

Criminal Justice Committee

Automatic early release of prisoners and prosecution policy on public safety and prison population

Written submission by the Risk Management Authority, November 2024

Thank you for the opportunity to provide views on the above statements in relation to automatic early release of prisoners and prosecution policy on public safety and prison population. The Risk Management Authority (RMA) response follows.

Short Term Sentences

The RMA worked with Scottish Government (SG) and justice agencies in the summer of this year in relation to [emergency release of short-term prisoners](#). The RMA reviewed and provided to Scottish Prison Service (SPS), Level of Service/ Case Management Inventory¹ (LS/CMI) risk information to assist SPS decision making in respect of the regulations. The RMA will continue to work with SG, SPS and justice agencies on taking forward learning from this emergency early release work (as outlined in the [Cabinet Secretary statement](#)) to ensure assessments and plans are robust, with a clear focus on public protection and victim safety planning.

The RMA agrees that there is a significant need to reduce the prison population and remains committed to engagement in priority work with SG and partners to support this aim. This includes supporting implementation of provisions of the [Bail and Release from Custody \(Scotland\) Act 2023](#) in line with the [RMA response](#) to the associated Bill consultation and current RMA support to justice agencies in relation to Home Detention Curfew (HDC) as part of transformational work in shifting the balance between custody and community.

In line with its statutory provisions within the [Criminal Justice Act \(Scotland\) 2003](#), the RMA advocates that any proposals and measures surrounding point of automatic early release

adopt a risk based approach in accordance with the values, principles and standards outlined in Framework for Risk Assessment, Management & Evaluation ([FRAME, 2011](#)). Linked to this, the RMA advises a proportionate and evidence based approach to risk assessment and management planning to help support preparations for release and to help shape the provision of throughcare services in the community.

¹ The Level of Service/ Case Management Inventory (the LS/CMI) is a general offending assessment and management planning method used by all community and prison based Justice Social Work services in Scotland. It helps assessors explore the pattern, nature and seriousness of a person's offending along with a consideration of factors which may be associated with reoffending and range of non-offending issues which may need to be addressed during a period of supervision or intervention.

The RMA agrees with the Cabinet Secretary for Justice that bringing forward the point of automatic early release of people serving short sentences in isolation will not resolve the prison population issue. A safe and sustained reduction in the prison population will only be achieved by reducing the number of individuals receiving a custodial sentence. Restricting the use of custody to cases where it is necessary to manage a risk of serious harm is capable of contributing substantially to this objective while prioritising safety.

The RMA awaits sight of the draft Bill as proposed by the Cabinet Secretary for Justice, however, will review and provide feedback to SG officials on this in due course.

Long Term Sentences:

As with short-term sentence proposals, the RMA advocates for risk assessment and management planning being central to release planning and the provision of throughcare services. Fuller detail of the RMA position on this specific proposal including potential impact and necessary requirements can be found within the [RMA response](#) to the consultation.

The RMA will work with SG and justice partners to support defensible risk-based decision making, with regards to release from custody, which is informed by a proportionate depth of assessment undertaken at the appropriate time to then inform case or risk management planning.

Lord Advocate's statement

The RMA has not yet concluded, but is actively considering (against its aforementioned statutory provisions) all aspects of the Lord Advocate's statement, questions and responses of 10 October. Upon conclusion of these considerations, the RMA will discuss within justice agency governance groups and share separately with the Criminal Justice Committee.