

# **Criminal Justice Committee**

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

### **Written submission by the Wise Group, October 2024**

#### **Introduction**

The national throughcare mentoring Public Social Partnership (New Routes) programme provides voluntary throughcare to men who have served short-term prison sentences of four years or less. For the last 11 years this has been delivered across Scotland by the Wise Group.

We begin working with individuals in the months before their release date to understand their needs and to assess how best we can help them as their liberation approaches. Our support continues as we meet them on their exit from prison to address their short-term needs, but we also help to ensure their smooth reintegration into their homelife and communities. In the months that follow we continue to provide support to individuals and their families.

Through our relational mentoring we provide a person-centred support, ensuring that all those we work with have their individual needs met and through our partnerships we can offer access to additional services. At the Wise Group, we understand the complex barriers facing those who serve prison sentences and through our specialist support systems we aim to address those for the individuals working with us.

The timing of these proposed emergency releases may pose significant challenges as it coincides with the transition period from the current Public Social Partnership to any new National Voluntary Throughcare Service (replacing all national throughcare support for all short term male and female prisoners).

This period will demand extensive coordination and resource allocation towards service mobilisation, meaning that a surge in early releases could draw critical focus and resources away from this effort.

Additionally, as this transition period involves shifts in roles and potential employer changes under TUPE, existing mentors may face increased apprehension and uncertainty about their roles, particularly given the potential for a high volume of early releases. This timing could add pressure to what is already a complex, resource-intensive period.

This paper will consider – more fully:

- Short-term sentences – the pros and cons of bringing forward the point of automatic early release from 50% to 40% of the sentence; whether prisoners serving sentences for certain offences be excluded from this and if so which ones; what other measures aimed at mitigating the impact of the change on

victims, etc should be included; whether the change should be permanent or temporary?

- Lord Advocate’s statement – the non-legislative proposals set out in her statement and how this may work out in practice, and what impact you consider this may have on remand levels?

### **Short Term Sentences**

Moving the automatic early release point from 50% to 40% offers potential benefits, such as a reduced prison population. It should also aim to enhance rehabilitation to reduce the impact on victims and ensure a more successful reintegration in community.

However, several risks require immediate consideration:

- **Increased recidivism risk:** Without adequate pre-release preparation, the likelihood of reoffending could rise.
- **Operational and resource strain:** Mentoring support to enable successful emergency release will be stretched if additional resources are not promptly allocated.

### **Mitigating the Impact on Victims and Community Resources**

With an increase in emergency releases. it will be important to address potential impacts on victims and community support networks through preparing sufficient rehabilitation and post-release resources, as well as effective caseload transitions, this will also help maintain crucial service quality. Successful reintegration results in fewer victims in future. With less time to support prison leavers, there is a risk that reintegration is less impactful. Victims organisations should be consulted thoroughly on the early release planning.

### **Workforce and Customer Volume Considerations**

Our projected profile for the 2024/25 national throughcare mentoring Public Social Partnership service already anticipates a customer start limit close to the 1,200 threshold by February 2025 (in advance of the end year of March). Scottish Government should provide clarity on how this emergency release schedule aligns with this capacity and any contingencies they envision for handling an increase beyond planned limits, particularly as this will establish a new baseline for short-term sentences. Projections will be needed to estimate and prepare for additional service demand and to address potential strain on already stretched resources. To be noted that anyone who had an original liberation date after 31 March 2025 and is released early was never factored into the PSP’s caseload modelling as they are in the future contract year.

## Impact on Transition of Caseloads

With current Public Social Partnership funding concluding, a sizable caseload of customers enrolled before March 31 2025 will still require ongoing support. These cases will transition into the new Voluntary Throughcare delivery under different provider. An additional influx of emergency release cases may complicate data migration and customer transitions, impacting customer experience and continuity of support. Furthermore, a higher caseload of individuals mid-journey could increase instances where customers face changes in their mentors and supporting organisations, potentially disrupting the consistency of their throughcare support.

## Exclusions by Offense Type

To safeguard community safety, it may be prudent to exclude certain types of offenses from earlier emergency release eligibility:

- **Violent crimes:** Offenses involving serious harm to others, such as assault or homicide, should be closely considered for exclusion.
- **Sexual offenses:** Given the potential risk to communities, individuals convicted of sexual crimes may require additional pre-release support and post-release monitoring.
- **High-risk or repeat offenders:** Those with a demonstrated risk of reoffending may benefit from additional preparation and longer incarceration before reintegration.

The list of people being released early should be agreed at the outset of the process to enable Mentors to better plan.

## Permanent or Temporary Change

A **trial period** may be advisable. Evaluating the outcomes of a temporary policy change could help refine processes, measure impact, and inform a decision on whether the adjustment should be made permanent.

## Action Plan for Implementation of emergency release

- To support the proposed emergency release adjustments, recruitment will need to begin latest November 2024 to prepare staff for the increased demand expected between February and March.
- We project that we will have reached our contracted caseload limit of 1,200 customers for 2024/25 by February, additional resources should be aligned with the emergency release policy changes to maintain service quality.

## 2: Lord Advocate's Statement

Implementation of these non-legislative proposals and remand levels could be significantly enhanced through mentoring, particularly by supporting alternatives to custody, improving reintegration, and reducing prison population pressures.

### 1. Home Detention Curfew (HDC) and GPS Monitoring

- **Mentoring Role:** Mentors should provide essential support to individuals on HDC, especially as they adapt to GPS monitoring requirements. Mentors should enable customers to understand monitoring expectations, avoid high-risk situations, and integrate with community services. This is already enabled on the current PSP and has been designed into the Wise Group's proposed National Voluntary Throughcare model.
- **Impact on Remand Levels:** By offering early release with GPS oversight, enabled with mentoring, HDC could become a viable support to remand for certain low-risk individuals, particularly those unlikely to reoffend. This could alleviate remand levels by providing courts with a supervised option that maintains public safety while keeping people out of custody.

### 2. Electronic Monitoring for Bail

- **Mentoring Role:** Mentors should work with electronically monitored individuals to break down barriers and enable compliance with bail conditions, such as curfews or restricted zones. By encouraging adherence, mentors would support stability and reduce the risk of reoffending.
- **Impact on Remand Levels:** Electronic monitoring offers courts a robust alternative to remand, especially for those on the margins of custody. If mentoring breaks down barriers and strengthens compliance, courts may have greater confidence in releasing individuals with conditions, potentially decreasing the remand population.

### 3. Increased Investment in Community Justice and Alternatives to Custody

- **Mentoring Role:** With greater investment in alternatives, mentoring could be expanded to reach more individuals pre-sentencing. Mentors could provide tailored guidance and connect participants with essential community resources, supporting stability and reducing future reoffending.
- **Impact on Remand Levels:** When coupled with mentoring, community justice services could help individuals meet court expectations without confinement, reducing the need for remand. By addressing underlying needs like housing, employment, or substance misuse, mentoring could improve stability, making community-based alternatives to custody viable and attractive.

#### 4. Structured Deferred Sentences and Bail Supervision

- **Mentoring Role:** In structured deferred sentencing, mentors could provide ongoing support and accountability, helping individuals stay on track with court requirements. Bail supervision, facilitated by mentoring, could ensure that participants attend all necessary court dates and adhere to conditions.
- **Impact on Remand Levels:** Deferred sentences allow individuals to demonstrate compliance and stability, reducing the need for remand and custodial sentences. With mentoring support, courts may feel more confident using deferred sentences, potentially reducing the remand population and prison sentences by allowing individuals to remain in the community under structured guidance.

#### 5. Focus on Collaboration Across Justice System Partners

- **Mentoring Role:** Mentors could bridge the gap between justice partners by providing consistent support as individuals transition between agencies (e.g., from custody to community services). Effective collaboration between mentors, courts, and social services would ensure smoother transitions and tailored support for each individual.
- **Impact on Remand Levels:** By aligning goals across the justice system, mentoring could help streamline remand decisions and reinforce alternative pathways. For example, as mentoring shows a positive track record of compliance and low recidivism, courts can favour alternatives, thereby lowering remand levels.