

Criminal Justice Committee

27th Meeting, 2023 (Session 6), Wednesday 1
November 2023

Pre-budget scrutiny

Note by the clerk

Introduction

1. Each year, subject committees in the Parliament carry out pre-budget scrutiny in advance of the publication of the Scottish Government's budget for the forthcoming financial year.
2. The aim is for the committees to collect evidence on spending priorities and make recommendations to the relevant Cabinet Secretary before the Scottish Government finalises its budget.
3. At this evidence sessions on the proposed 2024/25 budget, the Committee will hear from the following organisation:
 - **Karyn McCluskey**, Chief Executive, Community Justice Scotland
 - **Chris McCully**, Head of Policy, Community Justice Scotland
4. At subsequent meetings in the autumn, the Committee plans to hear from other organisations within the criminal justice sector and then from the Cabinet Secretary for Justice and Home Affairs. Thereafter, the Committee will produce a short report with its recommendations.
5. The written submission that has been submitted from the above organisation is set out in **Annex A** to this paper.

Focus of the pre-budget scrutiny

6. Last year, the focus of the Committee was on the potential impact of the spending announcements made as part of the resource spending review (RSR) published in May 2022. This would have seen flat cash settlements (i.e. below inflation awards) across the sector. The Committee's [report](#) and the Scottish Government's [response](#) are both published online.
7. This year, the focus for the Committee is again a general one on the financial pressures facing organisations in the criminal justice sector and views on the main priorities for 2024/25. Of particular interest to the Committee is the pressure on capital budgets and investment in policing, the fire and rescue services,

prisons, courts, community justice, criminal justice social work and the third sector.

Action

8. Members are invited to discuss budget matters with the witnesses at today's meeting.

**Clerks to the Committee
October 2023**

Written submission from today's witnesses

Community Justice Scotland

Introduction

Community Justice Scotland is the national public body responsible for monitoring, promoting and supporting improvement in the provision of community justice.

Community justice is the collection of individuals, agencies and services that work together to support, manage and supervise people who have broken the law. We support the view that, where it is safe to do so, people who commit certain crimes should receive community-based sentences. These services can include treatment for underlying issues such as drug or alcohol addiction, unpaid work, fines and compensation or restrictions of liberty such as electronic tagging and curfews.

Community justice also involves working with people who have not been convicted, such as those held on remand and individuals who can be purposefully diverted out of the justice system, by police and prosecutors, before court proceedings and into programmes that will help them avoid offending in the future.

Together these elements can be summarised as providing a 'Community First' approach to justice:

- Community First in terms of prevention and diversion.
- Community First in terms of where sentences are served.
- Community First in terms of where the circumstances that influence offending behaviour are addressed.
- Community First in terms of the organisations involved in rehabilitation, repair and sentence delivery.

The evidence shows that community justice interventions help people to stop breaking the law and lead to higher rehabilitation rates, fewer victims and safer communities. Where people are supported and helped to address their offending behaviour, stay connected to, or build a connection with their communities, local support networks and personal relationships, then the evidence shows we create a more effective and fairer justice system which leads to lower rates of reoffending and fewer victims of crime.

Community Justice Scotland holds statutory duties to provide training, publicly promote the benefits that arise from justice in the community, planned and delivered collaboratively by local partners and informed by an assessment of local needs and strengths, to advise Scottish Ministers on the best use of community justice resources and to monitor progress towards achieving community justice outcomes.

Community Justice Scotland (CJS) have prepared this submission in response to the Scottish Parliament's Criminal Justice Committee's call for evidence as part of their Pre-Budget Scrutiny 2024-25.

Q1. Your views on the extent to which spending priorities in the criminal justice sector are being met in 2023/24 and whether these continue to be the right priorities.

While the policy priorities established by the Vision for Justice and the National Strategy for Community Justice for the 2023-24 financial year remain the correct aims to pursue, the current justice budget is not aligned sufficiently to achieve those aims in full and current resource challenges for key community justice partners pose risks to the successful delivery of the identified priorities.

Policy Context

Vision for Justice – The Vision for Justice in Scotland 2022 outlines a vision which includes “tackling societal issues like poverty, including child poverty, mental ill health, addiction and adverse childhood experiences.”¹ This aspiration highlights some of the numerous variables which drive offending behaviour and have contributed to Scotland having one of the highest imprisonment rates in Western Europe.

The Vision for Justice in Scotland outlines the following aims:

- We have a society in which people feel, and are, safer in their communities
- We work together to address the underlying causes of crime and support everyone to live full and healthy lives
- We have effective, modern person-centred and trauma-informed approaches to justice in which everyone can have trust, including as victims, those accused of crimes and as individuals in civil disputes
- We support rehabilitation, use custody only where there is no alternative and work to reduce reoffending and revictimisation
- We address the on-going impact of the COVID-19 pandemic and continue to renew and transform justice

To be realised, these aims require investment in:

- Early interventions, preventative spend and whole system approaches
- Workforce training and the built environment
- Partners delivering community sentences
- Clearing court backlogs
- Custodial settings which facilitate rehabilitation

¹ [The Vision for Justice in Scotland 2022 \(www.gov.scot\)](http://www.gov.scot)

National Strategy for Community Justice – The National Strategy for Community Justice² articulates the following aims:

1. Optimise the use of diversion and intervention at the earliest opportunity
2. Ensure that robust and high-quality community interventions and public protection arrangements are consistently available across Scotland
3. Ensure that services are accessible and available to address the needs of individuals accused or convicted of an offence
4. Strengthen the leadership, engagement, and partnership working of local and national community justice partners.

If resourced properly, these priorities contained in these two key documents will achieve long term positive outcomes for the population which will be both cost effective and efficacious in the appropriate delivery of justice. In particular, the themes of early intervention, accessibility and consistency of service delivery and partnership working are key to driving improvements in the current justice environment.

The Scottish Government’s objective to support community sentencing is critical to support a reduction in reoffending. The evidence-base highlights that community sentences are more effective than short-term sentences and that community sentences as part of a suite of prevention and effective intervention options, which have driven reconviction rates down.³ Short-term prison sentences are not effective in meeting a person’s needs and reducing their likelihood of reoffending, and in fact often do more harm than good.⁴

Community Justice Budget 2023-24

The Vision for Justice commits to investment in “a substantial expansion of community justice services supporting diversion from prosecution, alternatives to remand and community sentencing” from 2023-26.

The following tables illustrate that central government funding to those providing services that support community sentences increases at a lower rate than other allocations within the Justice portfolio (and indeed funding for Criminal Justice Social Work actually remains static).

² [National Strategy for Community Justice \(www.gov.scot\)](http://www.gov.scot)

³ [Community sentencing - Reducing reoffending - gov.scot \(www.gov.scot\)](http://www.gov.scot)

⁴ [Sentenced-to-Smart-Justice-A-report-on-the-proposed-extension-of-the-Presumption-Against-Short-Sentences-v8.pdf \(communityjustice.scot\)](http://communityjustice.scot)

	2021-22 Budget £m	2022-23 Budget £m	2023-24 Budget £m
Total - Justice & Veterans	3,029	3,146.1 (+3.86%)	3,365.7 (+6.98%)
Scottish Police Authority	1327.8	1368.3 (+3.05%)	1449.3 (+5.91%)
Scottish Courts & Tribunals Service (SCTS)	129.7	134 (+3.31%)	147.6 (+10.14%)
Scottish Prison Service (SPS)	460.2	476.4 (+3.52%)	540.8 (+13.5%)
Criminal Justice Social Work	86.5	86.5 (+0%)	86.5 (+0%)
Community Justice	47.4	48.4 (+2.1%)	49.6 (+2.47%)

Annual budget allocations and % increases on previous year⁵

Year on year the proportion of the overall Justice and Veterans portfolio allocated to those providing services that support community sentences is decreasing. Pre-pandemic funding from 2017-18 to the 2019-20 Budget, showed the % share of the justice budget for community justice increasing by 0.13% over that period. For the Scottish Prison Service (SPS) and the Scottish Courts and Tribunal Service (SCTS) the increases in 2023-24 were 1.26 % and 0.42% respectively. This shows that whilst there was still a disparity pre-pandemic, it was not as great as the one post-pandemic. This reflects the findings in 2021 by Audit Scotland that there was “little evidence of a shift towards the use of community-based sentences” and highlighted the disparity between funding for prisons and funding for community justice.⁶

	2021-22 Justice Budget	2022-23 Justice Budget	2023-24 Justice Budget
Scottish Police Authority	43.83%	43.49%	43.06%
Scottish Courts & Tribunals Service	4.28%	4.25%	4.38%
Scottish Prison Service	15.19%	15.14%	16.06%
Criminal Justice Social Work	2.85%	2.74%	2.57%
Community Justice	1.56%	1.53%	1.47%

% of total Justice and Veterans budget⁷

⁵ [Scottish Budget: 2023-24 \(www.gov.scot\)](http://www.gov.scot)

⁶ [Audit Scotland Community justice paper 2001 \(1\).pdf](#)

⁷ *ibid*

These limited increases in the total funding available for community justice represent real terms decreases once the ongoing effects of high levels of inflation are taken into account. Whilst budgetary pressures across all portfolios are acknowledged, those in the Justice portfolio are exacerbated by the high prison population and the backlog in court cases driven by the pandemic. Disruption to community health and mental health services, social care, housing support and employability services during the pandemic will also have a disproportionate impact on community justice, as evidence shows that the justice system often acts as the last “safety net” for those people that have been failed by or cannot be accommodated by other systems.⁸ This adds layers of complexity to the cohort being dealt with by the community justice sector and will create additional burdens for those working in community justice services.

These reduced resources and additional challenges must also be considered in the light of the significant new responsibilities placed on community justice services in recent years, which include:

- The ongoing expansion of arrest referral services
- Increases in the number of Diversion from Prosecution cases
- The expansion of the use of electronic monitoring following the commencement of the Management of Offenders (Scotland) Act 2018
- The recent extension of the Presumption Against Short Sentences from 6 months to 1 year
- Upcoming work to implement Bail and Release from Custody (Scotland) Act 2023, which will create additional responsibilities for JSW and other community justice partners.
- A potential increase in Home Detention Curfew (HDC) is also anticipated as a result of work being undertaken through the Delivery Plan for the National Strategy for Community Justice.

The pressures outlined above will be particularly challenging for JSW services and the third sector, two key partners responsible in large part for the delivery of community justice activity who are being asked to do more with less.

As indicated by the joint evidence submitted to the Committee by the Convention of Scottish Local Authorities (COSLA) and Social Work Scotland (SWS), the effects of budgetary pressures on local JSW services are becoming increasingly acute.⁹ The current static budget allocation forces Justice Social Work to concentrate on statutory functions and management of risk rather than preventative work and rehabilitation. This is also resulting in a reduction in the available budget for commissioning third sector community justice services, leading to the withdrawal of services and financial challenges for voluntary sector providers.

The vital contributions of third sector organisations towards desistance outcomes is further being jeopardised by static budget allocations at national level, with dedicated Scottish Government funding for justice third sector organisations remaining static at £10.2m in recent years. Rehabilitation and the prevention of reoffending will suffer if third sector organisations are not allocated the necessary funding and this will contribute to the ever

⁸ [Hard-Edges-Scotland-full-report-June-2019.pdf \(lankellychase.org.uk\)](#)

⁹ [Response 316486734 to Criminal Justice Pre-Budget scrutiny: 2024-25 - Scottish Parliament - Citizen Space](#)

increasing drain on the public purse should the prison population subsequently increase further. The Third Sector, along with other community justice partners, also urgently needs a move to multi-year funding to facilitate effective planning of service delivery.

These budgetary pressures are driving geographical variations in the use, cost and success of community sentences, which in turn is affecting the use of community disposals by the judiciary. The Scottish Sentencing Council recently observed that

“ one of the greatest challenges to judicial confidence in community-based disposals concerns limitations of resources to support their management and delivery. A more consistent approach to the development and funding of these disposals to support their more consistent provision, robust management and successful completion would enhance judicial confidence and might be expected to support an increase in the use of community-based disposals through the provision of more sentencing options.”¹⁰

Although there are other issues which contribute to geographical variance, funding pressures feature highly in the narrative. For example, only 19 Local Authorities are funded to deliver the Caledonian System, which provides an accredited rehabilitative programme for those convicted of domestic abuse offences. Those that are funded to deliver the system experience additional resource demands which have to be funded from existing budgets; those that are not funded to deliver the system must either fund alternatives themselves or have no dedicated service aimed at reducing incidences of domestic abuse. This means that the judiciary will not be able to mandate engagement with specialist programmes when sentencing people before the court appearing from certain local authority areas, increasing the likelihood future reoffending and revictimization.

It is, therefore, the view of Community Justice Scotland that, while the priorities identified in the Vision for Justice and the National Strategy for Community Justice remain the right ones, current budgets are not aligned with these priorities and current budgetary shortfalls risk achieving those aims. Without a significant increase in funding to services directly involved in delivering diversion from prosecution, alternatives to remand, community sentences and support for prison leavers, the Scottish Government’s commitment to investing in a “substantial expansion of community justice services” will not be achievable. The commitments set out in the Vision for Justice to expanding community justice services and those in the National Strategy for Community Justice should therefore lead to an increase available funding in 2024-25.

Q2. Your views on the spending priorities and challenges in the next financial year (2024/25) and whether the spending allocated to your organisation and/or the criminal justice sector more widely is sufficient.

We believe that the Scottish Government’s Budget for 2024-25 must support a significant expansion of community justice services as part of a broader reappraisal of how we approach justice in Scotland.

With a prison population projected to hit historic highs in the coming year, it is clear that the current system prioritises detention and punishment over prevention, crime reduction,

¹⁰ [20211028-judicial-perspectives-of-community-based-disposals-ssc-issues-paper \(1\).pdf](#)

and rehabilitation and that it will continue to do so unless there is a fundamental shift in how we respond to offending.

We recognise that these are challenging economic times for public sector spending. The Scottish Government has asked public bodies to identify savings and work more efficiently and collaboratively in delivering public services. Significant savings over the short, medium and long term, however, require substantial upfront investment in preventative approaches to justice founded in community justice principles or we risk a worsening spiral of increasing costs and rising prison numbers.

CJS believe that there are a number of key opportunities to produce such a shift and effective funding of these through the Scottish Government's 2024-25 budget could begin to achieve a decisive shift in how we approach justice.

Programme for Government 2023-24

The recently published Programme for Government¹¹ has highlighted the following missions which the Scottish Government aims to deliver, namely:

- Equality: Tackling poverty and protecting people from harm.
- Opportunity: Building a fair, green and growing economy.
- Community: Delivering efficient and effective public services.

A number of the priorities set out on the Programme for Government will have an impact on community justice and will require the involvement of community justice partners locally and nationally. Many of these commitments, however, have not been fully costed and additional resources to support their development and implementation have yet to be announced. For a fuller consideration of the potential impacts and costs for Programme for Government commitments, please see Appendix 1.

As part of the Programme for Government, the Cabinet Secretary for Justice and Home Affairs has also set out a range of commitments to be achieved by 2026.¹² Of particular relevance to community justice are the commitments to have:

- Kept a continuing focus on both public protection and rehabilitation, and kept rates of re-offending low.
- Continued work to address Scotland's high use of imprisonment, including reducing the proportion of the prison population, especially women, on remand from the post COVID high.

Both commitments will yield long-term savings to the public purse but only if money is allocated to the services which can deliver rehabilitation and community sentenced for suitably risk assessed persons who have offended. The consequential strengthening of communities will drive economic and social benefits for the citizens of Scotland.

¹¹ [Equality, Opportunity, Community - Our Programme for Government \(www.gov.scot\)](https://www.gov.scot/publications/programme-government-2023-24/pages/7/) accessed 08/09/2023

¹² <https://www.gov.scot/publications/programme-government-2023-24/pages/7/>

Achieving these commitments will be challenging without significant additional resource. As indicated in our response to Question 1 above, current allocations for community justice are often insufficient to allow delivery of anything beyond core statutory responsibilities, limiting the scope for the complex, relational work often required to effectively deliver improved outcomes for people in the justice system. We therefore welcome the recent comments from the Cabinet Secretary for Justice and Home Affairs to the Scottish Parliament setting out the Scottish Government's commitment to investing in community justice and increasing the support available to people on remand and would welcome further detail on what this will mean for the 2024-25 Budget.¹³

Our prison population is one of the highest in western Europe and is forecast to grow further and at present the way the system operates is at odds with its purpose.¹⁴ Descriptions of the purpose of the justice system usually mention concepts such as public safety, effectiveness, fairness, reduction of offending and rehabilitation and yet our justice system drives rising prison populations and reoffending. It disproportionately impacts deprived communities, driving inequality, and is funded heavily to do so.

Moreover, our overreliance on prison as a response to crime does not adequately prevent offending and reoffending. Over 75% of all arrivals to prison are returns to custody and approximately two thirds of these returns are within one year. A large majority of this cohort had an index sentence of one year or less.¹⁵ Analysis has shown that whilst the composition of the prison population is influenced by trends in recorded crime, the size of the population is largely determined by criminal justice policies, legislation, practice and procedures.¹⁶ This aligns with the points highlighted previously in this response made by the Scottish Sentencing Council around a lack of consistency in service provision across Scotland.

These challenges are also compounded by the fact that the Scottish Government Budget is also structured in such a manner that does not encourage cross-portfolio funding with siloed budgets making the adoption of a whole systems approach challenging. This is exacerbated by single-year budgets which hinder long-term preventative planning as highlighted by the Accounts Commission in their 2022 Local Government in Scotland Overview.¹⁷ Addressing this will require substantial resources, the development of a cross governmental approach to justice policy and concerted work across a range of national and local stakeholders over the medium to long term.

Budget Priorities for 2024-25

We believe, however, that, short of this large-scale systemic change, there are a number of opportunities for investment in the 2024-25 Budget that could drive significant improvements to the justice system in the short and medium term.

The Christie Commission emphasised the following priorities when considering public sector reform and spending priorities:

¹³ <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=15478>

¹⁴ [Scotland's prison population projected to hit record high - BBC News](#)

¹⁵ Churn in the Scottish Prison Population – Justice Analytical Services

¹⁶ Prison Population Projections paper – Justice Board

¹⁷ [Local government in Scotland Overview 2022 \(audit-scotland.gov.uk\)](#)

- Reforms must aim to empower individuals and communities receiving public services by involving them in the design and delivery of the services they use.
- Public service providers must be required to work much more closely in partnership, to integrate service provision and thus improve the outcomes they achieve.
- We must prioritise expenditure on public services which prevent negative outcomes from arising.
- Our whole system of public services – public, third and private sectors – must become more efficient by reducing duplication and sharing services wherever possible.¹⁸

A key element of these priorities was the emphasis on “prioritising preventative measures to reduce demand and lessen inequalities”.

Within the justice system, the current high prison population would suggest that efforts to prevent offending and reoffending are the preventative measures which should be prioritised. We believe that there are a number of ways of achieving this that could be prioritised through the 2024-25 Budget.

1. Restorative justice

The Scottish Government has committed to expanding the use of restorative justice in Scotland through its 2019 Restorative Justice: Action Plan and Community Justice Scotland hosts the national hub for restorative justice in Scotland tasked with supporting implementation and development of the Action Plan.¹⁹

Restorative justice (RJ) provides safe communication between people harmed by crime and those responsible for the harm, to find a positive way forward and evidence has shown that restorative justice can help victims to recover whilst offenders are held to account for what they have done. Expanding the use of RJ in Scotland is a key opportunity to develop new approaches to how we approach offending in Scotland and to significantly improving the experiences of victims.

We would therefore recommend that the Scottish Government continue the national RJ development resource currently provided to CJS and Children and Young People’s Centre for Justice, in order to fully support activity under the vision and outcomes set out within the RJ Action Plan.

We would also recommend funding is provided in the 2024-25 Budget to develop consistent, accessible training in RJ that builds on the recommendations and specialist training outlined within the training needs analysis funded and published by SG in 2022.²⁰

¹⁸ Commission of the Future Delivery of Public Services, June 2011

¹⁹ <https://www.gov.scot/policies/victims-and-witnesses/restorative-justice/>

²⁰ <https://communityjustice.scot/wp-content/uploads/2022/10/Restorative-Justice-Training-Needs-Analysis-for-Scotland.pdf>

We would also welcome the establishment of fund through the 2024-25 Budget to support the continued delivery of RJ cases across Scotland, in order to test and refine safe and appropriate direct and indirect RJ approaches that meet the needs of those harmed.

2. Expanding Family Support and Family Drug and Alcohol Courts

Work undertaken by The Promise has established the importance of whole family support to improving outcomes for people with experience of the care system and to successfully addressing the challenges they face.²¹ Effective funding to do this in a justice context is particularly important given the historic over-representation of care experienced people in the justice system. Academic and practice evidence is similarly clear that the family support is an integral aspect of improving outcomes for people in the justice system, as well as in fulfilling key human rights obligations for the children of people in the justice system.

Emerging evidence from England and Wales suggests that Family Drug and Alcohol Courts can be an effective in supporting adults with substance use issues to address these and to reduce the number of children in care.²² The adoption of a similar approach in Scotland could support delivery of the Promise and lead to a range of benefit for care experience people, communities and the justice system more generally. Funding could be made available as part of the 2024-25 Budget to explore the viability of such an approach.

3. Extension of existing community sentencing options and piloting of new approaches

As well as the need for additional funding to support community justice activity outlined in our response to Question 1 above, there are a number of opportunities to expand the use of community disposals through exploring new approaches and expanding the use of existing sentences.

Enhanced Combination Orders – emerging evidence from Northern Ireland suggests that intensive community support that combines community payback, parenting and family support, restorative practice and offence focused work can be an effective alternative to short prison sentences, especially for women.

The Probation Board for Northern Ireland introduced the Enhanced Combination Order (ECO) as alternative to short prison sentences of under a year in 2015 and evaluations since have indicated that its use has resulted in a 10% reduction in the number of sentences under a year imposed by the courts where it is available and a two thirds reduction in reoffending rates for the people subject to the order.²³ The ECO has also been received positively by the judiciary, who consider it to be a credible alternative to a prison sentence.

Many of the elements of an ECO could be accommodated through the existing Community Payback Order (CPO) structure, which allows for a range of requirements to included as part of a community disposal. However, development work would be required to understand

²¹ <https://thepromise.scot/resources/2020/keepthepromise-family-support.pdf>

²² https://justiceinnovation.org/sites/default/files/media/document/2023/family_drug_and_alcohol_courts_evidence_summary.pdf

²³ [The enhanced combination order in Northern Ireland | Centre for Justice Innovation](#)

how the learning from ECOs could be transferred to a Scottish context and the intensity of support means that additional resources would be required for delivery.

We would therefore recommend that the Scottish Government makes funding available as part of the 2024-25 Budget to explore and develop a pilot project with a view to establishing the viability of such an approach in Scotland.

Suspended Sentences – Suspended Sentences are already available as a court disposal in England and Wales and Northern Ireland, where they represent around 5% and 16% of all sentences imposed by courts respectively.²⁴ Suspended sentences are also a common feature of Scandinavian justice systems, where their use is widespread and they are often imposed on people appearing in court for first offences.²⁵

Suspended sentences can be an effective way of managing offending in the community, supporting people to address their needs and insulating them from the negative effects of a short prison sentence, whilst also still retaining the possibility of a period in prison to encourage compliance and address serious breaches.

We would therefore recommend that the Scottish Government makes funding available as part of the 2024-25 Budget to explore and develop a pilot project with a view to establishing the viability of such an approach in Scotland

Structured Deferred Sentences – Structured Deferred Sentences (SDS) are already available as a disposal for courts and allow the court to defer sentencing following conviction, so that individuals are able to engage with JSW to undertake rehabilitative work. This allows people to begin to address their offending behaviour and demonstration of successful compliance can result in an individual being given a community sentence where they would otherwise be given a custodial sentence. Effective use of SDS could therefore be an effective means of reducing reoffending and would support a reduction in the use of short prison sentences.

Use of SDS in Scotland has been declining over time since their introduction, however, the most recent statistics available indicate that their use has been increasing.²⁶ We would therefore recommend that the Scottish Government considers how the 2024-25 Budget could be used to maintain recent increases in SDS and support further increases in future.

Electronic Monitoring – Recent legislative changes have expanded the ways in which electronic monitoring (EM) can be used either as part of a community sentence or as an element in the granting of bail. The actual use of EM as part of court orders, however, has remained low in recent years and demand led funding in the 2023-24 Budget was reduced to reflect low numbers of EM cases commenced by JSW services. Demand led funding, however, can be difficult to utilise and does not support local JSW services to build capacity to deliver a service or to employ additional staff. We would therefore recommend that the Scottish Government review funding for the use of EM in the 2024-25 with a view to exploring if a more effective funding solution can be developed.

²⁴ <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/types-of-sentence/suspended-sentences/>

²⁵ <https://www.cep-probation.org/knowledgebases/probation-in-europe/>

²⁶ <https://www.gov.scot/publications/justice-social-work-statistics-scotland-2021-22/pages/9/>

There are also further opportunities for developing the use of EM technology, through exploring the potential of introducing Alcohol Monitoring (AM) technology to EM orders. Exploring the potential for using AM in Scotland was recommended by the concluding report of the Scottish Government’s Working Group on Electronic Monitoring in 2016, and emerging evidence from England and Wales suggests that voluntary AM as part of a broader range of support and supervision activities can support people to lower their alcohol intake.²⁷ Exploring the use of the technology is particularly important as four in ten people in prison reported being drunk at the time of committing their offence²⁸ and it is estimated that 44% of all violent crimes involved alcohol consumption in 2019-20.²⁹ AM as part of a community sentence could therefore be a significant contributing factor in reducing offending and re-offending where used appropriately alongside other support services. We would therefore recommend that the Scottish Government provide funding as part of the 2024-25 Budget to develop a pilot project to explore the viability of introducing AM in Scotland.

4. Funding for remand services

With the passing of the Bail and Release from Custody (Scotland) Act 2023, there is an opportunity to reduce the remand population in prison and to support prevention by increasing the funding available to provide effective alternatives to remand.

Alongside rising prison numbers generally, the proportion of the prison population who are people on remand has increased markedly in recent years. This was especially the case during the COVID pandemic when it rose to a high of 30%³⁰ and it has remained high since. As of 20th October 2023, 28% of people in prison were held on remand, with 25% of the total prison population being people awaiting trial. Many people held on remand will not go on to serve a custodial sentence, something that is particularly the case for women held on remand, and on average 7520 people leave prison every year following a period spent on remand. Evidence indicates that a period spent on remand is at least as damaging as a period on a short prison sentence.

Alternatives to remand, such as bail with a voluntary support element or bail with enhanced conditions including support and supervision by JSW (“supervised bail”) are effective ways to keep people in their communities with appropriate risk management and provides an opportunity for people accused on crimes to begin to address any underlying needs or behaviours that may lead to future offending. Increasing the use of these services, whether provided by JSW, nationally commissioned third sector throughcare services or other justice partners, would reduce the risk of future offending or reoffending and would reduce the number of people in prison.

Many areas, however, are only able to offer limited services of this type due to the funding pressures outlined in our response to Question 1 above. Recent roundtable discussions hosted by the Cabinet Secretary for Justice and Home Affairs and the Scottish Government

²⁷ <https://www.gov.scot/publications/electronic-monitoring-scotland-working-group-report/pages/1/>

²⁸ <http://www.sps.gov.uk/Corporate/Publications/Publication-7196.aspx>

²⁹ <https://www.gov.scot/publications/scottish-crime-justice-survey-2019-20-main-findings/pages/7/>

³⁰ Vision for Justice - <https://www.gov.scot/publications/vision-justice-scotland/>

have further highlighted the gaps in support for people on remand as they leave prison. We would therefore consider the expansion of funding to increase the availability of bail services across the country as a priority for the 2024-25 Budget.

5. Expansion of Commissioned Voluntary Sector Throughcare Support

Throughcare is the support people receive to help them reintegrate into the community. This happens both in prison and in the community post-release. Currently this is provided by third sector organisations grant funded by Scottish Government to around 1800 people and by JSW who provide voluntary support to a similar number of people.³¹

As of 20th October 2023, the total prison population for Scotland was 7924,³² 28% of people in prison were either untried or awaiting sentence, with 25% of the total prison population being people awaiting trial. On average, excluding figures from during the pandemic, 8521 people leave prison every year following a short sentence and 7520 people leave prison after a period on remand. Given the reoffending statistics previously quoted,³³ approximately 2290³⁴ people returned to prison in 2021/22 within a year of being released from a sentence of one year or less. With 4773 people being released from remand in 2021/22, approximately 2390³⁵ will have returned to prison within one year of leaving a period on remand. Given the figures cited above and approximate calculated costs of £4080 per month per prisoner³⁶, this churn in people serving sentences of under a year cost around £9,343,200 per month in 2020-21.

To stop this “churn” of people reoffending and returning to custody there is an immediate opportunity to fund effective voluntary throughcare support for people leaving custody. Whilst desistance from crime is often not a linear process and engagement with throughcare support is not a guarantee that people will not re-enter the justice system, we would suggest that there are significant cost savings to be made from if more people are able to access effective throughcare support that help to prevent their reoffending and re-entering prison.

CJS has been given responsibility by the Scottish Government for reviewing options for the future development of commissioned voluntary throughcare services, with a view to assuming ongoing responsibility for development, monitoring and reporting of services in future. As part of this work, we proposed a suite of options to improve the efficacy of this service from an improved current service to options that will significantly expand delivery and support reintegration (and thus subsequently contribute to a reduction in the prison population longer term by supporting desistance). Doing this effectively, however, will require additional funding, as the current funding of £3,800,000 has remained largely static in recent years resulting in a real terms reduction. Additional funding for commissioned voluntary sector throughcare services would also allow the expansion of throughcare support to men held on remand, something that is not currently possible under current resource allocations.

³¹ <https://www.gov.scot/publications/justice-social-work-statistics-scotland-2021-22/pages/10/>

³² [SPS Prison Population](#)

³³ Churn in the Scottish Prison Population – Justice Analytical Services

³⁴ [Scottish Prison Population Statistics \(shinyapps.io\)](#) – figures for most recent published year.

³⁵ *ibid*

³⁶ Costs of the criminal justice system in Scotland dataset 2016/17

6. Funding to prioritise community disposals over short prison sentences

The Presumption Against Short Periods of Imprisonment (Scotland) Order 2019 extended the presumption from six months or less to twelve months or less.

In 2021/22, 1135³⁷ people were sentenced to one year or less in prison. Again, were this figure to remain constant, this would incur a rolling monthly cost of £3,405,000.

Acknowledging that not everyone in this cohort would not necessarily be suitable for a community sentence, the maximum rolling monthly cost of the cohort being given a community sentence would be £179,140. Adjusted for inflation these cost would be £4,325,650 and £583,656 respectively.

2021/22	Rolling costs per month		Rolling costs per month (adjusted for inflation)	
	Prison	CPO	Prison	CPO
Arrivals to ≤1 year sentence	£3,404,000	£179,140	£4,325,650	£583,656

This opportunity would require investment to be redirected to non-custodial disposals such as arrest referral, diversion from prosecution, Drug Treatment and Testing Orders, and CPOs. Funding would be disinvested from capital spend in the prison estate and the funding of clearing court backlogs the Justice Social Work and Third Sector partners delivering relevant services. To plan for the increased workload that would be generated by the increased availability of services, a commitment by Scottish Government to multi-year funding would be required.

7. Expansion of Throughcare Support to People on Home Detention Curfew

Home Detention Curfew (HDC) is a risk assessed release on temporary release on licence from prison subject to electronic monitoring and curfew. It is primarily available for people serving short sentences and provides an opportunity for a phased community reintegration following a prison sentences that can include supervision and support elements. Additional resources to engage people released on HDC in throughcare support services could support a reduction in the prison population, improved outcomes for people released on temporary licence and reduced reoffending.

Current numbers of people released on HDC annually are low when compared to historic figures and there has been a sharp drop on the number of people being released on HDC since 2019 and on average 249 people are released on HDC over the course of a year.³⁸

Regularly updated figures published by SPS would suggest that there are around 64 people released on HDC at any given time.³⁹

Expanding throughcare coverage to a larger number of people applying for HDC would align to emerging project work under the Scottish Government’s Transformation Change Programme 2 – Shifting the Balance from Custody to Community (TCP2) aimed at optimising

³⁷ [Scottish Prison Population Statistics \(shinyapps.io\)](https://www.shinyapps.io/scottish-prison-population-statistics/)

³⁸ Unpublished figures received from SPS.

³⁹ Figure is based on a 6 month average of recently published data

<https://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>

the use of HDC for short term prisoners and would be warranted by the need to reduce prison numbers in light of the upward trajectory of the prison population over recent months. Evidence also suggests that the use of EM technology, a key component of HDC, is most effective when combined with a person centred approach and ongoing support.⁴⁰

Targeting throughcare support for people being considered for HDC would have a number of benefits. For people accessing throughcare support whilst on release on HDC, we would expect improved outcomes, reduced reoffending and fewer recalls for those being released, in line with evidence that indicates the positive effects of support for people on temporary release and subject to electronic monitoring and the evidence to date on the effectiveness of throughcare and mentoring services in improving outcomes for people released from prison.

In the medium to longer term, however, the consistent availability of voluntary throughcare support for people on HDC could support an increase in the number of people receiving HDC and therefore to a reduction in the prison population. Fully integrating voluntary throughcare support into HDC processes, alongside other work being undertaken through TCP2 to optimise HDC processes, may give decision makers increased confidence in an individual’s ability to comply with HDC conditions in the community and lower the potential risk posed by a person being considered, which could lead to an increase in the likelihood of an individual being granted release on HDC.

Additional resources could be targeted at offering voluntary sector throughcare support to all those applying for HDC whose applications have proceeded to a Community Assessment Report (CAR). By this stage SPS have already made an initial assessment of an individual’s suitability for release on HDC and have decided to request a CAR from local justice social work services to inform a final decision. In the most recent year for which figures are available (2021-22), justice social work conducted 790 such reports.⁴¹ This would suggest that only around a third of those receiving a social work report go on to be released on HDC.

Percentage of People Receiving CAR going on to receive HDC Release	Number of People	Number of Potential People Accessing Throughcare Service⁴²
Increase to 50%	395	198 - 395
Increase to 75%	593	297 - 593
Increase to 100%	790	395 - 790

Were people to be engaged with a throughcare service by this point, it could be considered an additional protective factor that mitigates the risk of release and could therefore increase the likelihood of their being deemed suitable for HDC release.

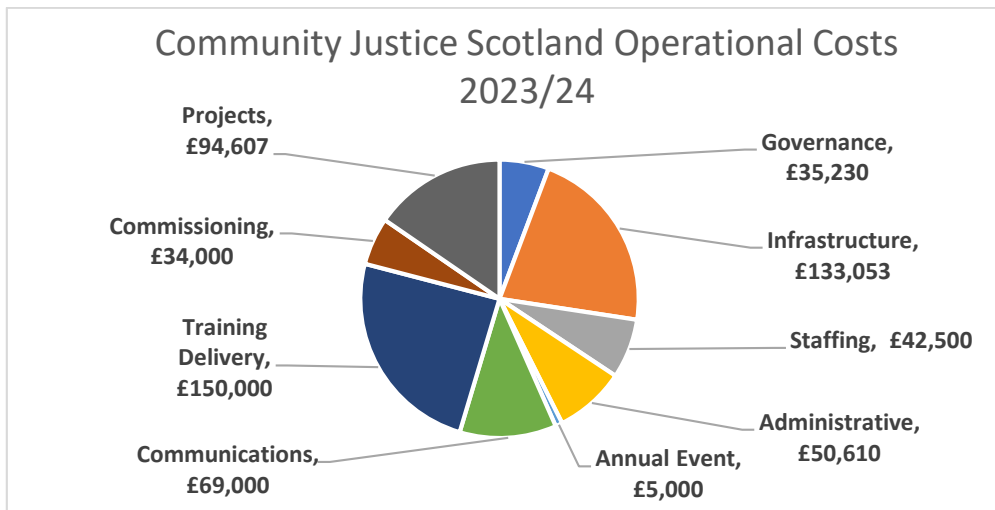
⁴⁰ <https://www.gov.scot/publications/electronic-monitoring-scotland-working-group-report/>

⁴¹ This number is consistent figures for the first year after the introduction of changes to eligibility criteria - <https://www.gov.scot/publications/justice-social-work-statistics-scotland-2021-22/pages/11/>

⁴² Lower limit assumes uptake in line with current levels of uptake, higher limit assumes all those offered the service as part of the HDC process would accept offer of throughcare support.

Community Justice Scotland’s Budget

From an organisational perspective, the current funding allocated to Community Justice Scotland poses challenges for the organisation in discharging its statutory functions effectively. This has been identified as a high-level risk in our Annual Report and Accounts 2022-23. Flat cash settlements have been exacerbated by higher than usual public sector pay awards to address the impacts of the increased cost of living. The current operating model risks becoming unsustainable if increased demand is not matched by increased investment.



The figures above do not include ring fenced funding for delivery of the Caledonian System and Restorative Justice (£410,000 and £249,000 respectively).

Increasing demands for training for workers in the sector are challenging to meet within current resources. The requirements to rapidly upskill the workforce in new programmes such as MF2C or new processes such as the Throughcare Assessment for Release on Licence drives high spend in very short timescales (i.e. within one financial year).

Unforeseen challenges for other partners such as the suspension of the LSCMI centralised IT system generated additional spending demands as CJS supported local authorities with temporary alternative measures.

As well as supporting the fulfilment of core statutory obligations, additional funding for Community Justice Scotland could support a range of activities that could drive improvements in community justice nationally. These could include:

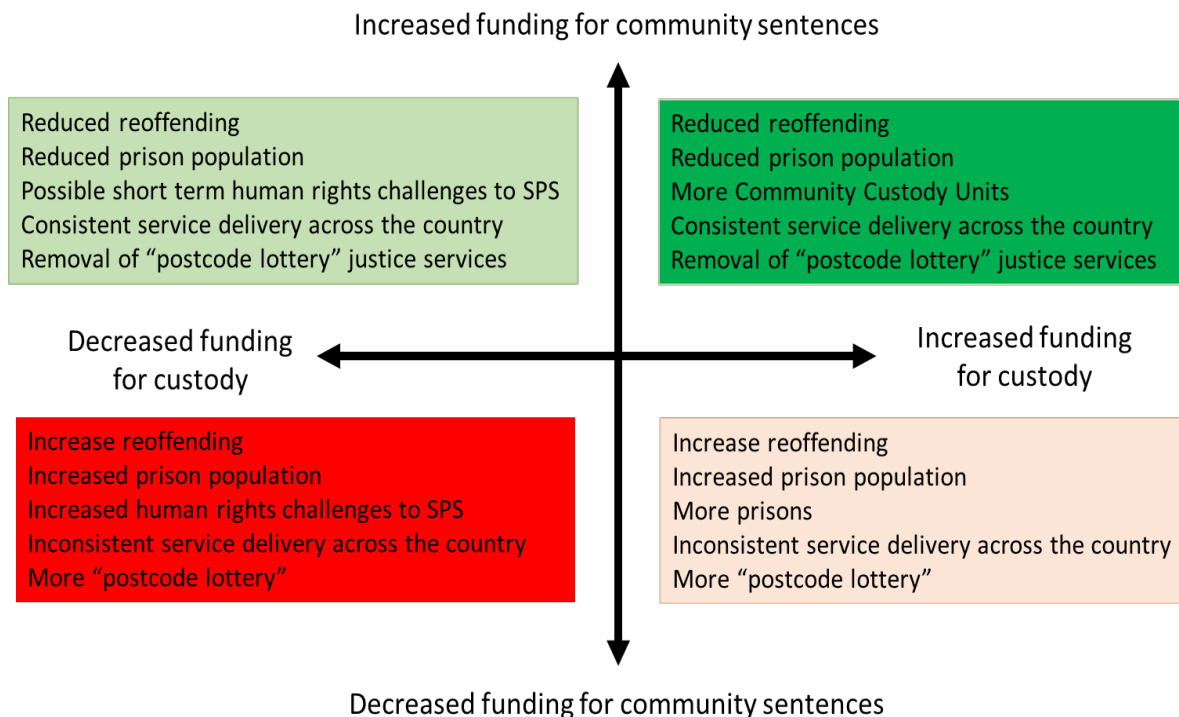
- A more substantial improvement role aimed at supporting the development and piloting of new approaches to community justice, including commissioning innovative approaches to delivering interventions.
- Increased communications activity to drive additional public engagement and outreach to help improve the public understanding of community justice.
- Significant expansion of resources for learning and development work could support expansion of training activities beyond core statutory requirements, e.g. expanding training to the voluntary sector and other partners, new training products such as specialised training for working with people who have sexually offended, and providing training support for local community justice partnership activities.
- Better alignment of policy and research with local evidence through establishment of a data and intelligence hub, supporting improved data for community justice and the early identification and resolution of emerging challenges.

Q3. Your views in particular on the adequacy of capital spending budget allocations and investment.

The 2023-24 budget allocated the largest amount of capital expenditure within the Justice portfolio to the Scottish Prison Service.

We recognise that capital spend must be allocated to enable SPS to upgrade its estate to facilitate the longer term goal of reversing the current trend of an increasing prison population by having facilities which “promote rehabilitation into communities and reduced reoffending”⁴³. It must however be recognised that a more cost-effective long-term solution would be to invest in effective rehabilitation through robust community approaches *before* people enter the custodial estate where appropriate.

⁴³ *ibid*



Whilst we acknowledge there will always be a requirement for prisons, there are opportunities for disinvestment from reactive justice actions with long-term negative outcomes and reinvestment in more cost-effective proactive activity with long-term positive outcomes. This will require significant investment in preventative spend which will reap multiple benefits in terms of more cohesive communities and more individuals contributing to economic growth. In time this will enable pressure to be eased on SPS by funding appropriate community approaches to justice which can be consistently delivered across the country and thus reduce the prison population.

There is also a substantial requirement for accommodation in Scotland registered with the Care Inspectorate. At present there are only six accommodations but further investment is required in rehab facilities etc for those with complex needs who require support in the community. The number of places in custodial accommodation is 8000 whereas the number in community is 63. The community accommodation also faces the additional challenge of a yearly funding cycle which is always vulnerable to cuts.

Q4. Any other comments you may wish to make on the budget situation in the criminal justice sector.

As we have indicated above, a more substantive shift in our approach to justice that leads to a decisive movement from custody to community, as envisaged by the Vision for Justice, cannot be achieved without a more systemic approach to reform that adopts a cross-portfolio approach to tackling the drivers and effects of offending in our communities. This could lead to substantial budgetary savings, improvements for communities and victims of crimes, and less offending and reoffending through more effective approaches to preventing and supporting those who commit crime.

CJ/S6/23/27/4

One way to achieve this would be through adopting the Human and Economic Cost Modelling (HECOM) methodology being explored by The Promise. Such an approach would require substantial commitment and resourcing from multiple Scottish Government Directorates and a wide range of national and local partners but could lead to a fundamental shift in how we approach crime and justice in Scotland.

Appendix 2 explores what this might look like in a justice context.

Appendix 1 – Programme for Government 2023-24 Impact Analysis

We believe the following priorities from the Programme for Government 2023-24 are those that are most likely to have the most impact on community justice services and have explored some the potential impact of these on the sector from a budgetary perspective.⁴⁴ The priorities which we assess to have the most significant impact on future budgetary pressures are highlighted in colour.

PRIORITY	POTENTIAL IMPACT
<p>Support justice agencies to reduce court backlogs, including aiming to end the backlog of summary cases during 2024 and reduce waiting times for justice.</p>	<ul style="list-style-type: none"> • An increased number of court disposals leading to increasing caseloads for Justice Social Workers • Increasingly complex cases of need where people have experienced increased stress because of additional time spent awaiting resolution of cases • More charges combined into one case over a longer period of time may increase the likelihood of custodial rather than community disposals • More warrants for historic cases where individuals have turned their lives around and are potentially now at risk of re-entering the system • Victims of solemn cases continuing to wait for their case to proceed
<p><u>Budget allocation</u></p> <p>The highlighted potential impact of this priority coupled with the trend in funding for the voluntary sector and JSW, identified in our response to Q1 above, means that this may place additional pressure on community justice service and compromise work to rehabilitate people who offend and to enable them to make a positive contribution in society. If this is the case then it is likely that reoffending will increase and place more pressure on the prison estate in terms of increased population of people with complex needs.</p> <p>On elimination of the court backlog (March 2024 for summary cases), any additional money allocated to reduce the court backlog must be reallocated to fund rehabilitative approaches in the community.</p>	
<p>Following the successful digital evidence pilot, Police Scotland will seek to build on the Scottish Government’s investment to make it easier to submit digital evidence to report poor road user behaviour, in support of making Scotland’s roads safer for all – especially for pedestrians and cyclists.</p>	<ul style="list-style-type: none"> • This may draw more people into the justice system. It can be anticipated that serious offences committed by road users will already be being recorded and dealt with.

⁴⁴ [Programme for Government 2023 to 2024 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Budget allocation

Any increase in the number of people entering the justice system will require significant additional funding for organisations dealing with perpetrators of lower tariff offences.

PRIORITY

Work with partners to implement the new Violence Prevention Framework, including the expansion of the Navigator programme to support more people to stabilise their lives and reduce crime, the development of a social media campaign to support young people away from violence, and the adoption of bystander approaches to empower individuals to challenge their peers in a safe way.

POTENTIAL IMPACT

- Mostly focused on earlier prevention work. Action 11 is extension of the Navigator service in 2023/24 which should support some additional complex needs requirements at cliff edge moments of violence or drug and alcohol use.

Budget allocation

This is an example of an intervention service which is preventing people from entering the justice system. The rationale for funding this prevention service should be applied to funding for other services that prevent reoffending.

PRIORITY

Publish a Hate Crime Strategy Delivery Plan, setting out our immediate and longer-term activity in support of the Hate Crime Strategy, including implementation of the Hate Crime and Public Order (Scotland) Act 2021 in early 2024.

POTENTIAL IMPACT

- Impacts will presumably be assessed by the Scottish Government as part of the Strategy development.

Budget allocation

Any increase in the number of people entering the justice system will require significant additional funding for organisations dealing with perpetrators of hate crime offences.

PRIORITY

Act on the considerations of the Women’s Justice Leadership Panel to address gender inequality and improve women’s experiences within the justice system, to help achieve a gender-informed justice system.

POTENTIAL IMPACT

- Impacts will presumably be assessed by Scottish Government as part of their implementation of the Panel recommendations.

Budget allocation

At present, budget allocation is skewed towards the custodial setting for rehabilitation. This allocation requires to be evened out to ensure that all elements of the justice system address potential inequalities and respond appropriately to the EHRC recommendations made to Scottish Government in 2020.

<p style="text-align: center;">PRIORITY</p> <p>Launch Bairns' Hoose Pathfinders in autumn 2023, a key action in our keeping The Promise Implementation Plan and Tackling Child Poverty Delivery Plan, enabling a whole-system approach for child victims and witnesses of abuse and harm.</p> <p><u>Budget allocation</u></p> <p>This is an example of an intervention service which will prevent people from entering the justice system. The rationale for funding this prevention service should be applied to funding for other services that prevent reoffending.</p>	<p style="text-align: center;">POTENTIAL IMPACT</p> <ul style="list-style-type: none"> • Mostly focused on earlier prevention work. This ties in with comments made for Question 4 in terms of whole systems approaches.
<p style="text-align: center;">PRIORITY</p> <p>Establish a Ministerial Oversight Group to ensure momentum on delivering the cross portfolio Equally Safe Strategy, including the refresh of the priorities.</p> <p><u>Budget allocation</u></p> <p>Whilst this policy is designed to send out a public message that the justice system will take tough action against GBV which is hoped will act as a deterrent, the additional costs of imprisonment need funded. Longer term resources for the management of people who have been negatively affected by or imprisoned for GBV crimes also need considered. Funding is required to enable all local authorities to have the Caledonian System to enable consistency of delivery and put an end to the existing postcode lottery.</p>	<p style="text-align: center;">POTENTIAL IMPACT</p> <ul style="list-style-type: none"> • The refresh is unlikely to ringfence funding required for completion of the roll out for The Caledonian System. Similarly, recent policy developments to improve the prosecution of Gender-based violence (GBV) crimes have driven up levels of imprisonment for GBV crimes.
<p style="text-align: center;">PRIORITY</p> <p>Consider our wider approach to tackling domestic abuse and work to develop Scotland's first national multi-agency Domestic Homicide Review model.</p> <p><u>Budget allocation</u></p> <p>Funding is not available at this time to design and deliver a consistent national approach to addressing the problem of domestic abuse. There are obvious imbalances in the budget between prevention, risk assessment, rehabilitative programmes, incarceration and review.</p>	<p style="text-align: center;">POTENTIAL IMPACT</p> <ul style="list-style-type: none"> • An increase in the number of people imprisoned for domestic abuse offences and subsequent rehabilitation requirements.
<p style="text-align: center;">PRIORITY</p> <p>Bring forward legislation to criminalise misogynistic conduct as informed by the public consultation on Baroness Helena Kennedy KC's report.</p> <p><u>Budget allocation</u></p> <p>Additional criminalisation will place additional budgetary pressures on all justice partners. It is important that steps are taken to allocate budget around preventative measures.</p>	<p style="text-align: center;">POTENTIAL IMPACT</p> <ul style="list-style-type: none"> • Impacts are unquantified at this stage, however they could include more people drawn into the justice system including an increase in diversion from prosecution, community or custodial sentences as well as accompanying decisions and impacts on services supporting bail.(or remand)
<p style="text-align: center;">PRIORITY</p>	<p style="text-align: center;">POTENTIAL IMPACT</p>

Progress delivery of the National Community Justice Strategy by working with Community Justice Partners to drive improvement and advance towards the longstanding aim of encouraging a person-centred, trauma-informed, and rehabilitative approach.

- The new national strategy has not been costed.

Budget allocation

No additional budget has been allocated to date to advance work under the National Strategy for Community Justice. As indicated above, funding pressures on JSW and the third sector mean that additional capacity within the sector beyond the fulfilling statutory obligations and core activities is severely limited. This means that significant progress delivery the National Strategy will require additional funding to support priority activities.

PRIORITY

Continue to invest in the prison estate, working towards replacing prisons in Inverness and Glasgow to ensure modern facilities that promote rehabilitation into communities and reduced reoffending.

POTENTIAL IMPACT

- The continued investment in custodial settings limits opportunities to invest into community infrastructure which has a stronger evidence base in reducing re-offending.

Budget allocation

The promotion of rehabilitation into communities and reduction of reoffending are more cost-effectively achieved in community settings. The current budget is set up to drive increasing costs due to failure demand. The prison estate alone cannot be expected to turn around the increased churn and rising prison population. For this to happen there is a requirement for investment in alternatives to custody, appropriately applied and consistently delivered across Scotland.

PRIORITY

Continue to provide trauma-informed care and management to women in custody, including through the new national facility HMP & YOI Stirling and Community Custody Units in Dundee and Glasgow, supporting the best chance for women to not reoffend and to return successfully to their communities.

POTENTIAL IMPACT

- A growing divergence in the quality of the penal system between different protected characteristics creates a number of risks. E.g. human rights challenges
- These new facilities are under-used at present (similarly to Castle Huntley) as the current state of the prison system makes it challenging for people to meet the criteria to reside in these establishments

Budget allocation

Whilst the development of Community Custody Units for women is preferable to the only option being “traditional” incarceration in the prison estate, other funding must be allocated to give the same opportunities for reintegration into the community for *all* within the prison estate. Addressing these inequalities within the system can simultaneously discharge human rights obligations and generate cost savings by reducing reoffending.

Appendix 2 – Human and Economic Cost Modelling for Justice

The justice system is currently funded in siloed, annual budgets. This method does not lend itself to the application of the principles of the Christie Commission and indeed fuels failure demand; The Christie Commission’s emphasis on “prioritising preventative measures to reduce demand and lessen inequalities”, in the longer term this must be applied further upstream from entry into the justice system. Prevention is a key driver of a Wellbeing Economy which the Scottish Government has pledged to create.⁴⁵

Work undertaken by The Promise into Human and Economic Cost Modelling provides an opportunity to better align spending of early and effective interventions supportive of preventative spend and a Wellbeing Economy.

This would require policy, systems and demographic mapping to identify opportunities for investment / disinvestment which will yield long term benefits for both the people and the economy of Scotland.

1. Human costs and impacts of the current justice system

Our justice system is overly reliant on imprisonment, and this has significant human costs and negative impacts on individuals, families, communities, and society as a whole.

Some of these consequences include:

Mass Incarceration: An overemphasis on imprisonment can lead to mass incarceration, where a disproportionately high number of people are incarcerated, often for nonviolent or low-level crimes. This can strain resources, contribute to prison overcrowding, and make it difficult to provide effective rehabilitation and support services to those in need.

Disproportionate Impact on Marginalised Communities: An overly punitive system can disproportionately affect marginalised communities, particularly men from low-income backgrounds, people with unresolved trauma and people with learning disabilities or communication support needs, women, minority ethnic groups and non-British nationals residing in Scotland. This perpetuates systemic inequalities and exacerbates social disparities.

Familial Disruption: Incarceration can have devastating effects on families. Children with incarcerated parents may experience emotional trauma, financial instability, and disruptions in their education and development.

Inter-generational Impact: The negative consequences of incarceration can extend beyond an individual's sentence and affect future generations. Families that have been affected by

⁴⁵ [Wellbeing economy monitor - gov.scot \(www.gov.scot\)](http://www.gov.scot)

imprisonment may face ongoing challenges related to employment, housing, and social integration.

Limited Rehabilitation Opportunities: Overreliance on imprisonment can divert resources away from rehabilitation and reintegration programs that help individuals address underlying issues such as substance abuse, mental health, and lack of education or job skills. This reduces the potential for successful re-entry into society and increases the likelihood of recidivism.

Economic Burden: Maintaining a large incarcerated population is expensive. Resources spent on incarceration could be redirected toward preventive measures, education, mental health services, and community-based programs that address the root causes of criminal behaviour.

Stigmatisation: Individuals who have been incarcerated often face stigma and discrimination when attempting to reintegrate into society, which can hinder their ability to secure employment, housing, and other essential needs.

Loss of Human Potential: An emphasis on incarceration can lead to missed opportunities for personal growth, education, skill development, and contributing positively to society. Many individuals within the justice system have untapped potential that could benefit both themselves and their communities if given the chance.

Undermining Trust in the Justice System: An overly punitive approach can erode public trust in the justice system, especially when it appears to disproportionately target deprived communities. This can lead to decreased cooperation with police and reduced community engagement.

Focusing on Punishment Rather Than Prevention: A justice system that primarily focuses on punishment may not effectively address the root causes of criminal behaviour, such as poverty, lack of education, unresolved trauma and substance use. Preventive measures and early interventions may be more productive in reducing crime.

In response to these concerns, Community Justice aims to shift the focus from punitive measures to more holistic, restorative, and community-centred approaches that promote rehabilitation, address underlying issues, and reduce recidivism. These reforms can help minimise the human costs and negative impacts associated with an overly reliant system of imprisonment. This needs balanced against the requirement of funding a prison system which is rights based and is resourced to make some contributions to rehabilitation of residents.

2. Financial costs of the justice system

Imprisonment, while serving as a tool for criminal justice and social control, also comes with significant economic costs that can have wide-ranging consequences for individuals, families, communities, and society as a whole. These costs are both direct, related to the operation and maintenance of prisons, as well as indirect, stemming from the impact of

incarceration on various aspects of the economy. Some of the key consequential economic costs of imprisonment include:

Direct Operational Costs: Operating and maintaining prisons requires substantial financial resources. These costs include expenses for staffing (salaries and benefits for correctional officers and administrative personnel), food, medical care, facilities maintenance, security measures, and other day-to-day operational expenses.

Construction and Infrastructure Costs: Building and maintaining prison infrastructure involve significant capital investments. The construction of new prisons or the expansion of existing facilities requires substantial funding, which could otherwise be allocated to other public services such as education, healthcare, or infrastructure projects.

Opportunity Costs: Funds allocated to the criminal justice system, including imprisonment, could be directed toward more proactive and preventive measures, such as education, job training, mental health services, and addiction treatment. Investing in these areas might help reduce crime rates and contribute to long-term economic growth.

Lost Productivity and Human Capital: Imprisonment disrupts the productive capacity of individuals who are incarcerated. This loss of labour contributes to reduced economic output and potentially lowers overall economic growth. Prison residents' skills and human capital can also deteriorate during their time in prison, making it harder for them to reintegrate into the workforce upon release.

Unemployment and Lower Earnings: Formerly incarcerated individuals often face challenges in finding employment due to stigma, skills gaps, and legal barriers. This can lead to higher rates of unemployment and lower earnings for those who have been in prison, contributing to reduced income and economic instability.

Families and Dependents: When a parent is incarcerated, their family members, especially children, may experience economic hardship due to the loss of financial support and emotional strain. The financial burden placed on family members can lead to increased reliance on social assistance programs and a cycle of poverty.

Healthcare Costs: Prison residents often have higher healthcare needs, including physical and mental health care. Addressing these healthcare needs within the prison system can strain public budgets and divert resources away from other health-related initiatives.

Crime Prevention and Rehabilitation: Investing in crime prevention, rehabilitation, and electronic monitoring programs can be more cost-effective in the long run than solely relying on imprisonment. These programs can help reduce recidivism rates and lower future criminal justice and incarceration costs.

Social Services Spending: The economic costs of imprisonment can lead to increased demands on social services, such as welfare, housing assistance, and healthcare for released prisoners who struggle to reintegrate successfully.

Specific economic impact on deprived communities: High rates of incarceration can disproportionately affect certain communities. This can have long-term economic

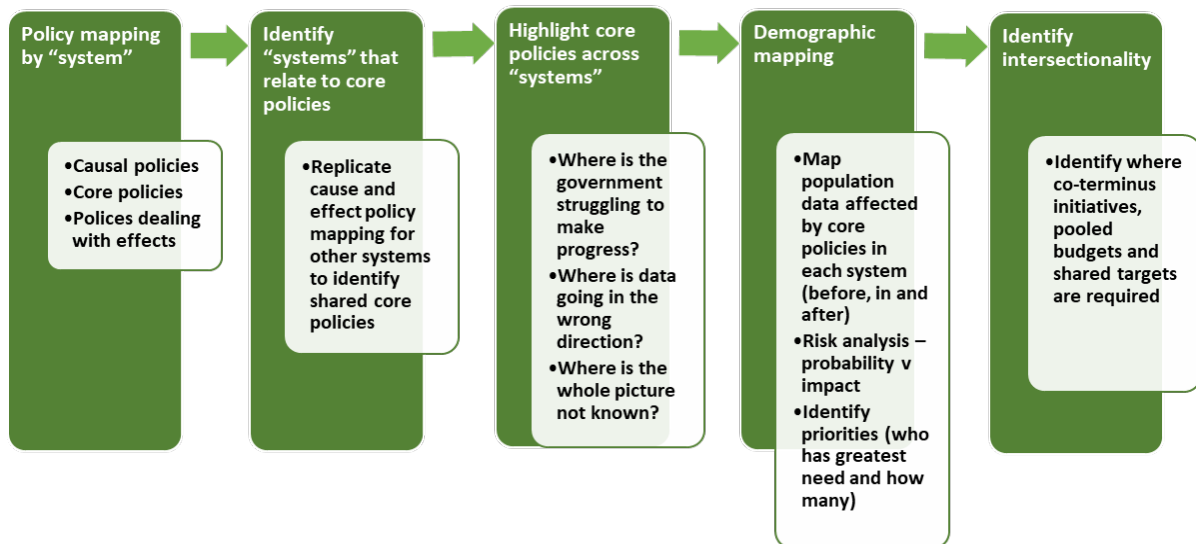
consequences for these areas. Ultimately when people are liberated from prison, they will be re-homed in areas where there is available housing. While we know that an individual is 30 times more likely to arrive from SIMD decile 10 than decile 1. Our expectation is that they are even more likely to be liberated to an SIMD decile 1 area based on where there is housing availability.

In 2011 The Christie Commission⁴⁶ stated:

“One aspect of ‘failure demand’ is reflected in Scotland’s prison population, which has risen steadily since the early 2000s. The Scottish Government’s projections suggest a further 20 per cent increase in prisoner numbers by the end of this decade. Such increases would put considerable additional pressure on budgets and potentially divert resources away from rehabilitation activities and tackling overcrowding.”

Sadly, this prediction has proved correct. We now however, have an opportunity to learn from our impotence to address the highlighted “failure demand”. The process to switch from reactive budgeting to proactive, preventative, whole systems, early intervention budgeting will require new structures and process to be applied but will ultimately reap significant financial, economic and social benefits.

For this to be effectively applied, suitable data sets which inform drivers of negative outcomes (including of course, offending behaviour) and prevention of the same must be developed and correlated. A model for this approach would be the work undertaken by The Promise and described in a July 2022 report by the Fraser of Allander Institute.⁴⁷



Steps towards an investment / disinvestment strategy using Christie principles⁴⁸

Essentially, the process will require policy mapping with hard truths identified in terms of policies that shape the operating environment, policies that relate to social determinants of societal experience and policies that relate to rights.

⁴⁶ Commission of the Future Delivery of Public Services, June 2011

⁴⁷ [The+Promise+FoA+Report+Branded+FINAL.pdf \(squarespace.com\)](#) accessed 19/09/2023

⁴⁸ Work undertaken by The Promise

There must also be a systems map – identifying the roles played by systems (economic system, care system, health system, justice system etc) in the outcomes for people in the justice system. This will help track the movement of data in terms of direction of travel towards outcomes. Shared core policies with other systems can then be mapped for cause and effect (drivers and inhibitors).

As this is a person-centred approach to planning and budgeting it will require demographic mapping of how the population is affected by the policies within the system before, during and after involvement in the aforementioned system. Analytical techniques such as risk analysis can then apply variables (such as poverty, care experienced etc) relating to impact and likelihood to the population. This can then focus on what prioritised drivers of positive change and inhibitors of negative change need to be built into the system.

Answering the 5W&H (Who? What? Where? When? Why? How?) will assist with this to identify what policy areas and budget lines can be brought to bear on prioritised issues (intersectionality). This will clarify where disinvestment and reinvestment needs to occur. Demographic mapping must be done at a local and national level to ensure this process drives budgets and policies to be person centred rather than siloed to existing portfolios. As previously mentioned, the current structure and timeframes of our national budget is set up to fund failure and to let down our citizens.

The financial modelling required for this approach will quantify how much is spent on failure and how much potential tax revenue is lost because of this failure. A properly functioning wellbeing economy will reap economic benefits for the country but this will work more effectively with a healthier overall economic environment which encourages employment and taxation, consumer spending and business growth.

By utilising this approach Scotland can finally realise the recommendations of the Christie Commission and see improved public services contributing more to the growth of the country.