/fair-funding/what-is-fair-funding> (Accessed: 22 May 2025)

⁵ Independent Sentencing Review (2025) *Independent Sentencing Review: Final report and proposals for reform*, Online: Ministry of Justice, UK Government. Available at: <https://www.gov.uk/government/publications/independent-sentencing-review-final-report> (Accessed 23 May 2025)

reviews of why people are and are not complying with sentencing measures would be helpful for increasing understanding and helping to inform future practice.

Members identified examples of good practice around lived experience engagement. In the Scottish Borders, for example, recovery communities are helping to link up services by having Justice Peer Recovery Coaches embedded within the Justice Social Work team. They play an important role in improving engagement with people subject to community-based sentencing options as well as supporting engagement with wider recovery groups and other groups locally.

Ensuring that people with lived experience are fairly compensated for their time, in line with the good practice set out in The Scottish Government's [Participation Handbook](#) (Scottish Government, 2024)⁶ was also highlighted. Members would also be keen to see more people with lived experience supported to enter the workforce to inform and improve services.

Third sector organisations have also worked with the judiciary in some local areas to help them understand people's journeys through the justice system and the impact that different sentencing options can have in the longer term. Further activities to strengthen the judiciary's understanding of relevant community services available in their local areas that can support and enhance sentencing options would also be welcomed.

We understand from responses to recent written parliamentary questions (e.g. [Written question and answer: S6W-31486](#)⁷ and [Written question and answer: S6W-31485](#)⁸) that work is underway to develop a National Specification for alcohol and drug services. This is being developed in response to a recommendation in the [Changing Lives report](#)⁹ (Scottish Drug Deaths Taskforce, 2022, p14) which stated, "*The Scottish Government should develop a National Specification outlining the key parts of the treatment and recovery system that should be available in every local area, ensuring it also delivers on the principles of quality, choice, access and parity of treatment with other health conditions.*"

The [Scottish Drug Deaths Taskforce \(2022, p14\)](#)¹⁰ also noted that, "*Some services are better funded centrally and delivered either regionally or nationally. As part of the National Specification, the Scottish Government should outline the services it will commission nationally, ensuring that all areas can access the services they need.*" The National Specification is intended to support consistency of service provision and equality of access across the country in a landscape shaped by local approaches. Adopting a similar National Specification type approach for community justice support

⁶ Scottish Government (2024) *Participation handbook*, Online: Scottish Government. Available at: <https://www.gov.scot/publications/participation-handbook/> (Accessed: 22 May 2025)

⁷ Scottish Parliament (2024) *Question reference: S6W-31486*. Available at: <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-31486> (Accessed 22 May 2025)

⁸ Scottish Parliament (2024) *Question reference: S6W-31485*. Available at: <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-31485> (Accessed 22 May 2025)

⁹ Scottish Drug Deaths Taskforce (2022) *Changing Lives: Our Final Report*, Online: Drugs Death Taskforce. Available at: <https://drugstaskforce.knowthescore.info/wp-content/uploads/sites/2/2022/08/Changing-Lives-updated-1.pdf> (Accessed 22 May 2025)

¹⁰ Scottish Drug Deaths Taskforce (2022) *Changing Lives: Our Final Report*, Online: Drugs Death Taskforce. Available at: <https://drugstaskforce.knowthescore.info/wp-content/uploads/sites/2/2022/08/Changing-Lives-updated-1.pdf> (Accessed 22 May 2025)

services may be one option worth exploring further to help ensure people can access the services they need in different parts of the country.

Change 4: Adopting a whole family approach to sentencing

Individuals do not exist in isolation; they are parts of families and of our communities. Across Government, there is increasing recognition of the importance of a [holistic, whole family support approach](#)¹¹ being adopted to service design and delivery.

Sentencing processes and decisions have wider impacts beyond the individual going through the justice system and this needs to be recognised in sentencing policy and practice. These impacts are not reflected in the impacts identified in the Commission's initial Call for Evidence and this gap is something we would be keen to see addressed in the findings and the recommendations emerging from the Commission's work. Members have identified a number of possible impacts arising to families as a result of sentencing decisions, including the impacts arising from:

- **Sentences involving imprisonment:** A [review of research into the needs and experiences of children and families of prisoners](#) (Weaver and Nolan, 2025)¹² highlighted the emotional and financial impacts that children and families can experience as a result of a family member going to prison. Research findings published by Families Outside (2023) further explored the [Financial Cost to Families of Imprisonment and Release](#)¹³.
- **Sentences involving electronic monitoring:** As noted in the [Review of the uses, challenges and successes of Electronic Monitoring](#) (Scottish Government, 2019)¹⁴, *“Amongst co-residents of monitored people, the Scottish Government Working Group found evidence of anxiety, guilt and stress related to the perception they were responsible for ensuring the monitored person’s compliance with EM conditions and inclusion in social events”*.
 - The working group recommended that additional information and support be made available to the families and co-habitants of people on EM.
 - In 2018, Families Outside (2018) also produced a [briefing](#)¹⁵ looking at families’ experiences of electronic monitoring.

It is vital that these impacts are considered during the sentencing process and that families have access to appropriate support in their own right at each stage of the justice system. This would be consistent with both previous recommendations (as set

¹¹ Scottish Government (2022) *Holistic whole family support: routemap and national principles*. Available at: [Holistic whole family support: routemap and national principles - gov.scot](#) (Accessed 22 May 2025)

¹² Weaver, B. and Nolan, D. (2015) *Families of Prisoners: A Review of the Evidence*. Online: CYCJ. Available at: <https://cycj.org.uk/wp-content/uploads/2015/11/Families-of-Prisoners-A-Review-of-The-Evidence-FINAL.pdf> (Accessed 22 May 2025)

¹³ Families Outside (2023) *Paying the Price: A Project on the Financial Impact on Families of Imprisonment and Release*. Online: Families Outside. Available at: <https://www.familiesoutside.org.uk/publications/paying-the-price-the-financial-cost-to-families-of-imprisonment-and-release/> (Accessed 22 May 2025)

¹⁴ Scottish Government (2019) *Electronic Monitoring: Uses, Challenges and Successes*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/electronic-monitoring-uses-challenges-successes/documents/> (Accessed 22 May 2025)

¹⁵ Vanhaelemesch, D. (2018) *Virtual punishment: The experiences of electronic monitoring*. Online: Families Outside. Available at: <https://www.familiesoutside.org.uk/content/uploads/2019/04/In-Brief-14-digital.pdf> (Accessed 22 May 2025)

out above) and with the government's stated support for a holistic, whole family support approach to be more widely adopted by public services. Ensuring that pre-sentencing child impact assessments are a required part of the process would help this to be implemented on a consistent basis.

Change 5: Ensuring compliance with UNCRC obligations

The incorporation of United Nations Convention on the Rights of the Child (UNCRC) into Scots law¹⁶ means that all public authorities (and persons or bodies under contract or other arrangement with a public authority) have an obligation to consider the Rights of Children in their decision making. Members have stressed the need for adult courts (and staff working in other parts of the adult justice system) to understand their obligations under UNCRC and to ensure that systems and processes are designed to support staff to meet these obligations.

As discussed above, different sentencing options can create different burdens and pressures on children and families. It would therefore be helpful if any sentencing options could both recognise and appropriately respond to those burdens and pressures that children and families face.

As discussed above, one way to support the rights of the child to be considered could be through use of pre-sentencing child impact assessments. The Prison Reform Trust (2022) has developed a [Child Impact Assessment framework](#)¹⁷ which may be of interest to the Commission when considering this approach. The Framework seeks to ensure that children who have a parent in the justice system feel listened to, supported, and included in decision-making about that support. The Prison Reform Trust have also published examples of practice from England and Wales where child impact assessments have been submitted to the courts to ensure that the child's views are heard when their rights are at risk of being breached ([Prison Reform Trust, 2023](#)¹⁸ and [Prison Reform Trust, 2024](#))¹⁹.

There may also be learning to be gained from international practice. Children of Prisoners of Europe (2025)²⁰, for example, has produced a [briefing](#) about compassionate sentencing. This briefing highlights the judiciary's role in protecting children's rights during a parent or primary caregiver's criminal justice proceedings.

¹⁶ *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024* (asp 1). Available at: <https://www.legislation.gov.uk/asp/2024/1/contents/enacted> (Accessed: 22 May 2025)

¹⁷ Prison Reform Trust (2022) *A Child Impact Assessment framework*. Online: Prison Reform Trust. Available at: <https://prisonreformtrust.org.uk/project/women-the-criminal-justice-system/child-impact-assessment-project/> (Accessed 22 May 2025)

¹⁸ Prison Reform Trust (2023) 'Blog: Steph's story'. *Prison Reform Trust blog*. Available at: <https://prisonreformtrust.org.uk/project/women-the-criminal-justice-system/child-impact-assessment-project/> (Accessed 22 May 2025)

¹⁹ Prison Reform Trust (2024) 'Blog: Family Connections'. *Prison Reform Trust blog*. Available at: <https://prisonreformtrust.org.uk/blog-family-connections/> (Accessed 22 May 2025)

²⁰ Children of Prisoners Europe (2025) *Compassionate Sentencing: Protecting the Rights of Children with a Parent in Conflict with the Law*, Children of Prisoners Europe Briefing Paper, Online: Children of Prisoners Europe. Available at: <https://childrenofprisoners.eu/wp-content/uploads/2025/02/Compassionate-Sentencing-Briefing.pdf> (Accessed 22 May 2025)

Change 6: Make improvements to court and sentencing processes to better support people who have been harmed by crime

In our [response](#)²¹ to the Improving Victims' Experience of the Justice System consultation (CJVSF, 2022), members highlighted the need for services and systems to adopt a trauma-informed approach to working with individuals and families. They noted that, as it is currently set-up, the system is often not flexible enough to respond to people's needs. They were keen for greater flexibility to be introduced to the system and improvements made to court and sentencing processes, including:

- Improving the written communications from the court to victims, to ensure that the information is clearly presented in a way that enables people to fully understand what is happening with their case
- Consistent adoption of trauma-informed practice by all staff working with individuals and families, including setting standards around what needs to be in place to reduce re-traumatisation
- Ensuring people have access to independent advocacy and appropriate support throughout the process

Change 7: Improvements to communications, information provision and support to aid people's understanding of their licence conditions

Members noted that individuals sometimes get in touch with them to seek clarification on their licence conditions, with queries such as, "Am I allowed to...?". They also report instances of confusion amongst professionals supporting them about what is and is not allowed under certain conditions. They highlighted the importance of:

- Providing clear communications and appropriate support to ensure that people have a good understanding of the licence conditions that they have been given, taking account of any additional support needs that the individual may have.
- Providing clear communications and appropriate training about different licence conditions to staff supporting people subject to licence conditions.

Change 8: Supporting changes to culture and practice to ensure proportionality of sentencing measures are adhered to in practice.

Members have also raised concerns about instances of additional conditions being imposed by individual social workers, which go beyond the court mandated order and are potentially breaching people's rights. This suggests a need for clearer guidance and staff training to ensure human rights-based principles are upheld and that there is transparency of practice. A CJVSF member, Next Chapter Scotland, is currently conducting a piece of research exploring statutory overreach and recommendations arising from this research are expected to be published later this year.

Change 9: Supporting and enabling relationship-based practice

²¹ CJVSF (2022) *Improving victims' experience of the justice system: consultation, Response 583730246*. Online: Scottish Government. Available at https://consult.gov.scot/justice/victimscsconsultation/consultation/view_respondent?uuld=583730246 (Accessed 22 May 2025)

Members noted the important role that the relationship between sheriffs and the person committing an offence can play in achieving better outcomes and welcomed the problem solving approach being adopted in some areas. The Commission may be interested in some of the learning arising from the [Review of the Aberdeen Problem Solving Approach \(Scottish Government, 2018\)](#)²² and the [problem solving approach adopted in Forfar](#)²³, as well as learning from [Problem Solving Courts in England and Wales](#) (Mentzou. A. and Mutebi. N., 2023)²⁴. Members identified a need to ensure that the judiciary receives appropriate training and support to be able to effectively adopt trauma-informed approaches that facilitate relationship-based practice.

Members also reported that, previously, sheriffs received a report at the end of an order about what had happened and the outcomes it achieved. They raised concerns that this report no longer seems to happen and would be keen for this to be reinstated to help close this feedback loop.

Change 10: Provide clear, evidence-based information about community-based options to aid public understanding

Increasing public understanding and confidence in community sentencing was identified as a key driver in informing policy and in decisions around investment levels in community sentencing. Members called for better information provision to help increase public understanding of the value of community sentences and to challenge some of the misconceptions that exist. We are aware of the Scottish Sentencing Council (2017) and others producing “[myth-busters](#)”²⁵ in an attempt to try and address some of these issues, however there is also evidence (e.g. [Frameworks Institute, 2022](#)²⁶) that shows that, whilst well-intended, this approach can sometimes be ineffective and may even reinforce the myths that organisations are trying to rebut. We would be keen to work with partners to develop an evidence-based, cross-agency approach to improving information provision and tackling misconceptions around community sentencing.

Potential changes to day-to-day government messaging/ wording were also identified as an area that could help to shift public understanding of community sentencing and associated issues. For example, the use of the phrase “alternatives to prison” suggests that prison should be the default solution rather than a community option. Similarly, “alternatives to remand” undermines the fact that bail is actually the default option within the legislation. Remand is the “alternative” that needs to be used where the bail test is

²² Eunson. J., Murray. L., McIvor. G., Malloch M. and Graham. H. (2018) *Review of the Aberdeen Problem Solving Approach: Research findings*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/review-aberdeen-problem-solving-approach-research-findings/> (Accessed 22 May 2025)

²³ Martin-Brown. J. (2022) ‘How Problem-Solving Courts are Making A Difference’. *Community Justice Scotland blog*, 15th June 2022. Available at: <https://communityjustice.scot/blogs/how-problem-solving-courts-are-making-a-difference/> (Accessed 22 May 2025)

²⁴ Mentzou. A. and Mutebi. N. (2023) ‘*Problem-solving courts*’, UK Parliamentary Office of Science and Technology (POST) note 700, online: UK Parliament. Available at: <https://researchbriefings.files.parliament.uk/documents/POST-PN-0700/POST-PN-0700.pdf> (Accessed 22 May 2025)

²⁵ Scottish Sentencing Council (2017) *Mythbuster*. Available at: <https://www.scottishsentencingcouncil.org.uk/news-and-media/news/mythbuster> (Accessed 22 May 2025)

²⁶ Frameworks UK (2022) *Framing Essentials: beware of mythbusting*. Available at: <https://frameworksuk.org/resources/beware-of-mythbusting/> (Accessed 22 May 2025)

not met. Recalibrating messaging to accurately reflect the default position would be a cost-effective first step in helping to address misconceptions.

The role of the media (including social media) is also important in supporting or undermining public understanding and empathy. Members raised concerns about the additional barriers that are created for people being able to rehabilitate and reintegrate effectively into their local community in an environment where there is a strong (social) media message against them that can fuel discriminatory behaviours towards them and/or their families.

Question 2 - In your view, what are the priority issues affecting bail and remand? In Scotland, what needs to change and why?

Priority 1: Reduce the remand population by adopting more preventative approaches and investing in community based support

The Scottish Government has stated its commitment to the UN Sustainable Development Goals (SDG). One of the agreed indicators for progress towards [Goal 16](#)²⁷ is “*unsentenced detainees as a proportion of overall prison population*”. The most recent data in the [UN SDG Indicators database](#)²⁸ shows this proportion to be 26.9% for Scotland in 2024. This has reduced from a peak of 28.9% in 2023 but remains higher than pre-pandemic levels.

Even prior to the pandemic, concerns were being raised in Scotland about the levels of people on remand. In 2018, the Scottish Parliament’s Justice Committee conducted an [Inquiry into the Use of Remand](#)²⁹. The inquiry found that the high remand levels were negatively impacting on the individuals in prison and their families as well as putting pressure on the prison system and creating additional challenges for staff working in prisons. The overall number of people on remand in Scotland continues to be high, with [SPS data](#)³⁰ for 16th May 2025 showing 1,821 untried people in custody (including people awaiting deportation) and a further 314 people in custody who have been convicted and are awaiting sentence.

[SNAP 2: Scotland’s second National Human Rights Action Plan](#) (SNAP Leadership Panel, 2023)³¹ included a recommendation to “*Carry out a whole system human rights review of the justice system, focused on examining the root causes of over-reliance on*

²⁷ United Nations (n.d.) *Goals 16, Targets and Indicators*, Available at: https://sdgs.un.org/goals/goal16#targets_and_indicators. (Accessed 22 May 2025)

²⁸ United Nations (n.d) *SDG Indicators Database*, Available at: <https://unstats.un.org/sdgs/dataportal/analytics/CompareTrendsOneSeries> (Accessed 22 May 2025)

²⁹ Scottish Parliament Justice Committee (2018) *An Inquiry into the Use of Remand In Scotland*, SP Paper 363, 7th Report, 2018 (Session 5) . Online: Scottish Parliament. Available at: <https://bprcdn.parliament.scot/published/J/2018/6/24/An-Inquiry-into-the-Use-of-Remand-in-Scotland/JS052018R07.pdf> (Accessed 22 May 2025)

³⁰ Scottish Prison Service (2025) *Prison Population – Updated 16 May*. Available at: <https://www.sps.gov.uk/about-us/transparency/data-research-and-evidence> (Accessed 22 May 2025)

³¹ SNAP Secretariat and Leadership Panel (2023), *SNAP – Scotland’s second National Human Rights Action Plan*. Available at: <https://www.snaprights.info/wp-content/uploads/2023/03/SNAP-2-March-2023-FINAL-PDF.pdf> (Accessed 22 May 2025)

custodial sentences and conditions for people on remand. Use the findings and recommendations to inform and influence work to reduce the remand population and improve conditions.”

Whilst the above review has not yet taken place, there is still a need to:

- **Adopt a more preventative approach** to reduce the risk of people entering the justice system in the first place
- **Ensure availability of appropriately resourced community bail support options across Scotland:** The Justice Committee’s 2018 [Inquiry](#)³² found that community bail support options are not consistently available across Scotland and highlighted the good work undertaken by third sector partners in the delivery of supervised and supported bail programmes. Unfortunately, in recent years, we have already seen some services close due to a loss of funding. This poses risks to the effective implementation of the Bail and Release (Scotland) Act 2023, which will be reliant on sufficient community-based support and services being available across the country. In the 2nd update to its [Community Justice Strategy Delivery Plan](#)³³, the Scottish Government (2024, p4), set a new deliverable to, *“Progress identified actions to strengthen the consistency, availability and effectiveness of bail services across Scotland.”* The latest [delivery plan update](#) (Scottish Government, December 2024, p18)³⁴ notes that, *“discussions are ongoing with partners to consider options for developing further support for people on bail”*. CJVSF is due to meet with Community Justice Scotland later this month to hear more about the work that is underway to explore options for a possible bail support pilot.

Priority 2: Improve access to services and support for people on remand

In 2018, the Justice Committee recommended that, *“more should be done to ensure that remand prisoners have their needs assessed and, where possible and appropriate, are offered support and the opportunity to engage in purposeful activity while in prison.”*

Whilst some improvements have been made in recent years (for example the new national voluntary sector throughcare service will now be available to men on remand as well as to women on remand), members continue to report concerns about the more general lack of access that people on remand have to the support and services they need. Processes need to be put in place to ensure consistent assessment of people’s needs along with accompanying investment being made in relevant services and support for meeting those needs.

Priority 3: Improve information sharing

³² Scottish Parliament Justice Committee (2018) *An Inquiry into the Use of Remand In Scotland*, SP Paper 363, 7th Report, 2018 (Session 5) . Online: Scottish Parliament. Available at:

<https://bprcdn.parliament.scot/published/J/2018/6/24/An-Inquiry-into-the-Use-of-Remand-in-Scotland/JS052018R07.pdf> (Accessed 22 May 2025)

³³ Scottish Government (2024) *National Strategy for Community Justice: Delivery Plan Update 2 – March 24*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/national-strategy-community-justice-delivery-plan-update-2-march-2024/documents/> (Accessed 22 May 2025)

³⁴ Scottish Government (2024) *National Strategy for Community Justice: Delivery Plan update 3 – December 2024*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/national-strategy-community-justice-delivery-plan-update-2-march-2024/documents/> (Accessed 22 May 2025)

Members identified the importance of accurate and comprehensive information being made available to sheriffs to support bail decisions.

- There are provisions in the [Bail and Release \(Scotland\) Act 2023](#)³⁵ which aim to improve information sharing. Since the provisions have only just come in to force this month (May 2025), it is too early to offer a view on whether or not the legislation is being implemented effectively but members are hopeful that this legislative change may support future improvements in information sharing practice.
- One member raised concerns about inconsistent practice from Procurator Fiscals in relation to the Lord Advocate's revised guidelines around the bail test, reporting that some PFs are still using the previous guidance.
- Members also highlighted the potential role of third sector partners in informing bail reports. At present, the extent to which third sector partners are able to participate in the bail report process is variable. Their participation is currently dependent upon two steps taking place:
 1. Individuals disclosing to Justice Social Work that that they are working with third sector partners
 2. Social workers then seeking consent from the individual to be able to include relevant information from the third sector partner within the report.

At present, there is no consistent process to ensure that this consent is sought. We would be keen to see this addressed to increase the likelihood that relevant pieces of information which third sector partners may hold are able to feed into the reporting process and help inform bail decisions.

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

Priority 1: Address the delays in implementing key parts of the Bail and Release (Scotland) Act 2023 relating to multi-agency pre-release planning

The Bail and Release (Scotland) Act 2023 offers real opportunities for strengthening collaborative working around pre-release arrangements. However, the Bail and Release (Scotland) Act 2023 Implementation Group has not met for over a year and we are particularly concerned that no date appears to have been set for section 12 (the section which relates to multi-agency planning) to be brought in to force. Both the emergency early release programme in the summer of 2024 and the change to release points introduced in February 2025 highlighted the importance of having strong pre-release planning arrangements in place to ensure that people receive the services and support they need in the lead up to and post-release.

We are keen to see this addressed as soon as possible, with the Group reestablished and a date set for section 12 to come in to force. As part of implementation, it is also important that pre-release planning processes are developed in collaboration with third sector, people with lived experience and other partners and draw on the learning from the recent release programmes.

³⁵ *Bail and Release from Custody (Scotland) Act 2023*, (asp 4). Available at: <https://www.legislation.gov.uk/asp/2023/4/contents> (Accessed 22 May 2025)

Priority 2: Ensure availability and sustainability of support and services in the community

Members highlight the need for:

- Eligibility criteria for some services to be broadened to reduce the risk of individuals and families reaching crisis point before receiving support
- Investment in broader community services so that staff and volunteers are able to consistently and effectively support people in the lead up to and post release. As noted in the most recent [Community Justice Scotland Outcome Activity Report \(2023-24\)](#)³⁶, “ A **well-supported transition** from prison to the community is crucial for preventing reoffending. However, **housing, employment, and substance use support remain under-resourced.**”
- Addressing barriers that are currently preventing consistent implementation of agreed standards (such as the [SHORE standards](#)³⁷ and [MAT Standards](#)³⁸).

Priority 3: Support implementation of UNCRC to ensure children’s rights are upheld when parents return to the community

Recommendation 44 of the Council of Europe Recommendations (2018, p17) concerning children with imprisoned parents relates specifically to throughcare: “44. In order to promote healthy child development and to help former prisoners reintegrate with their children and families, support and care shall be provided by prison, probation or other agencies specialising in assisting prisoners, as appropriate. Prison authorities, in co-operation with probation and/or social welfare services, local community groups and civil society organisations, shall design and implement pre- and post-release reintegration programmes which take into account the specific needs of prisoners resuming their parental role in the community”.³⁹

Priority 4: Increase public awareness, understanding and empathy for the challenges faced by people returning to their communities

The [UNODC Handbook on Strategies to Reduce Overcrowding in Prisons](#) (UNODC, 2013, p156-7)⁴⁰ suggests that, “States aiming to reduce reoffending among former

³⁶ Community Justice Scotland (2025) *Community Justice Outcome Activity Annual Report across Scotland 2023-24*. Online: Community Justice Scotland. Available at: <https://communityjustice.scot/whats-new/insights/community-justice-outcome-activity-annual-report-across-scotland-2023-24/> (Accessed 22 May 2025)

³⁷ Scottish Prison Service (2024) *Scottish Quality Standards Housing Advice, Information and Support for People in and leaving prison*, Online: Scottish Prison Service. Available at: <https://www.sps.gov.uk/SHORE>. (Accessed 22 May 2025)

³⁸ Scottish Government (2021) *Medication Assisted Treatment (MAT) Standards for Scotland: Access, choice, support*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/medication-assisted-treatment-mat-standards-scotland-access-choice-support/> (Accessed 22 May 2025)

³⁹ Council of Europe (2018) *Recommendation CM/ Rec (2018) 5 of the Committee of Ministers to member States concerning children with imprisoned parents*. Online: Children of Prisoners . Available at: https://childrenofprisoners.eu/wp-content/uploads/2019/12/CoE_Rec20185.pdf (Accessed 22 May 2025)

⁴⁰ United Nations Office on Drugs and Crime (2010) *Handbook on strategies to reduce overcrowding*. Online: United Nations. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf (Accessed 22 May 2025)

prisoners are encouraged to make a concerted effort to prepare the community to receive former prisoners. The task needs political support, multi-agency collaboration and the active engagement of civil society”.

As discussed in our response to Q1, local communities have an important role to play in supporting rehabilitation and reintegration of people leaving prison. We would therefore be keen to see actions taken to effectively prepare and support communities for this role, in line with UN Office on Drugs and Crime recommendations.

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?

In addition to the McLeish Commission, there have been a plethora of reports over the years making recommendations that aim to improve various aspects of the Scottish justice system. One of the challenges in answering this question, however, is that there is no consistent process for recording or reviewing progress towards previous recommendations nor for ensuring accountability over delivery of recommendations. This is a systemic issue which needs to be addressed if we are to have a clear assessment of progress that can support all partners and stakeholders to work together to reduce the implementation gaps in Scotland and improve outcomes for individuals, families and communities.

Where steps have been taken to ensure progress reporting occurs, this has not always taken place as originally anticipated. One of the recommendations arising from the [Angiolini Commission’s report on women in the justice system \(2012\)](#)⁴¹, for example, was that *“The Cabinet Secretary for Justice reports to the Scottish Parliament within six months of the publication of this report, & annually thereafter, on the steps taken to implement the recommendations in this report.”* These progress reports ceased at the end of the Parliamentary session in 2016 and, despite calls from stakeholders for the annual reports to be reintroduced, as far as we are aware no further reviews of progress towards the recommendations have been undertaken since then. Similarly, the Criminal Justice Committee stated its intention to publish regular updates on progress made towards the recommendations set out in its 2022 report but no updates have been published since 2023.

Report recommendations which the Commission itself may wish to review as part of its research include recommendations from the:

- Christie Commission’s [Report on the future delivery of public services](#) (2011)⁴²
- Angiolini Commission’s [Report on women in the justice system](#) (2012)⁴³

⁴¹ Angiolini. E. (2012) *Commission on Women Offenders: Final Report*, Online: Scottish Government. Available at: <https://webarchive.nrsotland.gov.uk/20170406001333/http://www.gov.scot/About/Review/commissiononwomehoffenders/finalreport-2012>. (Accessed 22 May 2025)

⁴² Christie. C. (2011) *Commission on the Future Delivery of Public Services*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/commission-future-delivery-public-services/> (Accessed 22 May 2025)

⁴³ Angiolini. E. (2012) *Commission on Women Offenders: Final Report*, Online: Scottish Government. Available at: <https://webarchive.nrsotland.gov.uk/20170406001333/http://www.gov.scot/About/Review/commissiononwomehoffenders/finalreport-2012>. (Accessed 22 May 2025)

- Audit Scotland's '[Reducing Reoffending in Scotland](#)' report (2012)⁴⁴
- Scottish Parliament's Justice Committee [Inquiry into the Use of Remand in Scotland](#) (2018)⁴⁵
- [Electronic Monitoring in Scotland Working Group on report](#) (2016)⁴⁶
- [Homelessness and Rough Sleeping Action Group Final Recommendations report](#) (2018)⁴⁷
- [Hard Edges Scotland report](#) (2019)⁴⁸
- [Independent Review of Adult Social Care in Scotland](#) (2021)⁴⁹
- [Independent Forensic Mental Health Review](#) (2021)⁵⁰
- Audit Scotland's report: [Community Justice: Sustainable alternatives to custody](#) (2021)⁵¹
- Lord Justice Clerk's Review Group Report: [Improving the management of sexual offence cases](#) (2021)⁵²
- Criminal Justice Committee Report: '[Judged on progress: The need for urgent delivery on Scottish justice sector reforms](#)' (2022)⁵³
- Women's Justice Leadership Panel report on [The Case for Gendered and Intersectional Approaches to Justice](#) (2023)⁵⁴

⁴⁴ Audit Scotland (2012) *Reducing Reoffending in Scotland*. Online: Audit Scotland. Available at: <https://audit.scot/publications/reducing-reoffending-in-scotland> (Accessed 22 May 2025).

⁴⁵ Scottish Parliament Justice Committee (2018) *An Inquiry into the Use of Remand In Scotland*, SP Paper 363, 7th Report, 2018 (Session 5) . Online: Scottish Parliament. Available at: <https://bprcdn.parliament.scot/published/J/2018/6/24/An-Inquiry-into-the-Use-of-Remand-in-Scotland/JS052018R07.pdf> (Accessed 22 May 2025)

⁴⁶ Electronic Monitoring in Scotland Working Group (2016) *Electronic Monitoring in Scotland Working Group Final Report*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/electronic-monitoring-scotland-working-group-report/pages/2/> (Accessed 22 May 2025)

⁴⁷ Homelessness and Rough Sleeping Action Group (2018): *Ending Homelessness: The report on the final recommendations of the Homelessness and Rough Sleeping Action Group*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/homelessness-and-rough-sleeping-action-group-final-report/> (Accessed 22 May 2025)

⁴⁸ Bramley et al (2019) *Hard Edges Report*. Online: The Robertson Trust. Available at: <https://www.therobertsontrust.org.uk/media/nfvhthdw/hard-edges-scotland-full-report-june-2019.pdf> (Accessed 22 May 2025)

⁴⁹ Feeley, D. (2021) *Independent Review of Adult Social Care in Scotland*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/independent-review-adult-social-care-scotland/> (Accessed 22 May 2025)

⁵⁰ Barron (2021) *Independent Review into the Delivery of Forensic Mental Health Services: Final Report*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/independent-forensic-mental-health-review-final-report/pages/3/> (Accessed 22 May 2025)

⁵¹ Audit Scotland (2021) *Community Justice: Sustainable alternatives to custody*. Online: Audit Scotland. Available at: <https://www.gov.scot/publications/independent-forensic-mental-health-review-final-report/pages/3/>. (Accessed 22 May 2025)

⁵² Lord Justice Clerk's Review Group (2021) *Improving the Management of Sexual Offence Cases: Final Report from the Lord Justice Clerk's Review Group*. Online: Scottish Courts and Tribunals Service. Available at: <https://www.scotcourts.gov.uk/media/gmrbrw5p/improving-the-management-of-sexual-offence-cases-march-2021.pdf> (Accessed 22 May 2025)

⁵³ Scottish Parliament Criminal Justice Committee (2022) *Judged on progress: the need for urgent delivery on Scottish justice sector reform*. Online: Scottish Parliament. Available at: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-criminal-justice-committee/business-items/priorities-in-the-justice-sector-and-an-action-plan> (Accessed 22 May 2025)

⁵⁴ Women's Justice Leadership Panel (2023) *The Case for Gendered and Intersectional Approaches to Justice*, Online: Scottish Government. Available at: <https://www.gov.scot/publications/womens-justice-leadership-panel-case-gendered-intersectional-approaches-justice/pages/5/> (Accessed 22 May 2025)

- [Scotland's Second National Action Plan \(SNAP\) for Human Rights \(2023\)](#)⁵⁵
- [Diversion from prosecution: Joint Review \(2023\)](#)⁵⁶
- [Concluding observations of the UN Committee on the Rights of the Child on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland \(2023\)](#)⁵⁷
- HMIPS [Thematic Review of Prisoner Progression in Scottish Prisons \(2024\)](#)⁵⁸
- HMIPS and Care Inspectorate [Prison-based social work thematic review \(2024\)](#)⁵⁹
- [A Victim-Centred approach to justice in Scotland: Scoping and modelling project report \(2024\)](#)⁶⁰
- ['Review, recommend, repeat: An assessment of where human rights have stalled in places of detention'](#) (Scottish Human Rights Commission and the UK National Preventative Mechanism, 2024)⁶¹
- [Community Justice Scotland Outcome Activity Annual Report \(2023-24\)](#)⁶²

Delays in implementing recommendations and the emergence of 'implementation gaps' are themselves a theme that has been picked up in some reports. In their [pre-budget scrutiny report for 2025-26](#), for example, the Criminal Justice Committee (2024)⁶³ identified some areas where they felt justice reform has been too slow. Another report from 2024, by the Scottish Human Rights Commission and the UK National Preventative Mechanism, titled ['Review, recommend, repeat: An assessment of where human rights have stalled in places of detention'](#), examined the progress of the State on

⁵⁵ SNAP Secretariat and Leadership Panel (2023), *SNAP – Scotland's second National Human Rights Action Plan*. Available at: <https://www.snaprights.info/wp-content/uploads/2023/03/SNAP-2-March-2023-FINAL-PDF.pdf> (Accessed 22 May 2025)

⁵⁶ HM Inspectorate of Prosecution in Scotland, HM Inspectorate of Constabulary in Scotland, HM Inspectorate of Prisons for Scotland and the Care Inspectorate (2023) *Joint review of diversion from prosecution*. Online: Scottish Government. Available at: <https://www.gov.scot/publications/joint-review-diversion-prosecution/pages/2/> (Accessed 22 May 2025)

⁵⁷ UN Committee on the Rights of the Child (2023) *Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland*. Online: United Nations, Available at: <https://www.gov.scot/publications/joint-review-diversion-prosecution/pages/2/> (Accessed 22 May 2025)

⁵⁸ HM Inspectorate of Prisons for Scotland (2024) *A Thematic Review of Prisoner Progression in Scottish Prisons*. Online: HMIPS, Available at: <https://www.gov.scot/publications/joint-review-diversion-prosecution/pages/2/> (Accessed 22 May 2025)

⁵⁹ Care Inspectorate and HM Inspectorate of Prisons for Scotland (2024) *Prison-based social work: Thematic review*. Online: Care Inspectorate. Available at: <https://www.careinspectorate.com/images/documents/7524/Prison-based%20social%20work%20thematic%20review.pdf>. (Accessed 22 May 2025)

⁶⁰ Journey Associates (2024) *A Victim-Centred Approach to Justice in Scotland: Scoping and Modelling Project*. Online: Victim Support Scotland. Available at: <https://victimsupport.scot/news/a-victim-centred-approach-to-justice-in-scotland-scoping-and-modelling-project/> (Accessed 22 May 2025)

⁶¹ Scottish Human Rights Commission and the UK National Preventative Mechanism (2024) *Review, recommend, repeat: An assessment of where human rights have stalled in places of detention*. Online: Scottish Human Rights Commission and the UK National Preventative Mechanism. Available at: <https://www.scottishhumanrights.com/media/2784/report-review-recommend-repeat-an-assessment-of-where-human-rights-have-stalled-in-places-of-detention.pdf> (Accessed 22 May 2025)

⁶² Community Justice Scotland (2025) *Community Justice Outcome Activity Annual Report across Scotland 2023-24*. Online: Community Justice Scotland. Available at: <https://communityjustice.scot/whats-new/insights/community-justice-outcome-activity-annual-report-across-scotland-2023-24/> (Accessed 22 May 2025)

⁶³ Scottish Parliament Criminal Justice Committee (2024) *Pre-budget scrutiny by the Criminal Justice Committee of the Scottish Government's budget for 2025/26*, Online: Scottish Parliament. Available at: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-criminal-justice-committee/correspondence/2024/pre-budget-scrutiny-report-2025-26> (Accessed 22 May 2025)

two fundamental, absolute rights of the people of Scotland who spend time in prisons and forensic mental health settings: The right to life, and the prohibition of torture and inhuman or degrading treatment or punishment. Their investigation found that, for progress on these two fundamental rights, “a worrying 83 per cent of recommendations by human rights bodies have yet to be implemented”. (Scottish Human Rights Commission and UK National Preventative Mechanism, 2024, p4)⁶⁴

In order to ensure that any recommendations from this Sentencing and Penal Policy Commission do progress, we would encourage the Commission to take steps to ensure appropriate future review and accountability processes are put in place to support implementation after publication. In particular, we would be keen to ensure that such review processes:

- Do not rely solely on self-progress assessments by statutory partners. It is important that any reviews of progress actively involve a wide range of stakeholders, including third sector partners and individuals and families with lived experience of the justice system. Ensuring a broad range of views feed in to any future progress assessment process will help to ensure an accurate and comprehensive assessment takes place that explores the difference that any changes are making ‘on the ground’ and in delivering better outcomes for people.
- Continue at clearly defined intervals for a specified time period to reduce the risk of future scrutiny ending with this parliamentary cycle.

Learning from other countries and meeting our international obligations

In its [Terms of Reference](#)⁶⁵, the Sentencing and Penal Policy Commission focuses heavily on the Scottish evidence base. Whilst the Scottish evidence base will of course be important, we would encourage the Commission to adopt a broader lens to ensure that we are also learning from other jurisdictions and international good practice.

In particular, the Commission may be interested in considering Scotland’s progress towards the recommendations set in the:

- [UNODCs Handbook on strategies to reduce overcrowding in prisons](#) (United Nations Office on Drugs and Crime, 2013)⁶⁶
- [UN’s Handbook of basic principles and promising practices on alternatives to imprisonment](#) (United Nations Office on Drugs and Crime, 2007)⁶⁷

⁶⁴ Scottish Human Rights Commission and the UK National Preventative Mechanism (2024) *Review, recommend, repeat: An assessment of where human rights have stalled in places of detention*. Online: Scottish Human Rights Commission and the UK National Preventative Mechanism. Available at:

<https://www.scottishhumanrights.com/media/2784/report-review-recommend-repeat-an-assessment-of-where-human-rights-have-stalled-in-places-of-detention.pdf> (Accessed 22 May 2025)

⁶⁵ Scottish Government (2025) *Sentencing and Penal Policy Commission: Terms of Reference*, Online: Scottish Government. Available at: <https://www.gov.scot/publications/sentencing-and-penal-policy-commission-terms-of-reference/>. (Accessed 22 May 2025)

⁶⁶ United Nations Office on Drugs and Crime (2010) *Handbook on strategies to reduce overcrowding*. Online: United Nations. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf (Accessed 22 May 2025)

⁶⁷ United Nations Office on Drugs and Crime (2007) *Handbook of basic principles and promising practices on Alternatives to Imprisonment*. Online: United Nations. Available at: <https://www.unodc.org/documents/justice-and-prison->

- [Findings and recommendations guidance note of emergency release mechanisms for detainees and prisoners during Covid-19](#) (United Nations Office on Drugs and Crime, 2021)⁶⁸
- [Council of Europe Recommendations to member states concerning children with imprisoned parents](#) (Council of Europe, 2019)⁶⁹

Any recommendations from the Commission should also support compliance with key international standards and encourage alignment with internationally agreed goals, including:

- United Nations Standard Minimum Rules for Non-Custodial Measures ([Tokyo Rules](#))⁷⁰
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ([The Bangkok Rules](#))⁷¹
- United Nations Convention on the Rights of the Child ([UNCRC](#))⁷²
- United Nations Sustainable Development Goals ([UN SDG](#)).⁷³

[reform/crimeprevention/Handbook of basic principles and promising practices on Alternatives to Imprisonment.pdf](#) (Accessed 22 May 2025)

⁶⁸ United Nations Office on Drugs and Crime (2021) Covid-19 Guidance Note, Emergency release mechanisms for detainees and prisoners during Covid-19: Findings and recommendations, Online: United Nations. Available at https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules/Guidance_Note_ER.pdf (Accessed 22 May 2025)

⁶⁹ Council of Europe (2018) *Recommendation CM/ Rec (2018) 5 of the Committee of Ministers to member States concerning children with imprisoned parents*. Online: Children of Prisoners . Available at: https://childrenofprisoners.eu/wp-content/uploads/2019/12/CoE_Rec20185.pdf (Accessed 22 May 2025)

⁷⁰ United Nations (1990) *United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules): resolution/ adopted by the General Assembly*. Online: United Nations. Available at: <https://digitallibrary.un.org/record/105347?v=pdf> (Accessed 22 May 2025)

⁷¹ United Nations (2010) *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)*. Online: United Nations. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial> (Accessed 22 May 2025)

⁷² UNICEF (1989) *Convention on the Rights of the Child*. Online: UNICEF. Available at: <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf> (Accessed 22 May 2025)

⁷³ United Nations (n.d) *Sustainable Development, the 17 Goals*. Online: United Nations. Available at: <https://sdgs.un.org/goals> (Accessed 22 May 2025)