

# **Criminal Justice Committee**

## **Pre-budget scrutiny 2025-26**

### **Written submission by Community Justice Scotland, October 2024**

#### **Introduction**

Community Justice Scotland is pleased to be invited to provide information to the Criminal Justice Committee to support its pre-budget scrutiny.

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. Those 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.

The evidence shows that community justice interventions – more so than short prison sentences - 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 of community justice and to monitor and support improvement in the achievement of community justice outcomes and advise Ministers on progress.

The delivery structure of community justice is local, based on multi-agency partnerships – Community Justice Partnerships – operating within each of the 32 local authorities in Scotland. CJS is the national lead organisation and its role is in part to support the local partnerships and the constituent national partner agencies to plan, monitor and report on progress being made in delivering the outcomes specified in the community justice strategy,

## Pre-Budget Scrutiny Submission

### Current Challenges

Our criminal justice system is at the most fragile and fractured for many years. The burgeoning prison population is requiring unpopular and difficult decisions to be made. To achieve the shift that we require in justice, and to manage our finite resource, the door into prison needs to be smaller and the door out larger. This means that where it is safe to do so, we keep people in the community, in their homes and connected to the services that can help in rehabilitating them, reserving prison for those who would do us serious harm.

We are at present trying to stabilise a system in overload, with varying degrees of success, yet our constant focus on prison, and rearticulation of the problem leaves no space for broader system thinking and the need for community justice to be more visible, more responsive, more trusted and with more outcome metrics/measures across the system.

In this period of fiscal tightening the bare fact that a 12-month sentence will cost the public purse around £50,000 a year and a Community Sentence around £5,000 per year. Yet the fact that a Community Sentence will deliver a greater reduction in re-offending than a short prison sentence should stop us in our tracks. It should prompt us to fundamentally shift how our criminal justice system operates: embark on a 'Community First' approach, focus on progression within the prison system and put the system on a path toward recovery. Keeping people in communities wherever possible reduces homelessness, connects people to primary health and third sector services that can aid them in rehabilitation.

It is our view that the current crisis in prisons is in no small part caused by the consistent underfunding of the community justice system over decades and that it can only be reversed by a renewed and sustained commitment to and investment in community based approaches to crime and justice.

Following the pre-budget scrutiny activity last year<sup>1</sup>, an additional injection of £14m funding was provided to support community justice services provided by local authorities and the third sector for fiscal year 2024/25. While all increases in funding are welcomed, especially in these difficult times, this was insufficient to even start the systemic shift in the justice system we need if we are to halt the seemingly inexorable slide toward permanent crisis.

COVID has become the stock response to questions about the current failures in many public services and the justice system is no exception. But we were involved in various justice sector bodies and multi-agency groups dealing with the prison crisis long before COVID emerged. COVID isn't to blame for the problems in the justice system – the way we do justice is at the root of that problem.

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<sup>1</sup> <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-criminal-justice-committee/meetings/2023/cjs62327>

Issues like recruitment and retention, capacity for delivery beyond the core, and for creative collaboration and innovation, hinge on fundamental resourcing issues. Community justice resourcing for the public and third sectors remains a tiny proportion of justice funding overall. The funding streams that exist are complex, sometimes opaque, and often set on annual cycles that inhibit partner agency's ability to plan and sustain a skilled and experienced workforce.

In March 2024, Community Justice Scotland published its latest annual report on the achievement of Community Justice Outcomes (OAAR) across Scotland.<sup>2</sup> We highlighted that despite continued efforts to support service delivery in difficult times, challenges persisted, particularly in relation to the high prison population. We and others have shared a growing body of evidence with the Committee in recent years that demonstrated the increasing financial and resource pressures experienced by key community justice partners, such as the voluntary sector and local justice social work services. These difficulties are further compounded by the challenges facing other public services outwith the justice system, many of which have essential roles in preventing offending and reoffending and are key community justice partners. The ongoing pressures on the prison system are well-documented with emergency measures having to be taken to address the population crisis across the country. This has had a concomitant impact on the entire justice system and particularly the provision of community justice services which includes housing and other support services which will doubtless be evaluated by Scottish Parliament Committees in due course.

People come out of prison with a range of issues that they need support with. We anticipate that this pressure will not be reduced without further innovative solutions and CJS is working closely with partner agencies to develop and implement these. The need to respond quickly to the prison crisis has created additional resource pressures on all public bodies including CJS.

## **Expectations**

It will not be possible to address the current crisis without major investment in community justice services in future. Reducing the number of people entering (and re-entering) prison is dependent on having well resourced, accessible and sustainable interventions and services in our community, whether for those at risk of offending, serving a community sentence, or being released following a period in prison. Sustainable investment is also essential to ensure judicial confidence in community justice as a credible approach to dealing with people who offend. Without a longer-term investment in community justice, any reductions in the prison population in future are likely to be short lived, offering at best only a little breathing space before the next crisis.

As things stand, it is undeniably the case that currently community justice remains the poor relation of the extended justice family. It currently accounts for less than 2%

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<sup>2</sup> <https://communityjustice.scot/wp-content/uploads/2024/03/Community-Justice-Outcome-Activity-Annual-Report-22-23-Final.pdf>

of the overall justice budget for 2024/25 and current indications are that worryingly this may remain at standstill at best for 2025/26.

Alongside resources, however, there is a need to meaningfully shift our justice policy away from custody towards ensuring community approaches are put first. Despite the recent extension of the presumption against short sentences, sentences of under a year, which are inherently damaging and can do little to address an individual's offending, still equate to almost three quarters of all custodial sentences handed out in Scotland.<sup>3</sup> We would therefore call for an urgent review of the use of short prison sentences and the effect of the extension of PASS with a view towards significantly reducing their use. We would also welcome consideration of other changes to legislation and policy to ensure that community approaches are the default response to crime and offending whenever possible. The independent review of sentencing policy announced by the Scottish Government in June will be a key step towards this however any recommendations must be backed by a commitment to act by the Scottish Government on any recommendations.

Alongside this we must also undertake a system-wide rethink to how we approach crime and offending in Scotland.

Resources are needed to support and embed the Scottish Government's Transformational Change Programme on 'Shifting the Balance from Custody to community'<sup>4</sup>.

It is also apparent that more systems focussed, multi-agency partnership approach is required at a national level. This would reflect the effective multi-agency working that has been a longstanding feature at a local level for many years (eg CPPs, ADPs, LEPs) and has been the approach to support the local model of community justice (Community Justice Partnerships). The Committee may wish to consider whether funding should be provided to facilitate or require more national multi-agency working arrangements in areas such as data and information sharing.

Community justice is a core part of progressive and effective justice systems. Justice systems that are at least comparable with ours in delivering positive outcomes in relation to public safety and reassurance.

## **The Future**

The areas where CJS feels whole-system improvement is required in the following areas

- **Tackle Prolific Offending**
- **Smarter Justice**
- **A Strategic Centre**

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<sup>3</sup> [Criminal Proceedings in Scotland, 2021-22 – Updated - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/criminal-proceedings-in-scotland-2021-22-updated-2023-24/pages/1-100.aspx)

<sup>4</sup> [https://www.gov.scot/publications/vision-justice-scotland-three-year-delivery-plan/](https://www.gov.scot/publications/vision-justice-scotland-three-year-delivery-plan/pages/1-100.aspx)

## Tackle prolific offending

1. **Slow the revolving door of prolific offending** by investing in high-quality drug and alcohol treatment within the justice system, providing intensive community supervision for prolific offenders, including for shoplifters with substance use issues at all parts of the justice system, reduce the numbers of women in the prison system by investing in dedicated problem solving courts;
2. **Improve our end-to-end response to domestic abuse**, by the continued roll-out of available effective Domestic Abuse programmes across Scotland, ensuring that the needs of both urban and rural areas are met expanding the use of specialised domestic abuse courts;
3. **Preparation for returning to the community for those serving long-term sentences** by developing effective mechanisms for progression to community access plus constructive and consistent through-sentence support to prepare for release, reintegration and license compliance.

## Smarter Justice

4. **Prioritise early intervention**, enhancing Police Direct Measures, significantly increase and fund Diversion where suitable, providing better alternatives to remand;
5. **Use technology to increase compliance**, use behavioural insights and nudge to increase court attendance and reduce Failure to appear warrants and subsequent remand.
6. **Strengthen community justice**, by expanding the use of Electronic Monitoring, making Community Justice swifter and more visible;
7. **Enhance use of structured deferred sentences**, using Community Information Tool to inform Sheriffs, Defence and COPFS in what is available across the country and mapping where services are absent.
8. **Revise and Enhance provision of Unpaid Work**, to provide availability for more community sentencing, broadening what work can be done within council areas, moving to same day, swift, visible UPW availability, investing in UPW workers, transport, PPE, etc.
9. **Keeping women in the community**, reduce children taken into care, commissioning the voluntary sector to deliver bespoke community support to women entering the justice system, keeping families together, supporting justice engagement, reducing chaos and connecting to services to support stability (linked to Problem Solving Courts);
10. **Develop a Bench Release assessment for the Judiciary**; based on evaluated, research who enhance remand / release assessments.
11. **Make Community Justice Partnerships a legislative requirement** with independent chairs and a supporting Lead Officer post

## Develop a Strategic Centre

12. **Provide a new national focus**, including by (i) integrating data and intelligence at a system level to identify areas for Criminal Justice Board for improvement and innovation ); and (ii) creating a new national framework for community sentences based on outcomes and improvement; and (iii) a new funding model

based on outcomes for Community Justice, (iv) creating greater information sharing protocols across justice to deliver services at the right time and place.

WHAT do we need to do	WHY do we need to do it?	HOW will we do it?
<b>Tackle Prolific Offending</b>		
Slow revolving door of prolific offending.	<p>Around 11,900 people have offending and substance use, 5,600 have multiple disadvantage (such as homelessness, offending and substance use)<sup>5</sup> means they revolve through the justice system.</p> <p>Failing to address the root cause absorbs a disproportionate amount of resources. This multiple disadvantage is often associated with persistent and lower-level offending such as shoplifting and theft, often driven by addiction, leading to repeated court hearings, and repeated short prison sentences.<sup>6</sup></p>	<ul style="list-style-type: none"> <li>• Ensure that high quality drug and alcohol treatment is available in a timely manner throughout all stages of the justice journey and provides the 'stickability' that helps individuals recover.</li> <li>• Intense Community Supervision for those who are prolific offending, wrapping round the community supports needed to address drivers. (Enhanced Combination Orders<sup>7</sup>)</li> </ul>
Improve our end-to-end response to domestic abuse	<p>Violence against women and girls is pervasive and is a key priority for action.</p> <p>Programmes to address perpetrators of Domestic Abuse needs to be available in every local area to reduce victimisation</p>	<ul style="list-style-type: none"> <li>• Expand the use of specialised Domestic Abuse courts.</li> <li>• Ensure that every local authority area in Scotland has perpetrator programmes suitable for the local environment.</li> </ul>
Preparation for returning to the community for those serving long-term sentences	As sentence lengths increase the greater the risk of institutionalisation of those serving such sentences which means better preparation for returning to the community is required that will enhance both engagement and compliance.	<ul style="list-style-type: none"> <li>• Refocus on the custodial estate from being rehabilitative to preparatory.</li> <li>• Greater focus on safe and appropriate community access at an earlier stage in the sentence supported by an effective and efficient case management process and progression system</li> </ul>
<b>Smarter Justice</b>		
Prioritise early intervention	To reduce the flow of people appearing in court and stopping people progressing further into the justice system	<ul style="list-style-type: none"> <li>• enhancing Police Direct Measures</li> <li>• increase use of COPFS Fiscal Fines and significantly increase Diversion where suitable</li> <li>• providing more effective alternatives to remand</li> <li>• review how people on bail could better supported – especially where it is not standard bail</li> <li>• greater use of Undertakings by the Police</li> </ul>
Increase compliance	Reduce the flow of people appearing in court due to non-compliance issues that can lead to remand Reduce churn and impact on PSoS and SCTS	<ul style="list-style-type: none"> <li>• Use technology more effectively, e.g. GPS EM, Alcohol Monitoring Bracelets, etc.</li> <li>• Use behavioural insights and nudge to increase court attendance</li> <li>• Reduce Failure to appear warrants</li> <li>• Pilot and roll out new support services to improve attendance at</li> </ul>

		court and support compliance on non-standard bail for those at risk of remand
Strengthen community justice	More robust community justice enhances confidence in the judiciary to use community-based sentences as a first option in every case	<ul style="list-style-type: none"> <li>expanding the use of Electronic Monitoring with support.</li> <li>making Community Justice swifter and more visible</li> <li>Review sentencing policy and legislation with a view to strengthening and ensuring a “community first” approach.</li> </ul>
Enhance use of structured deferred sentences	structured deferred sentences can be used as an alternative to more intrusive orders such as CPO as people get the help they need in a shorter timescale and lessens the chance of them progressing further into the justice system	<ul style="list-style-type: none"> <li>using Community Information Database to inform Sheriffs, Defence Agents and COPFS about what services are available in their area</li> <li>Producing materials for Sheriff on the use and function of SDS</li> <li>Explore the potential for establishing dedicated SDS courts</li> </ul>
Enhance provision of Unpaid Work	More effective and efficient UPW gives the Judiciary more confidence in using such disposals thus reducing the need for custody	<ul style="list-style-type: none"> <li>moving to same day, swift, visible UPW availability,</li> <li>investing in UPW workers, transport, PPE, etc.</li> </ul>
Revision of UPW and Other Activity (OA)	More effective UPW gives the Judiciary more confidence in using such disposals thus reducing the need for custody	<ul style="list-style-type: none"> <li>SG to give a clearer steer to local authorities on what work can be done within council areas</li> <li>redefining that comes into scope with OA and how this can be used more robustly.</li> </ul>
Reduce children taken into care as a result of parents/carers involvement in the justice system	Keeping The Promise and reducing children being taken into care, keeping families together where possible.	<ul style="list-style-type: none"> <li>commissioning the voluntary sector to deliver bespoke community support to women entering the justice system</li> <li>keeping families together</li> <li>supporting justice engagement</li> <li>reducing chaos by connecting to services to support stability</li> </ul>
Bench Release assessment for the Judiciary	If the Judiciary have concise, consistent and cogent information from JSW that is based in evidential research then this can increase the use of Bail	<ul style="list-style-type: none"> <li>Develop a pre-trial assessment tool based on the New York service (based on evaluated, evidential research)</li> <li>Integrate use of the tool into the Triage process undertaken by JSW</li> <li>Develop and implement training across the sector for use of the tool</li> </ul>
Strengthen Community Justice Partnerships	More robust and efficient CJPs are more able to be effective in coordinating local community justice activity which enhances the	<ul style="list-style-type: none"> <li>Make CJPs a legislative requirement</li> <li>independent chairs for CJPs</li> </ul>

<sup>5</sup> *Hard Edges (2019): Mapping Severe and Multiple Disadvantage*. Lankelly Chase Foundation

<sup>6</sup> Department for Levelling Up, Housing and Communities. (2020). *Understanding the Multiple Vulnerabilities, Support Needs and Experiences of People Who Sleep Rough in England*.

<sup>7</sup> [Slide 1 \(pbni.org.uk\)](#) EVALUATION OF THE ENHANCED COMBINATION ORDER OCTOBER 2015 TO DECEMBER 2021



	delivery of services to keep people out of the justice system	<ul style="list-style-type: none"> <li>• Create a supporting Lead Officer role for each CJP to support the CJP and the independent chair</li> </ul>
<b>Develop a Strategic Centre</b>		
Integrating data and intelligence at a system level	<p>With joint analysis of the system level data there is greater opportunity for system improvement and innovation.</p> <p>Allocating money to areas of greatest impact.</p>	<ul style="list-style-type: none"> <li>• Co-locating analytical expertise from each agency in a joint analytical unit.</li> <li>• Use the analysis from this group as an evidential basis for budgetary decisions</li> </ul>
Create a new national framework for community sentences based on outcomes and improvement	The variation of both community justice court disposals and how they are delivered locally impacts on the efficacy and measurement of the impact of such sentences	<ul style="list-style-type: none"> <li>• Review key community disposals such as CPO to reframe them as person-centred and trauma-informed with a primary focus on positive outcomes</li> <li>• Create a national end-to-end framework, specific to community justice, for data collection, analysis, reporting and implementing improvement on community disposals which focuses on how partners deliver, achieve positive outcomes and improve services</li> </ul>
creating more effective and lawful processes for information sharing across justice to deliver services at the right time and place	Effective and lawful information sharing underpins every aspect of the justice system – this has a direct impact on the efficacy of the systems that underpin justice across Local Authorities, SPS, SCTS, Police Scotland NHS Scotland and SG	<ul style="list-style-type: none"> <li>• The statutory agencies involved in community justice should have a common standard in respect of information sharing through an overarching framework</li> <li>• Undertake work to review how information sharing could be enhanced by agencies that are not national bodies, e.g. 32 Local Authorities</li> </ul>