



# Commission on Women Offenders

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## **EXECUTIVE SUMMARY AND RECOMMENDATIONS**

The female prison population in Scotland has doubled in the past 10 years. Many women in the criminal justice system are frequent reoffenders with complex needs that relate to their social circumstances, previous histories of abuse and mental health and addiction problems. It has been widely recognised that there is an urgent need for action to reduce the number of women reoffending and going to prison. This report attempts to address these issues and provide pragmatic recommendations.

There are women who should be in prison to protect the public and to mark the seriousness of their crimes. Even for these women, opportunities for rehabilitation should be available to reduce the likelihood they will reoffend and help reintegrate them back into the community.

For other women who have been repeatedly convicted of committing lower level offences, their offending is often the result of significant underlying issues, such as drug or alcohol addiction and mental health problems, that could be better addressed in the community. Her Majesty's Inspectorate of Prisons (HMIP) reported in 2007 that 80 per cent of women in Cornton Vale had mental health problems. In another study, 60 per cent of women prisoners said they had been under the influence of drugs at the time of offence.

The remit of our Commission was *'to consider the evidence on how to improve outcomes for women in the criminal justice system; to make recommendations for practical measures in this Parliament to reduce their reoffending and reverse the recent increase in the female prisoner population'*.

At all times, in carrying out our remit, we have done so with the rights of victims uppermost in our minds. We have tried to make practical recommendations that will improve outcomes for local communities affected by the offences these women commit, as well as women offenders themselves. The direct impact on victims cannot be understated and women offenders themselves are often victims of severe and repeated physical and sexual abuse. The children of women prisoners are also adversely affected. Approximately 30 per cent of children with imprisoned parents will develop physical and mental health problems, and there is a higher risk of these children also ending up in prison.

Short-term prison sentences have little or no impact on reoffending, with 70 per cent of women offenders who received a prison sentence of three months or less reconvicted of an offence within two years. Prison is also more expensive than community disposals. The average cost of a community payback order is around £2,400, which is

approximately half the cost of a three-month prison sentence.

Overall, the estimated economic and social cost of reoffending over a 10-year period is, on average, over £75,000 per female offender.

We held discussions with over 130 individuals and groups, visited 10 prisons and community projects, held focus groups with victims and ex-offenders and attended eight conferences and seminars. We also conducted a review of all the available literature.

While we have much to say that is of relevance to those women who are in prison for the public's safety and as rightful punishment for their crime, many of our recommendations are of particular relevance to those women who repeatedly commit lower-level offences.

We heard evidence that convinced us that although women and men have many shared experiences that contribute to offending, they have distinct features and characteristics. Women are more likely than men to:

- be of lower risk to public safety
- be in prison for dishonesty offences
- be remanded in custody
- have higher rates of mental health problems
- have drug problems

- have histories of physical and sexual abuse, and victimisation
- have dependant children

We concluded from this that services and programmes need to be tailored to the multiple and complex needs of women offenders to achieve reductions in reoffending and better outcomes for local communities.

We visited some excellent women-specific projects, such as the 218 Service in Glasgow and the Willow Project in Edinburgh which demonstrated positive outcomes.

We were also impressed with the Community Integration Unit at Aberdeen HMP which provides support for women to be part of a local community at the end of their sentence.

However, historically, the criminal justice system has developed around the characteristics of male offenders due to their larger numbers and higher risk profiles. We found that services which target the offending and rehabilitative features and characteristics of women offenders are not consistently provided throughout Scotland.

The evidence we heard also led us to conclude that the police, prosecution service and judiciary, could each play more significant roles than they do at present in improving outcomes for communities and offenders. Only 30 per cent of women held on remand go on to receive a

custodial sentence. Existing disposals to divert women from prosecution and remand could be utilised more fully and should also be more women specific.

We visited Her Majesty's Prison (HMP) Cornton Vale on several occasions. We also went to HMP Greenock and HMP Edinburgh, which provide additional accommodation for women prisoners.

Cornton Vale is not fit for purpose. Overcrowding has caused significant problems for the management and staff, and has inhibited opportunities to rehabilitate women and reduce their reoffending on release. The mental health needs of women are not being addressed adequately. There are high levels of self-harm and there is a lack of constructive and meaningful activity. Staff working in Cornton Vale also find it very challenging due to the nature and complexity of women's needs.

Services provided in the prison often cease at the gate. And we heard that the key issues for women, especially on release from prison, are housing and benefits, yet these are not being fully addressed.

Despite the best efforts of everyone working in the criminal justice field, and improvements in joint-working arrangements, we were struck by the disparate

nature of the arrangements which are in place for dealing with women in the criminal justice system as a whole.

We heard about the lack of strategic leadership and accountability in the delivery of offender services in the community; a cluttered landscape; short-term funding; inconsistent service provision and difficulties in measuring impact, all of which are inhibiting greatly the potential to reduce reoffending. This led us to conclude that a radical reform of existing systems and working practices was required.

We have made recommendations which offer practical proposals to reduce reoffending among women.

Although our remit was restricted to issues affecting adult women in the criminal justice system, many of our proposals may also benefit male offenders. Accordingly, we recognise that some of our recommendations might, for economic and practical reasons, be more appropriately applied across the whole offending population. In order for this to be effected, the Scottish Government may wish to give further consideration to the specific factors which predict reoffending among the male population and how these can best be addressed.

Finally, the evidence is now overwhelming that intervening in the early years of life will have significantly more impact on rates of reoffending than intervening later in life. Parenting programmes and intensive family support have been shown to reduce conduct disorders in children, and reduce the likelihood that such children will experience future problems with offending behaviour. Prevention and early years

intervention were not part of the Commission's remit, but we strongly support prioritisation of evidence-based support for parents and young children. Early intervention must start with the mother. It will be more difficult to effect the behavioural change which is necessary to improve outcomes and to reduce reoffending once a woman is entrenched in the criminal justice system.

## RECOMMENDATIONS

### Part 3: Service redesign

**Community Justice Centres** (one stop shops based on the 218 Service, Willow Project and Women's Centres in England) are established for women offenders to enable them to access a consistent range of services to reduce reoffending and bring about behavioural change.

**Multi-disciplinary teams** (comprising, as a minimum, a criminal justice social worker, a health professional and an addictions worker, where relevant) are established in the Community Justice Centres to co-ordinate offending interventions and needs, reduce duplication of effort and make more efficient use of resources.

Women at risk of reoffending or custody should have a named **key worker** from the multi-disciplinary team as a single point of contact as they move through the criminal justice system, including any periods in custody, to co-ordinate the planning and delivery of interventions.

**Intensive mentoring** (a one-to-one relationship where practical support and monitoring is provided by mentors on a wide range of issues relating to offending behaviour) should be available to women offenders at risk of reoffending or custody to support compliance with court orders.

**Supported accommodation** should be more widely available for women offenders to increase the likelihood of a woman successfully completing an order or complying with bail conditions.

A **national service level agreement** for the provision of **psychiatric reports** is developed between the National Health Service (NHS) and the Scottish Court Service to increase access and timeliness of such reports to assist the court with a sentencing decision.

**Mental health services** and approaches should be developed in such a way that facilitates women with borderline personality disorder to access them.

Mental health **programmes and interventions for short-term prisoners** are designed so that they can continue to be delivered in a seamless way in the community.

The **Scottish Government's mental health strategy** must place a greater focus on women offenders, specifically the provision of services to address trauma, self-harm and borderline personality disorder.

An **urgent review** of the **provision and resourcing of services** for women with **borderline personality disorder** and post-traumatic stress disorder (in relation to previous abuse and neglect) should be carried out.

**Mental health training** for police, prison officers, criminal justice social workers and third sector must be widely available, with ongoing supervision.



## Part 4: Alternatives to prosecution

**Fiscal Work Orders** (unpaid work orders of between 10 and 50 hours – ‘fine on time’) are rolled out across Scotland for offenders as an alternative to prosecution.

**Procurators Fiscal** are given **new powers to impose a composite diversion order**, which could include both unpaid work and rehabilitative elements.

**New powers** are given to the **police** to divert women offenders from prosecution by issuing a conditional caution directing women offenders to attend Community Justice Centres so that appropriate services can be delivered.

To ensure the availability of appropriate diversion schemes across Scotland and more consistent use of this measure, the services and programmes provided or coordinated by **Community Justice Centres will be available to women at the point of diversion from prosecution.**

To help Procurators Fiscal quickly identify suitable cases for diversion, the **police should highlight in their report** whether a person is suitable for diversion, taking into consideration the victim and community.

## Part 5: Alternatives to remand

Bail supervision is available consistently across Scotland. For women offenders (**‘bail supervision plus’**) it will include mentoring, supported accommodation and access to Community Justice Centres to enable better compliance with bail orders and provide decision makers with the confidence to release on supervised bail rather than place women on remand.

The Scottish Government examines further the potential of using **electronic monitoring as a condition of bail**, taking into account the findings of the pilot conducted in 2008.

Immediate steps are taken by the Scottish Government to encourage and ensure that **communication and awareness of alternatives to remand in custody** among all of those dealing with offenders is improved.

## Part 6: Sentencing

In order to provide a broader evidence base than is currently available on the effectiveness of the problem solving approach, a **pilot of a problem solving summary criminal court** should be established for repeat offenders with multiple and complex needs who commit lower level crimes. This pilot should run for male and female offenders.

A truncated Criminal Justice Social Work Report, a **Rapid Report**, is available in summary criminal courts on the day of conviction, where possible or within two working days to enable the appropriate sentence to be imposed and implemented as quickly as possible.

That in every case where the sentencing court assigns **subsequent Progress Review Hearings**, the judge who passed sentence should, wherever possible, deal with the subsequent hearings.

The **introduction of two new sentences**; a composite sentence of imprisonment which would comprise a custodial element and a community based element and a suspended sentence.

The Judicial Studies Committee is supported in being able to provide **comprehensive training** at appropriate intervals including induction training and engagement with local prisons and community based criminal justice services.

## Part 7: Prisons

**Cornton Vale is replaced with a smaller specialist prison** for those women offenders serving a statutory defined long-term sentence and those who present a significant risk to the public.

**The new national prison for women offenders** should include:

- Meaningful and consistent work with sufficient premises to allow that work to take place and enable all women prisoners to build skills for release and improve self-esteem and mental health.
- A medical centre with adequate space for group work and individual appointments to address physical and mental health problems.
- A separate unit for young women.
- A purpose built mother and baby unit.
- A family-friendly visitor centre with an outside play area for children.

Most **women prisoners on remand or serving short-term sentences are held in local prisons** to improve liaison with local communities and reintegration once their sentence is complete.

**Video conferencing facilities** are widely used to help manage the logistical demands made on Cornton Vale, reduce travel and improve communication between women and their families, and social workers, and make significant cost savings.

We recommend that an **independent non-executive member** of the Scottish Prison Service Board is appointed with a specific remit for women offenders, championing and driving through change.

**Gender specific training** is provided to all professionals working with women prisoners.

## Part 8: Community reintegration

**Inter-agency protocols on prison discharge and homelessness** are introduced across all areas of Scotland with the twin aims of sustaining tenancies when women are in custody and of securing access to safe accommodation for every woman prisoner upon release from custody.

In order to prevent financial instability that may lead to the recommencement of offending behaviour, **the UK Government**, which has responsibility for Social Security matters, puts arrangements in place, as a matter of urgency, to ensure that every woman prisoner can access her **benefit entitlement, immediately upon release from prison.**

**Community reintegration support is available for all women offenders**, during and after their custodial sentence is completed, irrespective of the local authority they are from. Offenders are **met at the gate** on release from prison by their key worker or appointed mentor.

## Part 9: Making it work (leadership, structures and delivery)

**A new national service, called the Community Justice Service, is established** to commission, provide and manage adult offender services in the community.

**A National Community Justice and Prison Delivery Board**, with an independently appointed Chair, is set up to promote integration between the Community Justice Service and the Scottish Prison Service, and deliver a shared vision for reducing reoffending across the community and within custodial settings.

**A senior director in each of the key agencies** is identified to take **responsibility for women offenders**, championing and driving through change.

**The Cabinet Secretary for Justice reports to the Scottish Parliament** within six months of the publication of this report, and annually thereafter, on the steps taken to implement the recommendations in this report.



# **Part 1: Background and process**

## **PART 1: BACKGROUND AND PROCESS**

### **Remit and membership**

1. On 14 June 2011, Her Majesty's Inspectorate of Prisons (HMIP) published a follow-up inspection report on Cornton Vale Prison and Young Offenders Institute (YOI)<sup>1</sup>. This report was set against the backdrop of a doubling of the female prison population in Scotland over the last 10 years, and highlighted, among other things, a serious problem with overcrowding in Her Majesty's Prison (HMP) Cornton Vale and called for a national strategy to deal with the problem.

2. Following this, the Cabinet Secretary for Justice announced the establishment of an independent Commission on Women Offenders to find a more effective way of dealing with women in the criminal justice system.

3. The remit of the Commission was:

*'to consider the evidence on how to improve outcomes for women in the criminal justice system; to make recommendations for practical measures in this Parliament to reduce their reoffending and reverse the recent increase in the female prisoner population'.*

4. The membership of the Commission was:

The Right Honourable Dame Elish Angiolini DBE QC – former Lord Advocate (2006-11) and Visiting Professor, Law School, Strathclyde University.

Sheriff Daniel Scullion – Sheriff of South Strathclyde Dumfries and Galloway.

Dr Linda de Caestecker – Director of Public Health for National Health Service (NHS) Greater Glasgow and Clyde and Honorary Professor at the University of Glasgow.

Each member of the Commission sat in a personal capacity and was not representing the views of any organisation or body.

### **Evidence gathering process**

5. In carrying out our remit we conducted a review of the available relevant literature. We also took oral and written evidence from a wide range of people and organisations, and received a number of written submissions. Small focus groups with victims and women ex-offenders were held.

6. We visited HMP Cornton Vale, HMP Edinburgh and HMP Greenock, which have women's wings, and HMP Aberdeen's Community Integration Unit for women. We visited community-based women's projects, including 218 in Glasgow, Willow in Edinburgh and Dundee's criminal justice women-specific team, as well as the Glasgow drug court and met practitioners from the

Persistent Offenders Project in Glasgow. We had video conferences with officials and practitioners from England and Northern Ireland, and had telephone discussions with practitioners from the Netherlands and Denmark.

7. We also considered a number of previous published reports<sup>2</sup> which have touched upon issues of relevance to our remit and we have been able to draw on their content during our deliberations.

8. We would like to thank all the individuals and organisations who contributed to our work by sharing their thoughts, experiences and knowledge. A list of those individuals and organisations with whom we met is set out at Annex A, those who submitted written evidence at Annex B, and visits and seminars undertaken by the Commission at Annex C.

### **Our recommendations**

9. While we recognise that practitioners in the criminal justice field are operating in an environment of significant financial constraints and increasing demands upon them, we consider that many of our recommendations could be achieved through reconfiguration of existing funding, rather than significant new investment. To enable some of our recommendations to succeed, we consider it imperative that mainstream service providers,

such as health, education and housing work, recognise their responsibilities and work collaboratively with each other and with criminal justice partners to facilitate the provision of all necessary services to women offenders.

10. The majority of our recommendations are targeted at providing robust, measurable interventions that tackle the particular offending and rehabilitative features and characteristics of women.

11. Although our remit was restricted to issues affecting women in the criminal justice system, many of our proposals are likely to be of benefit to male offenders. Specific separate consideration needs to be given to how to reduce offending among the male population. However, we heard some of the issues experienced by women offenders might also be shared by male offenders. There may also be economic and practical reasons for our recommendations to be applied across the whole offending population.

12. While much of what we say is relevant to all women offenders, many of our recommendations are particularly relevant to those women who have been convicted repeatedly of lower-level offences. We have tried to make practical recommendations that will improve outcomes not only for women offenders, but also for potential victims of crime and



communities affected by the offences these women commit. We consider that the police, prosecution service and courts could each play more significant roles in improving outcomes for offenders and for the community.

13. We recognise that some excellent work is being done with female offenders by a number of organisations. We also recognise that there have been improvements in joint working arrangements between service providers in various parts of the country.

14. Although there are positive features, we were struck by the rather disparate nature of the arrangements which are in place for dealing with women in the criminal justice system as a whole. Despite the best efforts of all those involved in delivering criminal justice services in the community, the present structural and funding arrangements, and working practices are unsatisfactory. They do not permit appropriate development throughout the country of the type of sustained and effective women-specific work which we consider is necessary, if the desired improvement in outcomes for women in the criminal justice system is to be achieved. A radical reform of existing systems and working practices is required.

15. Finally, the evidence is now overwhelming that intervening in the early years of life will have significantly more impact on rates of reoffending than intervening later in life. Parenting programmes and intensive family support have been shown to reduce conduct disorders in children, and to reduce the likelihood such children will experience future problems with offending behaviour<sup>3</sup>. Prevention and early years intervention were not part of the Commission's remit, but we strongly support the prioritisation of evidence-based support for parents and young children. Early intervention must start with the mother. It is more difficult to effect the behavioural change which is necessary to improve outcomes and to reduce reoffending once a woman is entrenched in the criminal justice system.

# **Part 2: Women offenders in Scotland today**

## **PART 2: WOMEN OFFENDERS IN SCOTLAND TODAY**

### **Types of offences committed and sentences imposed**

16. In 2010/11, 18,500 women were convicted of a criminal offence. The bulk of the cases involved lower-level offences with just under 2 per cent of cases involving serious violence<sup>4</sup>. More than half had offended previously<sup>5</sup>.

17. Upon conviction, the same proportions of men and women offenders receive fines and community sentences, with women more likely than men to receive admonitions. Male and female offenders fail to comply with the conditions of community orders at similar rates, although women are more likely to breach a Drug Treatment and Testing Order (DTTO) than men<sup>6</sup>.

### **Female prison population**

18. Although the evidence we considered suggests that women are less likely than men to receive a prison sentence, the female prison population has shown a sharper rate of growth than the male population over the past 10 years. In 2010/11 it constituted 5 per cent of the prison population compared to 3.5 per cent in 2000. A similar pattern is seen in other European countries, such as Finland and Germany, where rates of female imprisonment, as a percentage of the total prison population, have risen and are continuing to rise<sup>7</sup>.

19. In Scotland, while there has been a decrease in the number of women under the age of 21 given a custodial sentence<sup>8</sup>, there has been an increase in the number of women in custody who are over the age of 30. We heard some evidence which suggested that the increase in this latter age group may be the result of an increase in the number of older drug users, who have accumulated significant previous convictions.

20. The proportion of prisoners on remand is higher for women than men (25 per cent compared to 18 per cent<sup>9</sup>). Around 30 per cent of women on remand (either pre-trial or post-custody) go on to receive a custodial sentence<sup>10</sup>. Remand prisoners experience the same increased risk of suicide and mental distress, disintegration of social supports and family ties, and disruption to employment as prisoners serving short sentences<sup>11</sup>.

21. There are differences in the type of crime committed by members of the male and female prison population. While the proportions of the male and female populations in prison for violent offences are similar (about 35 per cent as at 30 June 2010), proportionally more women are in prison for 'other' crimes such as drugs-related crimes and crimes against public justice (29 per cent compared to 21 per cent) and dishonesty (19 per cent compared to 12 per cent)<sup>12</sup>.

22. 75 per cent of custodial sentences imposed on women are for periods of six months or less<sup>13</sup>.

23. A review conducted by the Scottish Centre for Crime and Justice Research concluded that the increase in the number of women in custody could not be explained by increased criminal activity among women, by women committing more serious crimes, or by increased prosecution of women<sup>14</sup>. Instead, the review concluded that it is more likely to be attributable to:

- changes to the criminal justice system since the early 2000s, including increased sentencing powers and reforms to bail;
- an increased focus by the criminal justice system in general, as a consequence of government policy and/or legislation, on the types of crimes women are more likely to commit, notably drugs-related offences, and to a lesser extent, common assault and breach of the peace;
- general longer-term increases in the use of custody compared to other disposals, and some degree of upward drift in sentence length.

24. The Commission found no evidence to suggest that the courts displayed a bias against women. Indeed, the weight of the evidence we heard from criminal justice practitioners, from offenders and from members of the judiciary, persuaded us that sentencers, in the main, strive to

keep women out of prison. In addition, the available data shows that for almost all crimes, a higher percentage of males than females received custodial sentences<sup>15</sup>.

25. It is noteworthy that the Scottish Centre for Crime and Justice Research acknowledges that further analysis is required to gather the information which will help to explain the reasoning behind sentencers' decisions. For example, in much of the research to date it is not clear:

- what mitigating or aggravating factors were present;
- what the nature and extent of the offender's previous convictions were and what effect these features had upon the sentence selected by the court;
- if the offenders had been subject to previous community-based orders in the past;
- if the offenders had initially received a community-based disposal which they had subsequently breached.

26. All of these factors can influence a sentencer's decision.

### **Characteristics of women offenders**

27. Many women offenders have significantly greater underlying health issues than women in the general population<sup>16</sup>.

28. Female prisoners have significantly higher rates of poor mental health compared to both the general female population and male prisoners<sup>17</sup>. In 2007, Her Majesty's Inspectorate of Prisons (HMIP) reported<sup>18</sup> that 80 per cent of the women in Her Majesty's Prison (HMP) Cornton Vale had mental health problems. Research in England and Wales found that women prisoners are about 10 times more likely to self-harm than male prisoners<sup>19</sup>.

29. Female prisoners have higher lifetime incidences of trauma, including severe and repeated physical and sexual victimisation, than either male prisoners or women in the general population<sup>20</sup>. We heard evidence of an emerging link between a woman's experience of victimisation and subsequent offending. The United States of America is now considering earlier victim support as a service that should be available to accused persons and offenders. It is too early to see the impact of this, but the Commission notes it with interest.

30. In 2011 71 per cent of the prisoners at HMP Cornton Vale reported they had used drugs in the 12 months prior to coming into prison, compared to 61 per cent of male offenders<sup>21</sup>. Sixty per cent of women said they had been under the influence of drugs at the time of the offence, compared to 42 per cent of men. Thirty-five per cent of women indicated that they had committed their offence to obtain money for

drugs, a higher proportion than males (16 per cent)<sup>22</sup>. There are also more human immunodeficiency virus (HIV) positive women in prison than in the general population<sup>23</sup>.

31. Forty-two per cent of women said they had been drunk at the time of the offence<sup>24</sup>. There is evidence that over the last few years the proportion of women whose offending is associated with alcohol misuse has increased<sup>25</sup>.

32. A number of health and economic benefits can be derived from being in employment. However, thirty-nine per cent of women prisoners had not worked outside the home in the year prior to imprisonment and 23 per cent had not worked for over five years<sup>26</sup>. This may, in part, be due to the fact that 71 per cent of women prisoners have no qualifications, compared to 15 per cent of the population<sup>27</sup> and an English study showed that over 44 per cent of women in the criminal justice system have communication difficulties<sup>28</sup>.

33. As at 30 June 2010<sup>29</sup> the highest proportion of women in prison were from Glasgow City Community Justice Authority, followed by South West Scotland Community Justice Authority<sup>30</sup> and then Northern Community Justice Authority<sup>31</sup>.

### **Costs of women offending**

34. Short prison sentences are not effective at reducing

reoffending in women. The statistics show that 70 per cent of women offenders who received a prison sentence of three months or less are reconvicted of an offence within two years, compared with 55 per cent of those placed on a probation order and 27 per cent given a community service order<sup>32</sup>.

35. Prison is more expensive than community disposals. The average cost of a community payback order is around £2,400 (including an allowance for the cost of requirements attached to the order) which is approximately half of the cost of a three-month prison sentence<sup>33</sup>.

36. There are also costs to victims and local communities of reoffending. Furthermore, the negative consequences of offending on family relationships are amplified when a woman is sentenced to custody. In Scotland, more children experience a parent's imprisonment than a parent's divorce<sup>34</sup>. More women offenders have dependant children than men and only a small proportion (17 per cent) of children with mothers in prison live with their fathers while their mother is incarcerated. Approximately 30 per cent of children with imprisoned parents will develop physical and mental health problems, and there is a higher risk of these children themselves also ending up in prison<sup>35</sup>.

37. Overall, the estimated economic and social cost of reoffending over a 10-year period is, on average, over £75,000 per female offender<sup>36</sup>.

### **The case for a distinct approach for women offenders**

38. While the Commission recognises that the main factors which contribute to female and male reoffending overlap, we consider that women offenders have distinct features and characteristics. Imprisonment can have a different impact on women compared to men. For example, a woman's imprisonment is more likely to lead to the breakup of her family and the loss of her home<sup>37</sup>.

39. There is a strong evidence base which supports the view that a distinct approach should be taken with women offenders, which is compliant with domestic and international law and obligations. We also considered the United Nations (UN) Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)<sup>38</sup> which are the first specific UN standards for the treatment of women offenders.

40. There are three broad areas which support the case for a separate approach. These are set out below.



## **The profile of women offenders**

41. Compared to men, women are more likely to:

- be of lower risk to public safety
- be in prison for dishonesty offences
- be placed on remand
- have higher rates of mental health problems
- have drug problems
- have histories of physical and sexual abuse, and victimisation
- have dependant children

## **Predictors of reoffending for women**

42. Research suggests that certain factors are stronger predictors of reoffending for women than for men. These are:

- Dysfunctional family relationships, in particular family or marital conflict and poor parent child attachment, especially for young people<sup>39</sup>.
- Poverty, deprivation and debt<sup>40</sup>.
- Immediate needs, such as accommodation, childcare and welfare benefits, need to be addressed before women are ready to address longer-term needs, such as education or employment. Women are more likely than men to lose their housing while in custody and then be homeless on release<sup>41</sup>.

- The role played by criminal peers and partners. Many women may be controlled by drug using and abusive partners<sup>42</sup>.
- Drug abuse is more strongly related to reoffending than alcohol abuse<sup>43</sup>.

43. It is noteworthy that while factors such as mental health problems and/or a history of physical and sexual abuse are more prevalent in women offenders than in male offenders, they have not been found to place the women at greater risk of reoffending. However, they may be indirectly related to the development of behaviours such as drug taking, which could then lead to reoffending<sup>44</sup>.

## **What works to reduce reoffending among women**

44. To improve outcomes for women offenders, it is crucial to understand what works to reduce their reoffending. Although there are very few rigorous outcome evaluations of interventions in Scotland, due to methodological constraints and small numbers of subjects, international evidence suggests that the following factors are of critical importance:

- Effective interventions around thinking skills should be in place to challenge antisocial attitudes in women<sup>45</sup>.
- Empathetic practitioners who develop good relationships with women offenders and provide practical and emotional support<sup>46</sup>.

- A focus on motivation and providing women offenders with the confidence and skills to change<sup>47</sup>.
- Holistic interventions rather than stand-alone interventions<sup>48</sup>.
- Basic services need to be addressed before they will be ready to deal with longer-term needs such as education or employment<sup>49</sup>.
- Mentoring as part of a package of interventions<sup>50</sup>.
- Residential drug treatment<sup>51</sup>, if delivered alongside other programmes aimed at improving healthcare, child care and mental health issues.
- Interventions for women prisoners to forge and sustain positive and emotional bonds with their families; improving parenting skills can reduce substance misuse<sup>52</sup>.
- Alternatives to court disposals, especially for young people where they address offending behaviour and needs concurrently<sup>53</sup>.

45. For these reasons the criminal justice system must provide a different response in dealing with women offenders than when dealing with male offenders.





# Part 3: Service redesign

## **PART 3: SERVICE REDESIGN**

### **Introduction**

46. Services and programmes have to be tailored to the multiple and complex needs of women offenders. They should also reflect the realities of their difficult life circumstances and support the development of trusted relationships. Services that women are able to, and want to, engage with are more likely to achieve positive outcomes and reduce reoffending.

### **Current service provision**

47. Historically, the criminal justice system has developed around the needs of male offenders due to their larger numbers and higher risk profiles. Women, however, are frequently in and out of the criminal justice system due to the high rates of reoffending.

48. The Commission visited some excellent women-specific services, such as the 218 Service in Glasgow and the Willow Project in Edinburgh. We heard how these services had been specifically designed to meet the complex needs of women offenders. Women who use the services at 218 identified significant decreases in drug and/or alcohol use (83 per cent), improvements in their health and wellbeing (67 per cent), access to stable accommodation and referrals to longer-term support services<sup>54</sup>. Other research<sup>55</sup>

suggests that the programmes and services offered by 218 may contribute to reductions in offending in the longer term.

49. We also visited Dundee Criminal Justice Social Work Service which has established a dedicated team to work with female offenders. The team comprises social workers, support workers and a dedicated National Health Service (NHS) nurse. Although the team was only established just over a year ago, this multi-disciplinary approach focused on women appeared to be effective, with good engagement from the women.

50. There is evidence<sup>56</sup> that mentoring services, similar to those run by Dundee Criminal Justice Services and Women in Focus in South West Scotland, can benefit women in the criminal justice system. Mentoring is a trusted one-to-one relationship where practical and emotional support is provided by the mentor on a wide range of issues relating to offending behaviour. Mentors can provide a vital role in helping women avoid breaching court orders and address some of the practical issues facing women offenders. Although both men and women fail to comply with orders at the same rate, with the exception of Drug Treatment and Testing Orders<sup>57</sup>, they breach for different reasons<sup>58</sup>. Men tend to breach orders by committing further offences. In contrast, women do not keep appointments because of their chaotic lifestyles and cite reasons such as

timing, distance and cost, or difficulties in arranging appropriate childcare.

51. Mentors can help women prepare for and attend appointments, and provide the emotional and practical assistance to access services and improve life circumstances. Importantly, mentoring can also impact on reoffending. An evaluation of the Women in Focus mentoring project found that for 77 per cent of women, where re-arrest data were available, there was a reduction in offences or no further offences recorded<sup>59</sup>.

52. The Commission also heard about gender specific projects in Northern Ireland (Inspire Project) and in England and Wales (the Women's Centres which were set up following the Corston report<sup>60</sup>). Women's Centres provide a 'one stop shop' for women offenders to divert them from custody and address both their offending and wider needs. These centres are still in their infancy, but early evaluations are positive. An evaluation found that the Evolve integrated women offenders project at Calderdale Women's Centre enhanced women's decision-making skills and strengthened relationships with their children and families. The programme also reduced the likelihood of women reoffending by providing holistic support and challenging offending behaviour. Between July 2007 to July 2008, only four women, out of 87 who accessed the project, reoffended.<sup>61</sup>

53. Although there are some excellent examples of services which target the offending needs of women, women-specific services are not consistently provided throughout Scotland. Audit Scotland<sup>62</sup> and the Social Work Inspection Agency<sup>63</sup> found that criminal justice services are not standardised. This means women have access to different services depending on where they live.

### **Service redesign**

54. To give women offenders the best chance of achieving positive long-term behavioural change, we believe that there must be a range of core services available across Scotland. The planning, delivery and reviews of these services should be informed by a local needs assessment, including the views of offenders who will use the services. Services should be proportionate, appropriate and timely.

55. We concluded that effective services need to embody the following principles:

- Services must be proactive and persistent in engaging with women, bringing services to women rather than expecting them to access conventional pathways to support.
- Services must adopt an outreach approach and be flexible in working with women at a range of times and locations.
- Multi-agency and multi-professional services should

be co-located as far as possible.

- Services and interventions should facilitate the development of life skills.
- Services need a strong focus on the development of trusted, non-judgmental and respectful relationships.
- Services should take account of women's previous histories of abuse and neglect, and encourage confidence, discipline, responsibility and self-esteem through trust and respect.
- Services should encourage healthy family functioning especially between mothers and children.
- Services should build and maintain community links.
- Services should involve those using the services in the planning, development and reviewing of those services.
- Services should have in place robust performance management and evaluation arrangements to be able to demonstrate impact and value for money.
- Service managers should support and value their staff, treating them with dignity and respect, and invest time in developing their skills, knowledge and experience about what works to reduce desistance among women offenders.

56. If outcomes for the community and women offenders are to improve criminal justice services require major redesign.

## Community Justice Centres

57. We are convinced that a wider adoption across Scotland of the 'one stop shop' approach of 218, Willow, Inspire Projects and the Women's Centres would address the lack of women-specific services and inconsistent service provision, as well as build judicial and public confidence in effective alternatives to custody.

58. **We recommend** that 'Community Justice Centres' for women offenders should be available to every woman offender in Scotland to enable them to access a consistent range of services to reduce reoffending and bring behavioural change.

59. Community Justice Centres would deliver intensive interventions that:

- supervise and manage women offenders;
- challenge offending behaviours and attitudes;
- address the root causes of reoffending; and
- provide practical advice and support on housing, employment, benefits and childcare.

60. Community Justice Centres would be available for women at every stage of the criminal justice system. For example, a woman may be required to attend a Community Justice Centre as a condition of being diverted from prosecution, or as a condition of bail or a community order, or on release from prison.

61. Community Justice Centres would facilitate the delivery of integrated packages of intervention and support for women, but they would not need to be new custom made centres. A range of offender and offender-related services, such as addiction, mental health, relationship management, housing, debt, education, employment etc could work together in close location.

62. The teams working with a woman through a Community Justice Centre would be able to support her to access other local services, including health services such as General Practitioner (GP) or dental services. Community Justice Centres could operate similarly to the Willow Project, or the Women's Centres in England, where different agencies provide different services in the centres on different days of the week. Community Justice Centres also have a role to play in providing outreach services to women if they are not attending.

### **Multi-disciplinary teams**

63. Women offenders often require input from a range of professionals with different areas of expertise. They require effective case management to ensure services and supports are coordinated and timely. **We recommend** that multi-disciplinary teams should be established in Community Justice Centres to coordinate offending interventions such as Community Payback Orders, as well as

address wider needs. Multi-disciplinary teams should also reduce duplication of effort and make more efficient use of resources.

64. As a minimum, a multi-disciplinary team would include a criminal justice social worker, a health professional and an addictions worker where relevant. This could be a mix of statutory and third sector staff. Multi-disciplinary teams would not necessarily deliver the interventions themselves, but they would be able to facilitate quick access to the necessary information or services.

65. The advice and support of the multi-disciplinary team would also be available where necessary to all courts across the country. More detail is provided in Part 6.

### **Key worker**

66. **We recommend** that those women at risk of reoffending or custody should have a named key worker. The allocation of the key worker should be organised in a similar way to the Getting It Right For Every Child (GIRFEC) model, but with criminal justice social work taking the lead in organising and deciding which professional and agency is most relevant.

67. The key worker would remain with the women offender, as her single point of contact, as she moves through the criminal justice system, including any periods in custody. Key workers would be part of the multi-

disciplinary teams which are located in Community Justice Centres and would coordinate the planning and delivery of the interventions to address offending and related needs. Community Justice Centres would also be the focus for training among those involved in the criminal justice system.

### **Intensive mentoring**

68. **We recommend** that intensive mentoring should be available to every woman offender at risk of reoffending or custody to support compliance with court orders and provide practical support to enable her to live a crime-free life.

69. Mentors would have an important role in challenging attitudes and behaviours that might be contributing to reoffending. They would also act as a positive role model. They would support compliance with bail and community sentences and help women to prepare for and attend appointments. We heard about the intensive and long-term way that mentors work with women in some projects where they exhaust every opportunity to engage with a woman, for example, texting appointment details, repeat home visits.

70. Mentors would also provide practical and emotional assistance with issues such as accommodation, health and employment. Mentors could be particularly helpful for young

women offenders, including those leaving secure accommodation.

71. Evidence<sup>64</sup> shows that volunteer mentors not connected to the criminal justice system are viewed more positively by offenders. The Commission believes there is a role for mentors to be volunteers from the local community, including faith groups and/or ex-offenders, as well as paid professionals from the voluntary and statutory sectors. Where addiction and/or mental health are an issue, it may also be useful for offenders to link up with existing recovery networks and peer support.

72. Mentors must be carefully screened, trained, supervised and appropriately matched to offenders.

73. Mentoring services should be coordinated for women via Community Justice Centres even if provided by community agencies and there must be close links with a woman's key worker.

### **Supported accommodation**

74. One of the key issues highlighted to the Commission by practitioners and women offenders was the lack of suitable accommodation, especially on release from prison. Significant concerns were raised about the appropriateness of hostels and many women talked about the difficulty of managing in the chaotic environment of hostels and the high levels of drug abuse and violence.



75. SACRO provide a supported accommodation service, predominantly for male offenders, in Glasgow, Aberdeen, Falkirk, Dumfries and Orkney which provides monitoring, supervision (in cases of high risk offenders) and support to reduce the risk of reoffending by offenders in the community. The Commission heard about three dedicated resettlement hostels in Dundee. Practitioners viewed them as more appropriate for offenders leaving prison than 'direct' hostels as they provide structured intensive interventions and other residents tend to lead less chaotic lifestyles.

76. Despite the fact that a lack of stable, secure housing increases the likelihood of reoffending<sup>65</sup> the provision of supported accommodation for offenders in Scotland is limited.

77. **We recommend** that supported accommodation should be more widely available for women offenders, particularly where it is viewed as appropriate by a court, to increase the likelihood of a woman successfully completing an order or complying with bail conditions.

78. Supported accommodation may be particularly suitable in cases where partners or peers are offenders themselves, or where a woman is released from prison without any suitable accommodation in place.

79. Supported accommodation could be provided via designated housing or, where appropriate, supporting women in their own tenancy. It is likely that the range of accommodation provided will vary according to local circumstances.

80. The woman's key worker would have a pivotal role while she is in supported accommodation and he/she would liaise with the managers in the supported accommodation to ensure that the woman has every opportunity to comply with the conditions of a court order. It is likely that women in supported accommodation would attend their local Community Justice Centre.

81. More recommendations relating to housing are set out in Part 8.

## **Mental health**

82. Taking an integrated, multi-disciplinary approach to the delivery of women offender services should help address the mental health and addiction needs of women offenders. However, given the high rates of these types of problems among this group, compared to the general population, and male offenders<sup>66</sup>, we believe it merits separate recommendations.

83. Mental ill health can cover a wide spectrum of conditions ranging from anxiety, depression and stress to serious and enduring problems, such as



bi-polar disorder and psychosis.

84. A large-scale study of prisoners mental health needs by the Department of Health in England and Wales found over 66% of women in prison and 21% of female remand prisoners had depression, anxiety and phobias. This compares with 20% of women in the community. It is estimated that around a fifth of women in custody fulfil criteria for borderline personality disorder making it a significant issue for the prison service<sup>67</sup>.

85. Very many if not most women in the criminal justice system have poor mental health even though they may not require psychiatric management. Interventions, support, environment, relationships and culture can all influence mental health and well-being. Mental well-being should be addressed in all our plans and management of female offenders. The NHS has a key role in working with the justice system to promote this.

86. In local communities, the availability and response to women offenders from mental health services appears mixed. We heard that where a woman has severe mental health problems, she is more likely to be able to access services than if she is experiencing problems relating to borderline personality disorder, anxiety or depression.

87. Between 1 February 2011 and end December 2011, 47 Community Payback Orders with

a mental health requirement were imposed<sup>68</sup>. We heard evidence that practitioners were experiencing difficulties with obtaining, in the timescale required, the necessary psychiatric report and multi-disciplinary assessment that was often required in order to assist the court with a sentencing decision. Therefore, mental health needs of offenders were sometimes being addressed, more informally, under the supervision requirement of a Community Payback Order.

88. We note the Scottish Government intends to carry out a process evaluation of Community Payback Orders to identify any barriers to its use. **We recommend** that a national service level agreement for the provision of psychiatric reports is developed between the NHS and the Scottish Court Service to increase access and timeliness of such reports.

89. **We also recommend** that mental health services and approaches should be developed in such a way that facilitates women with borderline personality disorder to be able to access them.

90. We were pleased to note that a forum for practitioners from different professional backgrounds to share good practice and learning on personality disorders is now available through the Scottish Personality Disorder Network.

91. We heard evidence that offenders who are experiencing both substance misuse and mental health problems often find it difficult to access either of the services, with no one agency willing to take responsibility. Dundee Criminal Justice Service Team told us how they successfully developed a protocol with Tayside NHS to agree an approach which meant offenders did not fall between the gaps.

92. As stated above a small number of female offenders have severe and enduring mental illness who on the whole are managed effectively in the criminal justice system when identified. Many more women have depression, stress and anxiety who could be managed in a primary care setting. Many women offenders require support to register with and access GP and primary mental health services. This could be provided through Community Justice Centres and mentoring services.

93. There is well established evidence<sup>69</sup> that exercise can play an important role in physical and mental wellbeing of individuals, including those with mental health problems. However, it was unclear to us whether practitioners take cognisance of this when planning services for women offenders and developing their individual offending and rehabilitation plans.

94. The transfer of prison health services provides a valuable opportunity to improve

integration and coordination of mental health programmes for female offenders to allow treatment to be commenced in custody and continued immediately on release to the community. **We recommend** that programmes and interventions for short-term prisoners are designed so that they can continue to be delivered in a seamless way in the community. This will require good communication between the prisons, community mental health services and Community Justice Centres.

95. Scottish Government is currently developing a Mental Health Strategy for Scotland for 2011-15. The draft strategy acknowledges the need to ensure that mental health services are accessible to high risk groups, and are integrated into other settings, such as prison. However, **we recommend** that the strategy must place a greater focus on women offenders, specifically the provision of services to address trauma, self harm and borderline personality disorder.

96. **We also recommend** an urgent review of the provision and resourcing of services for women with borderline personality disorder and post traumatic stress disorder (in relation to previous abuse and neglect). This review would include provision of:

- Specialist psychiatric and psychological advice and support.

- Effective programmes of interventions.
- Counselling and mentoring
- Training of Criminal Justice staff.

97. We heard evidence that many mental health problems, especially those at the lower end of spectrum, often go unidentified. We note that Scottish Prison Service is delivering a 'mentalisation' course to staff at Cornton Vale. However, knowledge and skills about mental health issues was generally poor across the criminal justice sector. **We recommend** that mental health training for police, prison officers, criminal justice social workers and the third sector must be widely available. There should also be ongoing support and supervision, as well as opportunities to refresh as policy, practice and evidence in the area of mental health develops.

### **Achieving change**

98. Although the recommendations in this chapter could be implemented within the existing systems, we are strongly of the view that the current organisation, working practices and funding of services would make it difficult to achieve. The Commission therefore recommends structural change to promote improved integrated working in a consistent way across Scotland with strong leadership and performance management. Improved outcomes for communities

and women offenders could be achieved if criminal justice services, including women-specific services, were delivered under the auspices of a national service with strong and visible leadership.

99. This national service would be responsible for ensuring that the services described in this part:

- were delivered consistently to be accessible and available to women offenders in all parts of Scotland;
- would be coordinated effectively through local Community Justice Centres; and
- would be high quality and women-centred.

100. The Service would take a strategic approach to the planning and delivery of these services based on needs assessment, evidence of effectiveness and efficient use of resources. The Service would enable improved liaison with the Scottish Prison Service to ensure that services:

- link to women while in custody;
- have a strong focus on keeping women out of custody; and
- coordinate a women's care in all parts of criminal justice.

101. More detail about this is set out in Part 9.

102. It is important that revised structures and working practices support a whole system approach to the management of offenders across criminal justice social work, the Scottish Prison Service and community supports.

103. Equally important in achieving change will be the application of proven continuous improvement methodologies. This includes leadership, performance management and the monitoring of Key Performance Indicators. Use of knowledge management techniques to promote evidence-based practice, robust data collection for evaluation of effectiveness and facilitation of the system's capability to reflect on performance and improvement is also critical. Embedding the principles of respect and dignity and the rights of women and of staff must be a priority for the new service.



# **Part 4: Alternatives to prosecution**

## **PART 4: ALTERNATIVES TO PROSECUTION**

### **Introduction**

104. A constant theme which has emerged from the evidence on reducing reoffending is that early and meaningful intervention with women when they start offending is vital. There are opportunities for this intervention at the point of first contact with the criminal justice system. Appropriate and proportionate action at this early point to encourage desistance from reoffending can have benefits for the community and the individual. However, we heard that existing measures are not fully utilised. There could also be additional measures which will give the public, and those taking decisions about that offender, confidence that not to prosecute is the right approach.

105. While the use of alternatives to prosecution should increase, and be used in a consistent manner, the effect should not be to 'net widen'. Measures should not be used unless they are appropriate and proportionate. Direct measures should not replace an informal warning or no action at all in circumstances which do not merit such a response.

106. In this part of the report we set out recommendations which build on existing provision but will also increase the effectiveness and use of

alternatives to the formal court process.

### **Early intervention**

107. Evidence shows that early intervention and diverting people out of the criminal justice system can be effective in preventing further offending<sup>70</sup>. It can address the issues which have led to offending, particularly for young women and those who have not committed many offences<sup>71</sup>. Notably, for these types of offender, it avoids the need to go through the court process and the stigma and implications of a criminal conviction. Individuals can also start on programmes immediately. Importantly, this frees up court time and it costs less<sup>72</sup>.

### **Current use of alternatives to prosecution**

108. The police and Procurator Fiscal currently have measures available to intervene at an early stage and divert an offender from the formal court process.

109. Diversion from prosecution to a social work or other intervention is a particular measure which can be used by the Procurator Fiscal. It offers an offender the opportunity to attend a diversion 'scheme' to address their offending behaviour as an alternative to prosecution for the offence. The diversion schemes are run by criminal justice social work. Often, a third party is commissioned to deliver the service and other agencies,

such as health, can be involved in providing necessary interventions.

110. We have heard evidence that the use of diversion to social work is welcomed by those in the criminal justice system. There is also evidence from participants in schemes that it was helpful in resolving problems and reducing the risk of reoffending, whereas prosecution may have exacerbated their problems.

111. The Procurator Fiscal also has the power to use Fiscal Work Orders as an alternative to prosecution in minor offences<sup>73</sup>. It can benefit the local community affected by the crime as it involves a level of payback where the person agrees to complete work for 10 – 50 hours over a period of six months. Pilots of Fiscal Work Orders in certain areas<sup>74</sup> have been in existence since June 2008 and have been found to have high completion and low breach rates<sup>75</sup>. To increase the use of diversion generally, and as part of the range of measures which should be available as alternatives to prosecution, **we recommend** that Fiscal Work Orders are made available throughout Scotland for male and female offenders.

112. The delivery of Fiscal Work Orders would be coordinated by Community Justice Centres. Female only work teams (or individual placements where numbers are not sufficient) should be considered and are particularly valuable where a woman has previously

experienced abuse or trauma. In appropriate cases, mixed teams can also have a role to play as they reflect everyday life.

113. Irrespective of the make up of the team, placements should focus on allowing women to develop and gain skills which are transferable into their home or potential work environment. Evidence<sup>76</sup> suggests that interaction with the beneficiaries of the unpaid work, for example, the local community, should be encouraged as it is highly valued by offenders and helps develop their skills.

114. Where women are carers they should be assisted in accessing support which will enable them to complete their work order.

115. Prosecutors can also use direct measures which include fixed penalties ('fiscal fines'), warning letters and fiscal compensation orders. The police can also issue direct measures including fixed penalties and formal adult warnings. While these measures are useful and proportionate in dealing with certain offences and offenders, they do not address the underlying behavioural problems which can lead individuals to commit crime.

### **Consistent use of diversion**

116. The evidence suggests that diversion from prosecution to social work is not being fully utilised. The number of people



diverted to social work schemes varies from area to area, and year to year, implying a lack of consistency in practice. There is also inconsistent provision of schemes<sup>77</sup>.

117. **We recommend** that the services provided or coordinated by Community Justice Centres are available to women at the point of diversion from prosecution. This should help overcome the issue of lack of appropriate diversion schemes in certain areas for women offenders, and lead to more consistent use of this measure, which can benefit local communities and women offenders.

118. We have also noted that the use of diversion can be affected by a lack of information both for professionals and local communities; i.e. its effectiveness and availability in local areas<sup>78</sup>. A key role for Community Justice Centres will be to facilitate engagement and communication between agencies and professionals involved in dealing with women offenders. In turn, they have a role to play in raising awareness with the public. This will be further strengthened if, as we recommend in Part 3, justice professionals including Procurators Fiscal are located within the multi-disciplinary teams situated in Community Justice Centres.

119. We also recommend the establishment of a Community Justice Service in Part 9 that will

commission, provide and manage adult offender services in the community. An advantage of the new Community Justice Service will be its ability to direct and measure the effectiveness of non-custodial sentences and to collate and disseminate information about such interventions. This would include diversion and would allow strong links to be built with other local and national organisations including the Crown Office and Procurator Fiscal Service. Therefore, while we consider that steps can currently be taken to improve the communication and awareness at the pre-court stage, our view is that a continued and consistent improvement would be best achieved through establishment of this Service.

120. In addition to requiring information about what schemes are available locally, Procurators Fiscal also need to be able to quickly identify suitable cases. The police play an important role in this regard. In most cases they have the first contact with an offender, and will hold important information about the impact of the offence on the victim and local community, as well as the circumstances of the offender.

121. To enable Procurators Fiscal to make an informed decision about whether diversion would be appropriate, **we recommend** that when a case is reported to the Procurator Fiscal and the reporting officer considers that the person is

suitable for diversion, this is highlighted in their report. In doing so, consideration should be given to the victim and local community, and which kind of diversion may be most appropriate.

### **Composite diversion orders**

122. As we mentioned earlier there is recognition that the imposition of direct measures on their own, for example, fines or compensation orders, while punitive, do not always address offending behaviour and consequently do not have an effect on the behaviour of repeat offenders<sup>79</sup>

123. We heard evidence from women offenders about the benefits of community sentences imposed by the court, which can include both unpaid work and intensive interventions to stop offending. Women spoke about how this twin approach enabled them to:

- give something back to their local area;
- address any addiction issues;
- build confidence; and
- gain skills for a life of non-offending.

124. We are of the view that the combination of paying back to the local community, at the same time as tackling the underlying causes of offending, could be beneficial, particularly for women at pre-court stage. Therefore, **we recommend** the introduction of a composite diversion order. This

will enable Procurators Fiscal to be more proactive and allow greater flexibility in the type of diversion they could apply in cases where offending is related to underlying issues and it is not in the public interest to prosecute. It would also give prosecutors the confidence to impose this kind of measure to repeat low-level offenders in the knowledge that there is an immediate benefit to society.

125. The support, and any work element, would be organised and provided through Community Justice Centres which will ensure that appropriate interventions and work placements are available. However, depending on the circumstances of the case a work order could be substituted with a fine or compensation order. The imposition of such an order should always be proportionate to need.

126. While we recognise that decisions about whether, and when, to prosecute lie with the Procurator Fiscal who is currently able to effect diversion to social work schemes without specific statutory authority, **we also recommend** that specific statutory measures are introduced to underpin the composite diversion order. This will make it clear that this option is available, and clearly set out the rights and duties of all parties and the appropriate enforcement mechanism for non-compliance.

## Police diversion

127. In addition to providing additional information at the time of submitting a report to the Procurator Fiscal on the suitability of women offenders for diversion, we consider that the police could also play an enhanced role in dealing with some women offenders.

128. There are projects in England and Wales where the police issue women, who would otherwise enter the criminal justice system, with Women Specific Cautions<sup>80</sup>. We met with practitioners from the Persistent Offenders Project in Glasgow which adopts a proactive intelligence-led approach to encouraging persistent offenders to engage with intensive drug and alcohol services.

129. The immediate intervention which can take place as a result of these kinds of approaches could have a significant effect in halting offending behaviour, avoiding the recycling of a woman in the criminal justice system. An evaluation of the Persistent Offenders Project found a 32 per cent fall in recorded crime<sup>81</sup>. In addition, every £1 spent on this project delivered benefits up to £14 in the form of reduced economic and social costs of crime<sup>82</sup>.

130. Currently, the only option the police in Scotland have to directly divert offenders from formal prosecution is by the imposition of fixed penalties

and formal adult warnings. In most other cases, and particularly those cases where an individual may have some history of offending, the police will have to report to the Procurator Fiscal for a formal decision to be taken<sup>83</sup>.

131. From the evidence we have heard, and read, we consider that there is scope for the police to take an enhanced role in dealing with offenders at the point of arrest. We are not suggesting that this will be appropriate in every case and the safety of the public and welfare of any victims should be paramount. Any powers should also only be exercised under the general supervision of the Procurator Fiscal and conforming to guidance issued by the Procurator Fiscal. Similar to Conditional Cautions in England and Wales, any measure should also have the remaining sanction that the individual could be prosecuted if they fail to comply.

132. **We recommend** the introduction of a new measure which can be used by the police; a caution with conditions. This will be issued directly to an offender, without the delay of having to submit a full formal report to the Procurator Fiscal, and will offer the individual the opportunity to engage with services to address their offending behaviour. We recognise that this may lead to a training requirement for police and they should be supported to access appropriate training.

133. In common with many of our recommendations this should be available for all offenders, but when dealing with women offenders the police should be able to direct women to Community Justice Centres so that appropriate services can be accessed.

134. As with composite diversion orders, **we recommend** that specific statutory provisions are introduced to underpin the use of this measure.



# **Part 5: Alternatives to remand**

## **PART 5: ALTERNATIVES TO REMAND**

### **Introduction**

135. The number of women who are remanded in custody, either awaiting trial or sentence, is still increasing<sup>84</sup>. It has almost doubled in the last 10 years<sup>85</sup> and has increased disproportionately for women. This high level of remand prisoners contributes significantly to overcrowding, which means staff are overwhelmed with managing crisis situations<sup>86</sup>. It is a barrier to effective rehabilitation for those serving prison sentences, which makes it more likely that offending behaviour will continue on release, and it is also costly.

136. Women offenders who are accused of committing serious crimes or who thwart the administration of justice should expect to have their liberty curtailed pending disposal of their case. But, analysis of prison data shows that 70 per cent of women who are remanded in custody do not ultimately receive a custodial sentence<sup>87</sup>. So, there is clearly scope to develop meaningful and robust alternatives to remand.

### **Women remanded in custody**

137. There is no simple explanation as to why there has been such a significant increase in the number of women remanded in custody<sup>88</sup>. However, it is likely to be driven in part by the general increase in the number of women convicted of crimes resulting in

community and custodial sentences, coupled with issues of non-compliance with court procedures and community sentences<sup>89</sup>. We heard from practitioners that some women fail to comply with conditions of bail, such as keeping appointments and appearing at court, as well as committing further offences because of their chaotic lifestyles which are fuelled by drug addiction.

138. We are also acutely aware, as with many of the issues raised in the course of the Commission, that we are not the first to consider this matter. It was raised by the Sentencing Commission in 2005<sup>90</sup> which saw considerable potential for enhanced provision of bail supervision and electronic monitoring. The Prisons Commission Report in 2008<sup>91</sup> also recommended that the Scottish Government extend the types and availability of bail-related information and supervision services across Scotland, including electronically monitored bail conditions, operated through enhanced court-based social work units. In spite of the concerns and recommendations made by these reports, the number of women remanded in custody is still increasing and remains of significant concern.

139. It is vital that the public and those responsible for making key decisions about bail are confident that bail orders will be complied with. But there should be a more effective way of

dealing with women who are not alleged or found to have committed serious crimes, and will not ultimately be sentenced to custody. We also recognise that where a woman has issues which are leading to this failure to comply, in most cases, these issues are not being dealt with while on remand, or standard bail.

140. In the following paragraphs we set out recommendations which build on existing alternatives to remand in custody that we consider will enhance bail options.

### **Electronic monitoring**

141. We are of the view that all options which provide an effective alternative to remand in custody should be examined. Evidence shows that on its own, electronic monitoring of bail conditions does not help address the underlying issues that can lead many individuals to offend in the first place<sup>92</sup>. However, it may have a particular value in providing greater confidence and security to the courts and the public that a person will comply with bail conditions.

142. We are aware of the recent evaluation of the pilots of electronic monitoring<sup>93</sup> and consider that they may have been set up in such a way which inhibited throughput and value for money, leading to a higher than expected cost per order. We noted that the use of early release from prison on electronically monitored

Home Detention Curfew has not incurred the similar significant costs of the pilot of electronic monitoring while on bail<sup>94</sup>. Therefore, **we recommend** that the Scottish Government examine further the potential of using electronic monitoring as a condition of bail, taking into account the findings of the aforementioned evaluation.

### **Bail supervision**

143. Bail supervision schemes are available as an enhanced bail provision. They are aimed at those people who would otherwise be remanded in custody. A person is screened for suitability, either by court based bail workers, or by referral from others working in the criminal justice system, including solicitors acting for the individual.

144. As currently modelled, it provides an alternative to custody by providing monitoring and supervision in the community. There is not a standard supervision scheme, but most schemes involve regular contact with the bail supervising officer and further support can be offered, such as advice on debt, addiction and housing. Regular appointments are made for an offender to keep in touch with a supervising officer and importantly, any breach of these can result in the person being brought back to court with an immediate sanction of the bail order being revoked and a remand to custody.



145. There is evidence that bail supervision has a positive effect on offenders. Most participants, interviewed as part of the research on supervised bail schemes, welcomed the intervention and considered that it had a positive impact on their behaviour<sup>95</sup>. It can also lead to less disruption for those around the offender, in particular children, where the alternative is that the offender is in custody pre-trial or pre-sentence<sup>96</sup>.

146. Sentencers told us they value this type of service, particularly where they are confident that it may lead to a change in offending behaviour. In turn this can also make it more likely, where there is successful compliance with a bail supervision order, that community sentences will be used<sup>97</sup>.

147. There are also cost benefits. The net benefits of supervised bail as an alternative to remand, over a three-year period have been calculated at between £2 million and £13 million. It has also been shown that the costs of supervised bail would have to rise by between 75 per cent and 560 per cent for it to no longer be cost effective<sup>98</sup>.

### **Availability of bail supervision schemes**

148. Funding has been made available by the Scottish Government for bail supervision schemes. In some cases these have targeted certain groups, including women and young

people. In spite of this and the support given to these schemes, the number of cases where bail supervision is used has dropped by 17.5 per cent<sup>99</sup>.

149. Given the need to have effective alternatives to custody and the recognised benefits of the bail supervision scheme, we have been surprised that the use of bail supervision is declining. The reasons for this are not clear, but we have noted that the provision of bail supervision is inconsistent. It is not available in all local authority areas and is often only targeted at certain limited groups in those areas where it is available.

150. This kind of pre-trial or pre-sentence option has the potential to impact on the number of people, including women, remanded in custody. It is not an easy option, and always has the sanction of the person being remanded in custody if they fail to cooperate. Bail supervision presents a viable and effective alternative to custody for a significant number of offenders, including women. **We recommend** that bail supervision schemes are made available consistently throughout Scotland.

### **Bail supervision for women offenders**

151. For some women offenders, more intensive interventions, over and above what is available as part of supervised bail, are required to enable them to comply with

their bail orders and provide decision makers with the confidence that release on supervised bail is more appropriate than remand in custody.

152. In this regard, **we recommend** that where a woman is placed on bail supervision, they attend their local Community Justice Centre to receive supervision and access to appropriate services to address offending behaviour.

153. Services which can be made available to women might include mental health, addiction, relationship management and budgeting. Many of these women will have chaotic lives and the opportunity to engage with services which can be made available to them through Community Justice Centres will be vital in tackling the underlying causes of offending. Community Justice Centres will also help overcome issues relating to consistency of availability and access to bail supervision schemes.

154. This type of intensive intervention ('Bail supervision plus') can also include the provision of supported accommodation and mentoring, where it is appropriate.

155. Housing and suitable accommodation is a priority for vulnerable women. If a woman is admitted to bail and returns to an environment which has a negative effect on her life, it is more likely

that she will not be able to address her offending behaviour and may breach the bail order. In some cases, it is not appropriate for the woman to return to the community where the offending is alleged, or found, to have been committed.

156. **We recommend** that supported accommodation is available, where necessary, for women on bail as part of bail supervision. This could be provided in a variety of ways, including in her own home. The availability of this level of support should give Procurators Fiscal and judges more confidence in this approach.

157. **We also recommend** that mentoring, as described in Part 3, is made available as part of bail supervision. Again, we recognise that it may not be necessary in every case, but there is evidence that mentors can provide the practical support needed to help a woman prioritise, prepare for and attend appointments with services and court.

### **Information and communication**

158. We have also heard in evidence that there continues to be a lack of awareness and information about what is available in terms of bail services and bail supervision schemes among those working in the criminal justice system. All of those involved in dealing with offenders at court, particularly those responsible for making

decisions about cases and those advising offenders, should be fully aware of bail supervision schemes, including those which are directed at women.

159. If it comes to the attention of the court, or the Procurator Fiscal, prior to the appearance of a woman from custody, that it appears likely that the woman will be remanded in custody, the case should be referred to the multi-disciplinary court team to assess the person's suitability for bail supervision. It will still be a matter for the court to decide whether or not bail should be granted, but it can only assist the judge in this decision if he or she has as much information as possible regarding the different options of dealing with the individual.

160. Effective communication is also vital. Information needs to be given timeously to those who will carry out the assessment. All of those dealing with an offender's case, in particular the Procurator Fiscal, should be alert to the likelihood of a person being remanded in custody and contact the multi-disciplinary team as soon as possible. This may also require reconsideration of how the work of the Procurator Fiscal and the court is organised, particularly if an individual is not to be unnecessarily or disproportionately kept in custody<sup>100</sup>.

161. In common with issues which we have identified as leading to the lack of consistent use of diversion, lack of awareness and effective communication and processes are also a barrier to the appropriate and effective use of bail supervision as an alternative to remand in custody.

**We recommend** that immediate steps are taken by the Scottish Government to encourage and ensure that communication and awareness of alternatives to remand in custody among all of those dealing with offenders is improved.

162. We are also of the view that the establishment of Community Justice Centres and the closer and more effective working practices this will bring will raise awareness and improve communication. As with other issues relating to the lack of information and communication, we consider that the best way to address these issues will be through the establishment of a national Community Justice Service.

# Part 6: Sentencing

## **PART 6: SENTENCING**

### **Introduction**

163. Much of what we say in this part is of relevance mainly to the summary criminal courts and to cases which are prosecuted at that level. In considering the role of the court in the sentencing process, we conducted a review of relevant literature and spoke to a number of professionals engaged in the criminal justice system, as well as to a number of offenders and former offenders. We also visited some courts and engaged in discussions with the judiciary at every level.

164. If there is to be a reduction in the number of women sentenced to imprisonment, the alternatives to custody available to the courts must be robust, effective in reducing reoffending and appropriate both for the offender and the community. In our view it is vital that outcomes of community-based sentences are measured so that information is available as to their effectiveness in reducing reoffending.

165. Most of the women offenders in Scotland appear in the summary criminal courts and are convicted of lower-level offences<sup>101</sup>. In many of these cases, the sentencer selects a community-based disposal, such as a Community Payback Order<sup>102</sup> to which conditions are attached. In some cases substantial punitive or restorative conditions

are necessarily attached. Frequently, the sentencer also tries to structure the sentence with a view to promoting desistance from reoffending and the rehabilitation of the offender.

### **Consistency of sentencer**

166. While there is no easy way to reduce reoffending there is some evidence to suggest that a dialogue between sentencers and offenders is a significant element in motivating individuals to comply with orders<sup>103</sup>. This can be seen in the higher completion rates for Drug Testing and Treatment Orders<sup>104</sup>, (DTTOs) in Glasgow and Fife, where there are designated drug courts, than those achieved in DTTOs imposed by the other courts across Scotland<sup>105</sup>. It was also considered to be a major factor in the success of drug courts in the United States of America, which showed a durable decrease in drug use and reoffending among participants<sup>106</sup>.

167. The sheriffs we met who preside in designated drugs courts spoke of the ethos which underpins the sentencing process in that forum. They were of the view that informed, focused engagement between the court and the offender at regular review hearings throughout the currency of the court order, allied to continuity of involvement of the same sentencer and the availability of sanctions, are all vital components of the sentencing strategy, if a positive outcome is to be achieved.

168. In the designated drugs courts the sheriff is supported by a multi-disciplinary team which provides advice to the court for the duration of the drugs court order. Before each review hearing, the sheriff considers the report which has been prepared for each case and has the opportunity to consult with the multi-disciplinary team. We noted that the input from these teams is greatly valued by the sheriffs in these courts.

169. This approach to sentencing is sometimes referred to as a 'problem solving approach'. It is not a new concept and is widely described in the literature. We noted that in jurisdictions where this approach is adopted, support for the sentencer from different professionals is considered to be essential. The approach requires a degree of engagement between the sentencer, the offender and other professionals that is not required in other types of work that the sentencer might deal with.

170. There is evidence that this approach can lead to higher compliance rates with community orders than an approach where the sentencer is not as involved with the management of the sentence<sup>107</sup>. It was the subject of some discussion in the report of The Scottish Prisons Commission<sup>108</sup> which visited problem-solving courts in other jurisdictions. In addition to its use in designated drugs courts in Scotland, we are aware that some sheriffs in other courts adopt a

similar type of approach when sentencing in certain cases.

171. Where a Community Payback Order is imposed and the court considers that continuing judicial management of the sentence is required, it can assign progress review hearings to monitor the offender's compliance with the order and the progress which is being made.

172. We heard from sheriffs who regard the progress review hearing as a necessary and effective tool in appropriate cases. We noted also that in some courts, the court programme is structured in such a way as to ensure that the sheriff who imposes sentence deals, wherever possible, with subsequent reviews of the sentence imposed.

173. There is some evidence that contact between an offender and the same judge has the potential of leading to improved compliance with community-based orders<sup>109</sup>. We concluded that where the court assigns progress review hearings, continuity of sentencer is desirable and in our view the courts should be supported in being able to make arrangements to that effect wherever possible. Although we learned that the development and maintenance of positive relationships is particularly important for women offenders, we were persuaded on the evidence as a whole that continuity of sentencer is



desirable, irrespective of the gender of the offender.

174. Accordingly, **we recommend** that in every case where the sentencing court assigns subsequent progress review hearings, the judge who passed sentence should, wherever possible, deal with the subsequent hearings.

### **Judicial training**

175. The Lord President, as head of the Scottish judiciary, is responsible for making and maintaining appropriate arrangements for the training and guidance of judicial office holders<sup>110</sup>. The training is delivered under the supervision of the Judicial Studies Committee and the Director of Judicial studies.

176. At present, specific training designed to raise awareness in sentencing and bail decision making is provided to the judiciary. While the training presently offered was reported to be of high quality, we understood from the evidence we heard that there is scope for expanding the breadth and depth of the training which is provided in matters relevant to sentencing.

177. While selection of the appropriate sentence is a matter for the court, it is plain that Judges have different skill sets and different professional and personal experience. We consider that all judges who deal with summary crime should receive

comprehensive training which is updated at appropriate intervals. It should be designed to equip the judge with the skills necessary to identify and adopt the approach to sentence required by the circumstances of the case including, if appropriate, a problem-solving approach. In our view, the training should raise awareness of the available literature on desistance from reoffending and of the outcomes of particular disposals for offenders, and for the community. We regard it as particularly important that newly appointed judicial office holders undertake comprehensive induction training on sentencing.

178. A number of practitioners from whom we heard expressed dismay at the apparent reluctance of some sheriffs to engage in meaningful discussions about the services provided. In contrast, we also heard that some sheriffs who had visited particular community-based services and other venues had found such visits to be informative and of value. Every sheriff or justice of the peace, by statute, has the right to visit any prison within his or her jurisdiction or in which a prisoner is confined for any offence committed within that jurisdiction and to examine the condition of the prison and of the prisoners therein<sup>111</sup>. We are of the view that making visits to prisons and to community-based services which might form part of a court disposal could play a valuable role in developing and enhancing the sentencer's awareness and skills base, and

we consider that there is scope for this issue to be addressed through judicial training.

179. For the reasons discussed **we recommend** that the Judicial Studies Committee is supported in being able to provide comprehensive training at appropriate intervals on matters of relevance to sentencing decisions and **we recommend** that members of the Scottish judiciary are supported in being able to engage in such training.

### **Criminal Justice Social Work Reports**

180. In most cases, the court must obtain a Criminal Justice Social Work Report before it can impose a Community Payback Order<sup>112</sup>. This usually means that the case is continued for at least three to four weeks to enable the report to be prepared. We heard that many cases have to be continued further due to the offender's failure to comply with the arrangements which are necessary to have the reports prepared. In some cases, the failure to comply is due to the chaotic lifestyle of the offender and the court can be left with no alternative but to remand the offender in custody to ensure the report is obtained. We have already mentioned that the majority of female remand prisoners do not ultimately receive a custodial disposal.

181. In 2010/11, 44,000 Social Enquiry Reports, (the predecessor to the Criminal Justice Social

Work Report) were requested by the courts. We understand that criminal justice social work funding is dependent, to a significant extent, upon the number of reports produced. We heard from practitioners that these reports are time consuming to produce. We also heard from sheriffs that although they value the information provided in these reports, in some cases where it is likely that a community-based order is appropriate, information provided in a briefer format would suffice.

182. We recognise the effort and professionalism which is involved in the preparation of Criminal Justice Social Work Reports. In many cases, including those where the court requires a report to consider the imposition of a custodial sentence, it is both necessary and appropriate that a full Criminal Justice Social Work Report is prepared. We also recognise that these reports take time to prepare. However, on the evidence we heard we concluded that the imposition and implementation of some community-based sentences could, and should, be accelerated.

183. In cases involving women offenders where the court is not considering a custodial disposal, but is considering the imposition of a Community Payback Order or a deferred sentence with conditions attached, **we recommend** that arrangements are put in place to ensure, where the court requires it, that a truncated Criminal Justice



Social Work Report, a **Rapid Report**, is available in summary criminal courts. This report should be available on the day of conviction, where possible, or within two working days thereafter to enable the appropriate sentence to be imposed and implemented as quickly as possible. It would be for the court to decide in each case whether the Rapid Report might be a verbal report or an abbreviated written report.

184. As can be seen from what we have discussed elsewhere, we consider that if outcomes for women offenders are to be improved, an holistic, multi-disciplined approach to dealing with the women is essential. We envisage that the multi-disciplinary team linked to the appropriate Community Justice Centre will be involved in the provision of the Rapid Report to the court and will otherwise be available as required to assist the court. It may be that some of the women who appear in court will previously have been assessed by a multi-disciplinary team at a Community Justice Centre, and in such cases, previous assessments will no doubt inform the information which is made available to the court.

185. We also envisage that where a Community Payback Order or a deferred sentence with attached conditions is imposed, the Community Justice Centre will be involved as required to ensure that the conditions of sentence, including any necessary

programme or treatment work with the offender could then commence as quickly as possible. This would be in the interests of the offender and would reduce the potential for chaotic offenders to reoffend while on bail pending sentence. It should also improve the prospect of the sentence having a positive outcome and should increase public confidence in the community sentence.

186. It would also, in some cases, obviate the need to remand the offender in custody pending preparation of the report and thus avoid the considerable financial and social cost to the public which flows from that. If, having received the Rapid Report, the court required further information before deciding upon the appropriate sentence, the case could be continued for a further period as required. If the use of Rapid Reports proves to be successful, the approach could be extended, as appropriate, to cases involving male offenders.

187. The present funding arrangements for payment according to the number of reports written would have to be revisited. This would ensure that the work done in relation to provision of information to the courts continues to be recognised. We anticipate that the time and effort expended by practitioners in preparing reports in the community under the present arrangements could be reduced significantly and that reallocation of available resources might form part of the solution. 56

## **New sentences**

### ***Suspended sentence***

188. Some of those we heard from thought there is a place in our system for a sentence of imprisonment which is suspended on condition that the offender complies with conditions attached to the sentence. This type of sentence is available in a number of other jurisdictions.

189. Some members of the judiciary we heard from spoke of dealing with cases where they felt a custodial sentence was appropriate, but they expressed a degree of frustration about the fact that the appropriate custodial period was such that the period spent in custody, almost inevitably, would have little, if any, impact upon desistance from further offending or upon the rehabilitation of the offender. They thought that the availability of a suspended sentence of imprisonment would be a useful addition to the range of disposals presently available, as it would allow the gravity of the offence to be marked with a sentence of imprisonment, but would also allow the offender's compliance with conditions of the sentence to be monitored. Satisfactory compliance with these conditions would mean that the custodial element of the sentence would not need to be served.

190. Some of those with whom we spoke cautioned against the potential danger of a suspended sentence being used

inappropriately, when disposals in some cases would effectively be 'up tariffed' by the imposition of a suspended sentence of imprisonment in circumstances where, at present, a sentence of imprisonment might not be imposed at all.

### ***Composite sentence***

191. The recommendation of The Prisons Commission in 2008<sup>113</sup> that a conditional sentence of imprisonment should be available has not been implemented. We are of the view that this issue should be revisited.

192. The choices available to the court at present seem to us to be too limited. The court effectively has a choice of selecting a community-based disposal, to which conditions can be attached and compliance monitored, or it can impose a period of imprisonment. In many summary prosecutions where imprisonment is imposed, the period of time which the offender spends in custody is too short to impact meaningfully on desistance and rehabilitation. Many offenders are involved in reoffending soon after leaving prison. It is clear from the available statistics that large numbers of offenders, many of them women, have repeatedly served sentences of imprisonment imposed at summary level.

193. In our opinion, a new sentence should be introduced. This new **composite sentence of imprisonment** would

comprise a custodial element and a community-based element, and would work in one of two ways:

- In option one, the custodial element could be suspended and avoided completely, if the offender satisfactorily complied with conditions attached to the community-based element of the sentence.
- In option two a specified part of the sentence could be served in custody immediately, where appropriate, and conditions attached as to the offender's conduct both during the period in custody and during the subsequent community-based element of the sentence.

194. Failure to comply satisfactorily with the conditions applicable during the custodial element of the sentence might result in the entire sentence being served in custody. Failure to comply satisfactorily with the conditions attached to the community-based part of the sentence might result in recall to custody to serve the remainder of the sentence there. In either scenario the court would be in a position to monitor and manage the offender's compliance with the conditions of sentence at review hearings. This sentence would be available irrespective of the gender of the offender. Accordingly **we recommend** the introduction of a new **composite sentence of imprisonment**.

## Future developments

195. It is likely that there will be significant changes in our courts' structure over the next few years. The Scottish Government, in principle, has accepted recommendations made by The Scottish Civil Courts Review<sup>114</sup> regarding the establishment of a new Judicial Office of District Judge. It is proposed that the jurisdiction of the district judge in relation to summary criminal matters will be limited to those summary criminal cases that are currently tried by sheriffs. We are led to understand that summary crime may account for between 70 per cent and 80 per cent of the business of that Office<sup>115</sup>.

196. The creation of the Office of District Judge may present an opportunity for a significant branch of the judiciary to develop particular expertise in the sentencing of offenders who are prosecuted at summary level, which currently includes the vast majority of all female offenders who appear before the courts.

### A problem-solving approach.

197. The Commission was impressed by the evidence of multi-disciplinary working within the Drugs Courts in Scotland and as indicated earlier, we reviewed evidence on 'problem-solving courts'. Although the available evidence regarding the effectiveness of problem-solving courts suggests that this approach is well received by

practitioners and offenders, and can lead to more compliance with community orders, we are conscious of the fact that the evidence is not yet entirely conclusive.

198. Accordingly, we consider that there is merit in piloting a generic problem-solving court in one of the major conurbations for repeat offenders at summary level, irrespective of gender. We recognise, given the numbers involved, that it would not be an efficient use of resources to restrict the pilot to women offenders. The pilot would provide a broader evidence base than is currently available of the effectiveness of the problem-

solving approach in dealing with offenders with multiple and complex needs who commit lower-level crimes, outside the designated drugs courts. The resulting evidence base could inform the development of the approach to be taken in some of the summary criminal courts in which the district judge is to preside. If the pilot is successful, problem-solving courts could be rolled out as required.

199. Accordingly, **we recommend** that arrangements are made to establish a pilot problem-solving summary criminal court for repeat offenders irrespective of gender.



# Part 7: Prisons

## PART 7: PRISONS

### Introduction

200. Prisons are a necessary part of an effective criminal justice system. They are the most extreme punishment that our courts can impose and provide protection for society from serious, violent and prolific offenders, as well as potentially offering opportunities for rehabilitation. But, for most women offenders, as discussed in previous parts, alternatives to custody will be more appropriate. As discussed in Part 2, there is no evidence that short prison sentences prevent reoffending. We were told repeatedly that prisons are not the appropriate place to care for women requiring respite or social care.

201. For women who receive a custodial sentence due to the seriousness of their crime and/or their risk to others, it is critical that the right programmes and services are available in prison to enable them to live a crime-free life on release.

### Current arrangements for women prisoners in Scotland

202. Her Majesty's Prison (HMP) and Young Offenders Institution (YOI) Cornton Vale was built in 1975 and until 1978 only took convicted women and girls. At that time there was less than 100 prisoners within the prison. It is now the primary establishment in Scotland for holding female adults, including young women,

remanded or sentenced to prison by the courts.

203. Cornton Vale now has capacity for 375 women, but overcrowding in recent years required the Scottish Prison Service to provide additional accommodation for women in Ratho Hall, HMP Edinburgh and Darroch Hall, HMP Greenock.

204. Cornton Vale has 24 spaces within *Independent Living Units*, adjacent to the prison grounds, for women nearing the end of long sentences of imprisonment. HMP Inverness and HMP Aberdeen each operate a *Community Integration Unit* which houses a small number of low-risk female prisoners from the local area who are nearing the end of their sentence.

205. The Commission visited Aberdeen Community Integration Unit and met with management, staff and prisoners, and former residents. We had lengthy discussions with prisoners away from staff and we were struck by the positive relationship which exists between the staff in the unit and the prisoners there. This seemed to us to be based upon a culture of mutual respect. We also noted the emphasis that was placed by management and staff on involving the residents in taking responsibility for practical decisions which affect their daily lives within the unit. It seemed to us that the women in the unit benefited from this approach and were encouraged by it to develop important life skills which may



assist them as they prepare to return to their communities.

206. The Commission also visited HMP Greenock and HMP Edinburgh. We noted the structured regime in place in Darroch Hall at HMP Greenock. The women reported that they felt safer in the single cells in the hall and that the structure and access to a range of work and activity was good. They also reported that there was mutual respect between the staff and the women, and that staff responded effectively to their needs.

### **Fitness for purpose**

207. It has been recognised by Her Majesty's Inspectorate of Prisons (HMIP) that Cornton Vale requires urgent improvement. In 2009, Her Majesty's (HM) Chief Inspector of Prisons, Brigadier Hugh Munro, declared the prison to be in a "state of crisis", citing overcrowding, two-hour waits for the toilet, cold meals, lack of activities and a deep problem of prisoner lack of purpose and activity which was impeding rehabilitation.<sup>116</sup>

208. A follow-up inspection in 2011 by the Chief Inspector said that little progress had been made and there was an immediate need to address overcrowding. He also highlighted several other areas of concern including:<sup>117</sup>

- Lack of strategic prioritisation of Cornton Vale by the Scottish Prison Service.

- Limited access to activity and offending behaviour programmes.
- High levels of mental ill-health.

209. The evidence presented to the Commission showed that overcrowding has caused significant problems for the management and staff and completely hampered the creation of a purposeful regime.

210. We recognise that the Scottish Prison Service has no control over the number of women given a custodial sentence and that it is very much a demand-led service. Staff at Cornton Vale spend a considerable amount of time moving women around the prison to manage the overcrowding and this impacts on their ability to provide care and services to support the rehabilitation of women and reduce their reoffending on release.

211. Staff at Cornton Vale reported that managing women presents a range of operational challenges, primarily:

- The high numbers of remand and short sentences.
- Women's openness to expose their vulnerability and discuss a range of issues for which they require advice and support.
- High levels of self-harm as the way many women in custody express their fears and anger.
- The poor mental health of many women in custody results in high levels of need<sup>63</sup>



and demand for mental health support.

- Incidents of violence from women prisoners towards staff are higher than in male prisons.

212. The written submission from the Royal College of Psychiatrists highlighted concerns about the impact of working with women with borderline personality disorders. The high prevalence of this disorder increases the need for staff support, training and support from suitably qualified psychotherapists. Staff working in Cornton Vale have to be well supported and supervised to meet the needs in this environment. There are now evidence-based guidelines on effective management of people with borderline personality disorders and staff require training and support to utilise these.<sup>118</sup>

213. The Commission notes that the Scottish Prison Service has produced a Strategy Framework for the Management of Women Offenders in Custody<sup>119</sup>. This framework should be reviewed in light of our report and reports from HMIP. We are of the view that the strategy requires senior leadership at Board level in the Scottish Prison Service to drive forward change and maintain progress.

214. Recently, women have been moved to HMP Edinburgh and HMP Greenock which has eased the overcrowding for now, but it is not yet clear if this has

allowed improvements in the regime at Cornton Vale.

215. Women we spoke to who were on remand or serving short sentences reported that access to education or rehabilitative programmes is insufficient. Given women's complex needs, it is detrimental to their mental health and wellbeing to be left isolated and without constructive activity. The Commission heard evidence that women could become dependent and institutionalised as they have little opportunity to exercise personal responsibility in their day to day lives.

216. Work placements are available for convicted prisoners but the Commission heard evidence that there were too few places for all women to benefit. We visited some of the workshops and were impressed with the positive and constructive atmosphere compared to the rest of the prison. The women were learning new skills that gave them confidence and improved self-esteem and could help on release to access training, education or employment.

217. As set out in Part 2, 80% of the women in Cornton Vale have mental health problems<sup>120</sup>, and high rates of deliberate self harm. Many also have drug and/or alcohol problems. We heard from prisoners that they felt their mental health needs were not being sufficiently met.

218. The Mental Welfare Commission reported that prison mental health services were variable. Some prisoners spoke positively about their experiences of access to psychological services while others reported delays in accessing mental health services and a lack of specialist help including counselling, therapy and therapeutic programmes<sup>121</sup>.

219. The nursing staff in Cornton Vale reported that facilities were inadequate for meaningful interaction and delivery of therapeutic interventions.

220. The design and condition of the buildings at Cornton Vale is inadequate, of poor quality and not fit for purpose. This has been described by the 2009 and 2011 reports by HM Inspectorate of Prisons.<sup>122</sup> While we do not intend to comment on these issues in detail, we wish to highlight particular areas of concern. The mother and baby unit in its current form is not appropriate and requires complete redesign; doors are heavy and present a health and safety risk to toddlers, mothers and babies spend long periods of time alone and there are no kitchen facilities to prepare food for babies and toddlers.

221. We also heard from women that maintaining relationships with their children while in prison was extremely difficult and that the visitor centre was not child friendly. The Commission also heard evidence from many

other stakeholders about the inadequacy of the visitor centre. This is in stark contrast to the HMP Edinburgh Visitor Centre that we felt was an example of good practice. Evidence shows that women who do have positive contact with their children while in custody are less likely to reoffend<sup>123</sup> and therefore we would support the HM Chief Inspector of Prison's recommendation about the need for a high quality visitor centre.

222. It is important that there is a robust process in place to allow women prisoners to make complaints and that there is independent monitoring and reporting of conditions in Scotland's prisons. We are aware of the Scottish Government's intention to replace the current structure of 16 Prison Visiting Committees with a new dedicated independent advocacy service. It is critical any change does not result in the dilution of the complaints and monitoring process.

223. We also heard that when a woman is placed in custody the relevant court reports are not always transferred from the Scottish Court Service to the Scottish Prison Service. This impacts on the ability of Cornton Vale to manage offenders' immediate and ongoing needs. We understand that the Scottish Government plans to introduce the electronic transfer of court reports to address this issue.

## Good practice in managing women's prisons

224. International research suggests that good practice in the management of women's prisons<sup>124</sup> requires:

- Recognition of women's needs and risks.
- Gender specific strategies and policies.
- Interventions that empower women to change and interventions which adopt a holistic approach to multiple needs.
- Support provided in prison is available in the community with continuity of care.

225. Much of the research on managing women offenders points to a gender specific strategy as central to achieving better outcomes for women prisoners.<sup>125</sup> We heard about different international models for managing women where this approach was adopted successfully. The Commission examined reports of practice in Denmark and Germany where a key principle is 'normalisation' where as far as possible prisoners are encouraged to be responsible for themselves for example, budgeting, buying food and cooking.<sup>126</sup>

## Recommendations for Cornton Vale

226. **We recommend** that Cornton Vale is replaced with a smaller specialist prison for those

women offenders serving a statutory defined long term sentence and those who present a significant risk to the public.

227. Additional places for women offenders should be provided in local prisons to enable improved community integration and family contact (more detail is set out below under "Local Prisons") and supported accommodation should be commissioned as an alternative to custody and to support women on release.

228. There must be careful planning on the reduction of prison places to ensure that there are effective alternatives in place prior to reducing prison places or the present problems of overcrowding will simply be repeated but in a new establishment. Central to this is the establishment of a powerful community justice service with strong and robust alternatives to custody in place.

229. The Commission is convinced that there needs to be a new approach to the management of women in Scotland's prison system. This requires an urgent improvement to the facilities available, but also in culture and approach to the management of women offenders.

230. We acknowledge that staff working in Cornton Vale have worked hard to improve their skills in managing women offenders. Despite this, the inadequate facilities at Cornton

Vale combined with the pressures of overcrowding has a detrimental impact on the wellbeing of prison officers. It is vital that the wellbeing of prison officers is prioritised through support and respect for their work. As well as benefiting staff this will also benefit the prisoners for whom they care. The Commission has seen good evidence that women can be treated with dignity and respect while in custody.

231. We heard about the Mentalisation Project at Cornton Vale. This was set up to investigate the prevalence of borderline personality disorder and to provide training for staff to equip them to manage women who have this disorder. Feedback suggests that, as a result of training, staff are more confident in working with more challenging prisoners and have a greater understanding of the condition and approach they should take. It is important that training is regularly reviewed and updated accordingly.

232. **We recommend** that the new national prison for women should include:

- Meaningful and consistent work for all women prisoners to build skills for release and improve self-esteem and mental health.
- A medical centre with adequate space for group work and individual appointments to address physical and mental health problems.
- A separate unit for young women.

- A purpose built mother and baby unit.
- A family-friendly visitor centre with an outside play area for children.
- Community Integration Unit based on the model in place at HMP Aberdeen to help women access community services and support networks prior to their release.

233. Health professionals in prison must have specific experience of dealing with problems associated with female prisoners, such as self-harming, poor mental health and addiction. They should support and provide advice to non-health professionals, especially on how to deal with borderline personality disorder. **We recommend** that gender specific training is provided to all professionals working with women prisoners.

234. Central to the design of a new prison for women should be rehabilitation and a requirement of self-responsibility. To support this approach, women should have access to meaningful work or activity regardless of their sentence. Designing a facility that will support these aims and still achieve the requirements of a prison to be secure, safe and easy to manage will be critical.

235. Key suggestions for good design in this area include:

- Small units reconfigured in a domestic style with access to kitchen and bathrooms to enable women to learn

healthy family and community responsibilities.

- Incorporating family-friendly design in dedicated 'mother and child' units, as well as playgrounds and visitors' centres.
- Incorporating features known to promote wellness, with particular reference to the use of natural light, fresh air, colour, space, privacy and access to land.
- Ensuring facilities are adapted/adaptable for women with disabilities.
- Promoting environmentally sustainable design.<sup>127</sup>

236. The **Commission recommends** that these factors are taken into consideration when designing a new national prison for women offenders. Priority should be given to women learning basic life skills, in particular, anger management, budgeting and cooking, childcare, as well as providing meaningful work. In the meantime, the extensive grounds at Cornton Vale could be utilised more effectively to enable this, for example, establishing a community garden to grow fruit and vegetables. This would help women develop new skills and promote physical exercise and mental wellbeing. The produce could be used by the local community.

### **Local prisons for women**

237. The Commission heard concerns from practitioners and defence agents about the difficulties associated with the location of Cornton Vale, especially for those on remand or serving short-term sentences. It creates problems for women as they are not able to maintain links with their children and families and are cut off from their local support services.

238. **We recommend** that most women prisoners on remand or serving short-term sentences are held in local prisons. This would improve liaison with local communities and integration once the sentence is complete.

239. The existing estate should be adapted to enable this approach. HMP Edinburgh already covers the East and the new HMP Grampian will include 60 beds for women in the North and the new HMP Inverclyde will also be able to accommodate women. The Government should also explore using Low Moss for another women's wing.

240. The Commission recognises the demands that prison officers face in managing the numbers of women in the prison and the movements between prison and courts. We heard about an eight hour journey for a three minute appearance in court. Therefore, **we recommend** that video conferencing facilities are utilised much more widely to help manage the logistical demands made on Cornton Vale. It also

has the potential to reduce travel and improve communication between women and their families and social workers, and make significant cost savings.

### **Strategic leadership**

241. To drive through the changes suggested above, we believe that leadership and resource allocation for women offenders should be prioritised by Scottish Prison Service.

242. **We recommend** that an independent non-executive

member of the Scottish Prison Service Board is appointed with the specific remit for women offenders, championing and driving through change.

243. We welcome the recent budget announcement that Scottish Prison Service will receive an additional £20m in 2014/15 to modernise the female prison estate<sup>128</sup> and that this could contribute to some of the recommendations made in this report.



# Part 8: Community reintegration



## **PART 8: COMMUNITY REINTEGRATION**

### **Introduction**

244. Many women find it extremely difficult to achieve a successful transition from prison back to the community. As we have discussed elsewhere, significant numbers of women continue to offend after they are released from prison.

245. Effective throughcare and aftercare arrangements for women leaving custody are of vital importance if:

- outcomes for these women are to be improved;
- their rate of reoffending is to be reduced; and
- they are to be reintegrated into their communities.

246. We recognise that some excellent work is being done with women who have been imprisoned and with their families. An evaluation of the Circle's Families Affected by Imprisonment Project states that participation contributed towards reductions in reoffending and addressed addiction problems<sup>129</sup>. We are also aware of the Routes out of Prison Project which offers its clients peer support to link them to services in the community.

### **The current arrangements**

247. Local authorities are required by law to provide *Throughcare Supervision* to

all prisoners sentenced to more than four years in custody and to those who are the subject of special licence arrangements<sup>130</sup>. In 2009/10, 56 women received statutory throughcare<sup>131</sup>. The number of women who are subject to statutory throughcare provisions is small. This is because the bulk of women prisoners do not fulfil the necessary criteria as they are either serving sentences of less than four years, or are remand prisoners.

248. Local authorities are also required by law to provide a voluntary throughcare service to every prisoner who is remanded in custody or is sentenced to a period of imprisonment of less than four years<sup>132</sup>. Any such prisoner may, during their period in custody, ask the prison social work unit for advice, guidance or assistance and may, for a period of up to one year after release, make the same request of their community criminal justice team.<sup>133</sup> Despite the fact that the vast majority of women who have been in prison are eligible to receive voluntary throughcare assistance, rates of sustained compliance are poor. In 2010/11, 281 women received voluntary throughcare.

249. Women (and men) with addiction problems can receive Throughcare Addiction Service (TAS). An audit of this service in 2006/07 suggested that there was also a low engagement rate with this service and reported that only 15 per cent of all

clients kept all their appointments.<sup>134</sup>

250. We were told that resources provided for throughcare to criminal justice social work by the Scottish Government tend to be prioritised to the supervision and engagement of offenders who are subject to statutory throughcare. This impacts on the resources which are available to provide services to those offenders who have a voluntary throughcare entitlement.

251. A Social Work Inspection Agency inspection in 2011 on social work in prisons suggested that community reintegration arrangements varied from prison to prison and that there was no national strategy or vision for the service overall. Only half of the prisons and councils that provided services had formal arrangements outlining what services would be provided.<sup>135</sup>

252. The Scottish Prison Service presently operates a two tier Integrated Case Management system. Standard Integrated Case Management is for all prisoners serving short sentences. Enhanced Integrated Case Management is for those prisoners who will be subject to supervision upon release. The Integrated Case Management system attempts to develop personalised plans for prisoners by putting prisoners in touch with local service providers with a view to:

- reducing the risk of reoffending upon release;
- addressing needs; and
- providing support.

253. We understand that at present Cornton Vale receives repeated high volume contact from a multitude of outside agencies who wish to supply programme work and services to the women in the prison. We were advised that evaluating and dealing with these enquiries is both time consuming and complex.

254. We understand that many of the throughcare services at Cornton Vale are provided by third sector<sup>136</sup> organisations. The evidence we heard suggested that the effectiveness and planning capabilities of some of these organisations, and of others involved in the provision of services outside prison, are hindered by the uncertainty of short-term funding. While we recognise the difficulties which prevail in the wider economy at present, it seems to us that short-term funding arrangements may stifle the development and effectiveness of programmes and services which are critical to securing the long-term benefits for female prisoners and their communities.

255. Overall, we were concerned by the absence of any clear picture as to what local services are available to women upon their release from prison. In our view, the lack of clarity on this crucial issue exacerbates an already difficult situation. It makes it difficult for women leaving custody to identify and access necessary services. It is also likely to be detrimental to their prospects of being successfully reintegrated into the community and to the prospects of reducing their rate of reoffending.

256. Despite the efforts of the Scottish Prison Service, and despite some good local third sector projects, we heard evidence that the majority of women prisoners receive limited, meaningful practical support, both before and after they are released from prison. Very often the availability of support depends on which local authority a woman offender comes from.

257. We understand that some efforts have been made to map available services, to identify gaps in provision and to improve partnership working. Glasgow Community Justice Authority mapped the provision of services to support offenders into employment and identified 37 providers.<sup>137</sup> Lothian and Borders Community Justice Authority identified 30 different voluntary organisations or projects delivering community-based services to offenders within the

five councils in the Community Justice Authority area.<sup>138</sup>

258. We heard repeatedly about the lack of information on services and interventions available for women offenders. This should be helped by the Scottish Government's plans to create an online National Directory, for practitioners. Its intention is to map the available interventions and services which could contribute towards reducing reoffending or facilitate community integration. We are also aware that the Justice Committee of the Scottish Parliament recently wrote to all local authority Chief Executives seeking details of the care and services they provide to female prisoners on release. The responses are on the Scottish Parliament website.

### **Establishing effective support on release**

259. Women need access to a range of services and programmes on their release from prison, including health services, education (including literacy and communication support), training, and employment. However, access to safe accommodation and to benefit entitlements are the biggest concerns for women leaving prison. Failure to deal with each of these two issues is highly likely to impede progress in other areas. We heard persuasive evidence that the lack of safe and secure accommodation makes it more

difficult for women offenders to engage in other interventions that could help to reduce their offending behaviour. Prisoners with addiction difficulties are particularly vulnerable on their release, for example, drug-related deaths are more likely occur at or around this time.<sup>139</sup>

## Housing

260. Evidence shows that women are more likely than men to lose a tenancy when they enter prison<sup>140</sup>. We heard from women that many of them leave prison with nowhere to sleep on the night of their release. Official statistics show that in 2010/11, 173 women made homeless applications on discharge from prison (this does not include women who may be homeless, but did not apply for assistance).<sup>141</sup>

261. We heard repeated accounts of tenancies being lost by women as a result of being in prison. Many women expressed concern about being housed in homeless hostels on release. This immediately exposes them to destructive influences of chaotic lifestyles and chronic addiction problems, and increases the likelihood of reoffending.

262. We were pleased to learn of innovative work being done at present by Tayside Community Justice Authority and Fife and Forth Valley Community Justice Authority to develop inter-agency protocols aimed at sustaining existing tenancies on admission

to prison and at preventing homelessness upon release.

263. We consider it imperative that suitably trained staff carry out an early assessment of each prisoner's housing status upon admission to prison. Liaison with housing partners should be prioritised so that, where possible, women are able to maintain their tenancy and resolve any accommodation problems. Staff should ensure that housing and supported needs referral is made in advance of a prisoner's liberation date, in liaison with the key worker.

264. **We recommend** that inter-agency protocols on prison discharge and homelessness are introduced across all areas of Scotland with the twin aims of:

- sustaining tenancies when women are in custody; and
- securing access to safe accommodation for every woman prisoner upon release from custody.

265. We recognise that there is much work to be done in ensuring that such an approach is taken across the country. For this reason we **call upon the Scottish Government** to confirm that they will engage immediately in discussions with housing partners across the country to encourage them to engage fully with the development of the inter-agency protocols we have suggested in our last recommendation.

## Welfare benefits

266. We are conscious of the changes to the benefits system which have been introduced in the Welfare Reform Act 2012, including the Access to Work Programme and measures applying to a person leaving prison.

267. Nonetheless, it was clear from the evidence we heard that there are gaps in the provision of advice to prisoners regarding their benefit entitlements. It was also clear that, upon release, many prisoners experience delays in accessing benefit entitlements. These delays have a detrimental effect upon the prospect of women avoiding reoffending upon their release from custody and of re-engaging successfully with their communities.

268. Social Security is a matter reserved to the UK Parliament.

**We recommend** that the UK Government, which has responsibility for these matters, puts arrangements in place as a matter of urgency to ensure that every woman prisoner can access her full benefit entitlement, immediately upon release from prison.

## Community reintegration support

269. For the reasons discussed in this chapter and elsewhere in our report, we consider that the present structural, funding and operational arrangements for the provision of throughcare services to the vast majority of women

prisoners are inadequate. We are aware that the Scottish Government will be reviewing throughcare as part of its Reducing Reoffending Programme. At present, the system is failing to support vulnerable women within and beyond the prison gates. As a result, the system is failing to adequately address the core functions of:

- promoting desistance,
- protecting the public from reoffending and
- securing reintegration of offenders into their communities.

270. **We recommend** that community reintegration support is available for all women offenders, during and after their custodial sentence is completed, irrespective of the local authority they are from.

271. This would be coordinated by Community Justice Centres who would have responsibility for ensuring equity of access, quality and effectiveness of reintegration services provided. Community reintegration support should start as soon as a woman enters prison and continue, for as long as necessary, once a woman leaves custody. The primary aim would be to improve outcomes for women in the criminal justice system and for their communities, with a view to promoting desistance and achieving the successful reintegration of the women into the communities.



272. As described in Part 3, each woman prisoner would have a named key worker who would:

- help her maintain family contact throughout her stay in prison;
- liaise with housing agencies and ensure appropriate services are set up on her release; and
- coordinate the planning and delivery of necessary interventions during and after the period of imprisonment.

273. We envisage that community reintegration staff would strive to build strong links with services in the community with a view to ensuring that, upon release from prison, every woman will be able to access appropriate services designed to provide support and promote desistance from offending.

274. We heard persuasive evidence that many women prisoners are very vulnerable at the point of release from custody. Therefore, we consider it important that every women prisoner who wishes should be met at the gate on the day of release and accompanied to her first appointment. This role could be fulfilled by the key worker or appointed mentor.

275. Entitlement to community reintegration support could be on the same basis as that which currently prevails for those not subject to statutory throughcare or it could be directed as a condition of a new composite

sentence, should the court deem it appropriate. This forms part of our recommendation that there should be more sentencing options available to the judiciary as set out in Part 6.

276. Women offenders have a personal responsibility to make efforts to address the issues that may be contributing to their offending and move away from a life of crime. However, we concluded that successful social integration in the community is not something that any individual can achieve for him or herself on their own. There is a role for local businesses, statutory and voluntary organisations, and local communities, to support the efforts of offenders to change their behaviour and make a meaningful contribution to society. Offenders are citizens who hold rights to the range of services that are shared by everyone. Marginalising women ex-offenders prevents successful reintegration, as women perceive they have no stake in their communities. Building positive social networks and creating new opportunities for ex-prisoners is crucial.

277. Finally, while our discussion on reintegration in accordance with our remit, has been restricted to the involvement of women with that service, we consider that the establishment of such a service would benefit all offenders, irrespective of gender, and would also benefit the wider interests of their communities.





# **Part 9: Making it work (leadership, structures and delivery)**

## **PART 9: MAKING IT WORK (LEADERSHIP, STRUCTURES AND DELIVERY)**

### **Introduction**

278. Many different bodies and individuals are involved in a woman offender's journey through the criminal justice system. The key agencies are:

- criminal justice social work services within local authorities, who are responsible for managing, supervising and rehabilitating offenders in the community; and
- the Scottish Prison Service who deal with offenders in the custodial setting.

279. Community Justice Authorities provide a coordinated approach to the delivery of local services, promoting cooperation between these two agencies and other relevant services such as the National Health Service (NHS).

280. Although there was some evidence that, over the past 10 years, there have been improvements in how criminal justice bodies work together, we heard strong evidence that there still exist inherent barriers in the structural and funding systems for criminal justice social work, and working practices which inhibit greatly the potential to reduce reoffending. We heard:

- about the lack of opportunity for strategic leadership and accountability in the delivery of offender services in the community;
- about short-term funding and difficulties in measuring impact;
- about inconsistent service provision across Scotland; and
- that interventions delivered in prison very often cease at the gate.

281. Some of the recommendations set out in the earlier parts of the report could be implemented within the existing systems. However, we concluded that to deliver the very best outcomes for women offenders and therefore also the wider community, a radical transformation of the existing structural and funding arrangements, and associated working practices, is required.

### **Existing structural, funding and delivery arrangements**

282. The following sections set out our analysis of the current organisational and delivery barriers to tackling criminal behaviour and reducing reoffending.

## **Cluttered landscape**

283. Community Justice Authorities were established in 2007 by the Management of Offenders (Scotland) Act 2005 and comprise elected members from the relevant local authorities. A number of organisations are also designated as statutory partner bodies including the police, NHS Boards, Scottish Court Service, Crown Office and Procurator Fiscal Service, Victim Support Scotland and other individuals/organisations in receipt of funding above a certain level to deliver offender services. Each Community Justice Authority employs a chief officer and support staff to carry out its functions.

284. Community Justice Authorities are the main partnership responsible for providing a coordinated approach for the local delivery of offender services through planning, managing performance and reporting on the performance of local authority criminal justice services. Community Justice Authorities also have a responsibility to ensure close cooperation between community-based services and prison services to aid the rehabilitation of offenders.

285. Other strategic partnerships, such as Alcohol and Drug Partnerships, Community Health Partnerships<sup>142</sup> and Community Planning Partnerships also have an interest in the management of offenders since interventions to address the

causes of offending often go beyond criminal justice to addictions, mental health, employment and housing.

286. Local authorities manage criminal justice social work services as part of their overall delivery of social work, either in house, or by commissioning from the third sector, including voluntary organisations.

287. We heard evidence that engagement between Community Planning Partnerships and Community Justice Authorities is often weak, thus limiting the effectiveness of partnership working and joint agreement on priorities and resourcing in this area.

288. Some practitioners we spoke to contended that the introduction of Community Justice Authorities brought an extra layer of complexity, disproportionate in a jurisdiction of five million people, especially as the geographical coverage of several Community Justice Authorities is not coterminous with other public bodies. Others argued that Community Justice Authorities had needed time to bed in and were now working more effectively.

289. There are also very many other public, private and third sector bodies and individuals involved in Scotland's criminal justice system. They range from large national bodies, such as the Scottish Prison Service and the Scottish Court Service, through to groups of professional

individuals, such as the judiciary and criminal defence solicitors and advocates. Local authority services such as housing, education and children's and families also play a role, as does the NHS and the Department for Work and Pensions. The court can also remit back to the Children's Hearing System for disposal where an individual is aged under 18 years of age. There are a number of third sector organisations funded through public and charitable sources, which provide specialist services aimed at reducing reoffending and often provide a link between prison and the community.

290. The picture that emerges is one of a grossly cluttered landscape:

- eight Community Justice Authorities,
- 32 Alcohol and Drug Partnerships,
- 32 Community Planning Partnerships,
- 14 Health Boards,
- one prison service,
- 8 police forces<sup>143</sup>,
- 6 Sheriffdoms,
- one Court Service,
- one Prosecution Service and
- around 100 third sector organisations.

291. This gives in excess of 200 organisations and partnerships for a country with a population less than some regions of England, for example West Midlands or Yorkshire and The Humber<sup>144</sup>.

292. The Commission on the Future Delivery of Public Services recognised that Scotland's public service landscape is 'unduly cluttered and fragmented and further streamlining of public services is likely to be required'<sup>145</sup>. We agree with this assessment.

### **Short-term funding**

293. Community Justice Authorities receive approximately £100 million each year from the Scottish Government to allocate for the delivery of criminal justice social work services, including alternatives to custody. Within that amount, an additional £100,000 was provided to each Community Justice Authority in 2010/11 and 2011/12 specifically for services for women offenders. The Community Justice Authorities are allocated £1.5m annually for staff and running costs.

294. As highlighted by the recent Audit Scotland report<sup>146</sup>, the current funding system favours activity over outcomes, for example the number of Community Payback Orders. This does not provide a financial incentive to Community Justice Authorities to change offenders' behaviour and reduce reoffending. Nor does it provide the ability to shift resources to early intervention or prevention activities. If a particular area is successful in reducing levels of offending then it could receive less money as there will be fewer

Community Payback Orders imposed by the courts.

295. Most of the funding is allocated to statutory functions over which Community Justice Authorities have little discretion. This impacts on their ability to fund new approaches that have been shown to work in other areas of the country or elsewhere. There is no mechanism for managing funds between prison and the community. We are therefore pleased to hear that the Scottish Government has initiated a review of the current funding system.

296. We also heard concerns from practitioners that Community Justice Authorities tended to allocate funding to local authorities based on historical levels, without taking a regional or strategic perspective. For example, we could not find any evidence of regional services that Community Justice Authority member local authorities have commissioned together.

297. Practitioners, especially from the third sector, were concerned about the short-term and fragmented nature of funding, especially for women-specific interventions. They felt this approach makes it difficult to attract and sustain the right calibre of staff, which affects the future professionalism of the sector and any career structure within it. We heard that investing time in training and developing staff, especially their skills, knowledge

and experience about what works to reduce desistance among women offenders is crucial.

### ***Lack of accountability and leadership***

298. Each Community Justice Authority is responsible<sup>147</sup> for producing strategic plans and reporting on them annually. But, as demonstrated in the recent Public Audit Committee report<sup>148</sup>, there is no national performance management framework or baseline data set of offender outcomes, so each Community Justice Authority reports against its own targets.

299. The Scottish Government has a national indicator to reduce the reconviction rate and these data are available by Community Justice Authority area and also gender (although there is no specific target for reducing reoffending among women).

300. Recent statistics show an overall fall (for male and female offenders) in two year reconviction rates from 44.1 per cent for the 2006/07 cohort to 42.4 per cent for the 2007/08 cohort<sup>149</sup> which suggest the national position is improving in relation to this indicator<sup>150</sup>.

301. However, it is difficult to assess the effectiveness of individual Community Justice Authorities or the differences between Community Justice Authorities using the reconviction rates. An analysis of the differences in the reconviction

rates between Community Justice Authorities suggests this is not due to differences in local practice, but primarily driven by the different case mix of offenders within each Community Justice Authority<sup>151</sup>.

302. There is an emerging view that reconviction rates alone are a rather blunt tool for measuring success in the field of reoffending. We note that the Scottish Government is developing an outcome framework which, combined with the rollout of the Level of Service Case Management Inventory, should provide a more sophisticated measure of reductions in reoffending in the future.

303. Although Community Justice Authorities were established a number of years ago, there has not been any independent national assessment of their effectiveness. We understand that later this year, Audit Scotland will be undertaking an audit of how much public money is spent on dealing with people who persistently offend and what that money delivers. This will include assessing the efficiency and effectiveness of current approaches to reducing reoffending, including the work of Community Justice Authorities. The Commission welcomes this and hopes that, in taking forward its work, Audit Scotland takes into account the findings of this report.

304. Community Justice Authorities report directly to

Scottish Ministers via the Justice Directorate of the Scottish Government. The Justice Directorate has strategic and policy responsibility for community justice services. Unlike the Scottish Prison Service it does not have operational responsibility. On the evidence presented, it seems that the current arrangements do not provide the opportunity for overall strategic and operational responsibility for the delivery of offender services in the community.

### ***Inconsistent service provision***

305. We heard that a comprehensive picture of the offender services and programmes available in the community does not exist. Women have access to different services depending on where they live and only some local authorities have gender specific provision.

306. The lack of a complete picture meant that the Commission was unclear whether the services available reflected the full range of options that we know works for women, although we heard evidence which suggests this is very unlikely. We could not determine market share (for example, of the third sector) although we heard evidence that women often respond more positively to staff in the third sector than the statutory sector. As set out in an earlier part, we also heard evidence that the interventions received in prison



were often not followed up in the community.

307. Overall, we were left with the impression that different contributions were made independently of one another, duplicating effort. Short-term funding also resulted in what was viewed as unnecessary competitiveness between third sector providers.

308. There is no doubt that there are some effective services operating locally for women offenders. Indeed, we visited some of them. However, there is no nationally agreed framework of performance indicators that projects can use to measure success. Where evaluations are undertaken, the short-term nature of projects and small sample sizes (especially in the case of women-specific projects) makes it difficult to measure impact or cost effectiveness. Where projects are viewed as successful we were told that there was no formal mechanism to share good practice and spread innovation.

309. Similar working practices are mirrored to some extent in the prison estate. The Scottish Prison Service has recently completed an exercise to map the interventions that are available in prison. However, as described in Part 8, community reintegration arrangements vary from prison to prison and only half of the prisons and councils that provided services had formal

arrangements outlining what services would be provided<sup>152</sup>.

310. In addition, the Social Work Inspection Agency commented in their last two reports<sup>153</sup> that criminal justice social work services are not always integrated with prison and other community-based service providers, such as the third sector, impacting significantly on continuity of care from prison to the community.

311. In summary, we are strongly of the view that there are major shortcomings with the current arrangements for managing women offenders in the community. Despite the many bodies and individuals working in the field, there is a leadership vacuum; no one organisation or individual has overall responsibility for the delivery of criminal justice services in the community. There is also a lack of a shared vision or common goal directed at delivering the best outcomes for women offenders; fragmented and short-term funding; and an absence of any systematic measurement of outcomes or of what programmes are effective in reducing reoffending.

312. This has resulted in inconsistent and ineffective service provision, which has seriously impacted on the positive outcomes which are being achieved for women offenders and undermines confidence in the efficacy of community disposals.



## **Structures and delivery: other jurisdictions**

313. We believe that to address the major barriers to effective service delivery described above, a radical reform of the existing structural and funding arrangements for the delivery of criminal justice social work services, and associated working practices, is required.

314. We carefully considered the structures used to deliver criminal justice social work services in different European and international countries. We spoke to government officials and practitioners in Denmark and the Netherlands where there are joint probation and prison services; and in Northern Ireland where there is a national probation service. We also had a discussion with the Chief Executive of the National Offender Management Services (NOMS) in England and Wales to discuss the benefits of its model of delivery and challenges it has faced. We read about the approaches adopted in Finland, Canada and Australia<sup>154</sup>.

315. We concluded that there are currently significant barriers (both culturally and organisationally) to the creation of a joint criminal justice social work and prison service.

316. However, we were persuaded that a model where criminal justice social work operates as a single service has a number of clear benefits.

317. We have heard arguments for and against such an approach.

318. It has been argued that a national service would disconnect criminal justice social work from the mainstream services that offenders need to access. And that disconnect would also extend to the effective relationships that criminal justice social work have with colleagues in other parts of the local authority, including children and families service.

319. Those in favour of a single service for criminal justice social work countered that bringing all 32 local authority criminal justice teams into one service could potentially increase its influence with non-criminal justice providers, leading to a more integrated service, and improved outcomes for the community and offenders.

320. As a Commission, we heard nothing from those countries which have a single probation service to suggest that it had resulted in any local disconnect. We also have every confidence in the professionalism of criminal justice social work to make every effort to ensure this disconnect does not happen as a result of any structural change. Indeed, our recommendations for the introduction of new working practices under the auspices of a single service, such as multi-disciplinary teams and Community Justice Centres, will be designed to enhance information and collaboration across disciplines.

321. In addition, there are just over 1,000 criminal justice social workers in Scotland, which should make the establishment of a national service practical in logistical terms. A single service could also reduce duplication of services and efforts, make cost savings, as well as providing more formal opportunities for joint training and the sharing of good practice and innovation.

322. It has also been suggested by those who oppose a single service that structural reform would disrupt current services and programmes to tackle reoffending. We recognise change could have a temporary disruptive effect, but we are of the view that the benefits outweigh the disadvantages. A single service for criminal justice social work has the following advantages:

- Better and more coherent opportunities for achieving desistance across the whole offender pathway.
- That strategic and operational responsibility sits with one service or individual.
- Clearer lines of accountability for performance.
- Consistency of access to, and quality of, services – avoiding fragmentation and temporariness.
- Capacity to deploy resources and expertise flexibly according to need and enhance resilience of services.
- Greater potential to liaise and negotiate on an equal footing

with other national agencies or bodies.

- Better information and data management systems to assess impact of services.
- Greater professional identity within the criminal justice sector.
- Opportunities for innovative working practices to be funded and successfully rolled out, as well measured in terms of effectiveness.
- A united and strong professional cohort to represent criminal justice social work.

### **Community Justice Service**

323. Based on all the evidence we have read, seen and heard, **we recommend** that a new national service, called the **Community Justice Service**, is established to commission, provide and manage adult offender services in the community. Its objective would be to protect the public, reduce reoffending and promote rehabilitation.

324. Although our work only considered the issue of women offenders, we are of the view that it makes economic and practical sense for the new Community Justice Service to cover the whole offending population. Further consideration may need to be given to how to reduce offending among the male population, however, we heard that some of the issues experienced by women offenders, and the structural and funding barriers highlighted in

this part of the report, also affect male offenders and the services provided to them.

325. We envisage that the new Community Justice Service would carry out the following functions:

- Provide national leadership and take operational responsibility to drive forward significant performance improvements, and deliver outcomes that benefit the community and offenders.
- Take overall responsibility for the management and delivery of criminal justice services in the community, including Community Justice Centres and multi-disciplinary teams.
- Deliver and manage an effective performance management system which is accountable to commissioners, Government and Parliament on how well funding is being spent and what outcomes services are delivering.
- Commission services (from both the statutory and third sector) and manage contracts.
- Set up and manage a training and development arm to build capacity and leadership in the criminal justice sector, with good practice guidance for practitioners.
- Establish a mechanism for following innovation internationally, ensuring that best practice is shared nationally.
- Develop and deliver a communication strategy to deliver meaningful engagement with the judiciary,

public and media to build confidence in community sentences.

326. The Community Justice Service would be designed in such a way to ensure local liaison and joint working.

327. We envisage that other agencies would second staff to the new service. This might include professionals from the housing or education services of the local authority, police, Crown Office and Procurator Fiscal Service, NHS and third sector. The secondees would be part of the multi-disciplinary teams and Community Justice Centres. This approach will be designed to enhance cross-agency working. But most importantly, it should help provide a seamless and integrated service for offenders to give them a better chance of moving away from a life of crime and making a meaningful contribution to society.

328. **We also recommend** that a national Community Justice and Prison Delivery Board, with an independently appointed Chair, is set up to promote integration between the Community Justice Service and the Scottish Prison Service. The Board would be charged with setting and ensuring delivery of a shared vision for reducing reoffending across the community and within custodial settings. The Chief Executives of both services would be directly accountable to the Board.

329. If the new Community Justice Service is fully supported to flourish and succeed, our recommendations could potentially allow for greater integration between both services in the longer term.

330. **We recommend** that a senior director in each of the key agencies working with women offenders is identified to take responsibility for women offenders, championing and driving through change.

### **Cost**

331. The establishment of a Community Justice Service will have resource implications. In a time of significant financial constraints in the public sector, the creation of a new service could be achieved largely through reconfiguration of existing resources (money, staff and buildings). In line with the findings from the Commission on the Future Delivery of Public Services<sup>155</sup>, the Scottish Government should carry out a cost-benefit analysis, as well as considering whether there are functions in other existing agencies that might be incorporated into the new Community Justice Service.

### **Next steps**

332. Clearly it is for the Scottish Government to consider this report and decide how it wishes to take forward the recommendations. However, we are conscious that there have been 10 previous reports and inspections<sup>156</sup> across the UK on the issue of women offenders, and none have been implemented in full. In our view, urgent steps must be taken now to improve outcomes for women and the community.

333. Our remit required recommendations for practical measures that could be implemented in this Parliament. Therefore, we fully expect our recommendations, if accepted, to be implemented without delay. Thereafter, the Scottish Government should develop a long-term strategy for women offenders building on the action taken as a result of this report.

334. To ensure transparency and accountability, **we recommend** that the Scottish Ministers, and in particular the Cabinet Secretary for Justice, reports to the Scottish Parliament within six months of the publication of this report, and annually thereafter, on the steps taken to implement the recommendations in this report and the outcomes for women in the criminal justice system, particularly in relation to reducing reoffending and the number of women in prison.



# Annexes

## **A. WRITTEN EVIDENCE**

- Circle
- Families Outside
- Forensic Network
- Howard League Scotland
- Joint Faiths Advisory Board on Criminal Justice
- Law Society Scotland
- Lothian and Borders Community Justice Authority
- Northern Community Justice Authority
- Risk Management Authority
- Royal College of Psychiatrists
- Scotland's Commissioner for Children and Young People
- Scotland's Community Justice Authorities (collective response from all eight Community Justice Authorities)
- Scottish Drugs Forum
- Scottish Human Rights Commission
- Scottish Working Group on Women's Offending<sup>1</sup>
- South West Scotland Community Justice Authority
- Speech Language and Communications Needs

**Copies of written submissions are available to read at: [www.commissiononwomenoffenders.org](http://www.commissiononwomenoffenders.org)**

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<sup>1</sup> Comprises eight Community Justice Authorities; Families Outside; Scottish Trades Union Congress; Scottish Consortium on Crime and Criminal Justice; Apex Scotland; and individuals from Parole Board for Scotland, Criminal Justice Services at City of Edinburgh Council and Scottish Centre for Crime and Justice Research



## **B. ORAL EVIDENCE**

### **Academics**

- Baroness Vivien Stern, CBE, Visiting Professor, University of Essex
- Dr Cyrus Tata, Reader in Law, University of Strathclyde
- Professor Eric Miller, Saint Louis University, United States of America
- Professor Gill McIvor, Scottish Centre for Crime and Justice Research
- Professor Alec Spencer, Scottish Consortium on Crime and Criminal Justice
- Professor Fergus McNeill, Visiting Professor, Glasgow School of Social Work

### **Community Justice Authorities**

- Justina Murray, Chief Officer, South West Scotland Community Justice Authority
- Anne Pinkman, Chief Officer, Fife & Forth Valley Community Justice Authority
- Peter Willox, Interim Chief officer, Northern Community Justice Authority
- Baillie Helen Wright, Convener, Tayside Community Justice Authority

### **Crown Office and Procurator Fiscal Service**

- Frank Mulholland QC, Lord Advocate

## **Equality and Diversity**

- Professor Alan Miller, Chairman, Scottish Human Rights Commission
- Dr Alison Hosie, Research Officer, Scottish Human Rights Commission

Helen Miller, Policy Officer, Equality and Human Rights Commission was also seconded to Commission on Women Offenders to provide advice on equality and diversity issues.

### **Focus Groups**

- Victims of crime
- Women ex-offenders  
Meetings with women offenders were also held in HMP Cornton Vale and the Community Integration Unit at HMP Aberdeen

### **Health**

- Jim McBride, Head of Addictions, Glasgow Addiction Services
- Eric Steel, Head of Service Glasgow Addiction Team, Persistent Offenders Project, Glasgow
- Gail Reid, Senior Psychiatric Nurse, NHS Greater Glasgow and Clyde
- Dr Rhona Morrison, Forensic Psychiatrist, NHS Greater Glasgow and Clyde

- Dr Lisa Reynolds, Consultant Clinical Psychologist, Trauma and Homeless, NHS Greater Glasgow and Clyde
- Valerie Lawrie, Practice Team Manager, Edinburgh, Midlothian and East Lothian, Drug Treatment and Testing Order Team
- Geoff Huggins, Deputy Director, Primary and Community Care, Scottish Government
- Moira Connolly, Principal Medical Officer, Scottish Government

### **Judiciary**

- The Right Hon Lord Hamilton Lord Justice General of Scotland and Lord President of the Court of Session
- The Right Hon Lord Carloway
- Joe Moyes, Criminal Appeals Manager, Judicial Office for Scotland
- Sheriff Thomas Welsh QC, Director, Judicial Studies Committee
- Sheriff Lindsay Wood, Glasgow Drug Court
- Sheriff Maxwell Hendry, Fife Drug Court
- Sheriff Principal Scott of Glasgow and Strathkelvin, including the Justice of the Peace Court sitting with Stipendiary Magistrates
- Sheriff Brian Murphy, President, Part-Time Sheriffs' Association
- Sheriff Nigel Morrison QC, President, Sheriffs' Association
- Fraser Gillies, Chairman, Scottish Justices Association

- Jennifer Milligan, Justice of the Peace, Dumfries and Galloway

### **Local Authorities**

- Lillian Cringles, Criminal Justice Social Work Manager, North Lanarkshire
- Philip English, Head of Adult and Criminal Justice Social Work, Aberdeenshire
- Sean McKendrick, Head of Criminal Justice Social Work, Glasgow
- Sandy Riddell, Convenor, Association of Directors of Social Work
- Peter McLeod, Director of Social Work and Vice President, Association of Directors of Social Work
- Yvonne Robson, Manager, Transformation Change, Association of Directors of Social Work
- Councillor Harry McGuigan, Spokesperson for Community Wellbeing and Safety, Convention of Scottish Local Authorities
- Councillor Douglas Yates, Spokesperson for Health and Wellbeing, Convention of Scottish Local Authorities
- Anil Gupta, Community Resourcing Team, Convention of Scottish Local Authorities
- Kim Murphy, Development Coordinator, Glasgow Works, Glasgow City Council
- Glyn Lloyd, Service Manager, Criminal Justice Services, Dundee
- Melanie Hunter, Team Manager, Criminal Justice Services, Dundee

## **Other Jurisdictions**

- Di Askwith, Criminal Justice Women's Policy Team, Ministry of Justice, United Kingdom Government
- Aubrey Fox, Director of Special Projects, Center for Court Innovation, United States of America
- Brian Grzymek, Deputy Director, Criminal Justice, Northern Ireland Office, Department of Justice
- Sile McLean, Service Manager, Northern Ireland Association for the Care and Resettlement of Offenders
- Jean O'Neill, Area Manager, Northern Ireland Probation Board
- Dame Ann Owers, Chair of the Review of Northern Ireland Prisons Service, previously Chief Inspector of Prisons for England and Wales
- Michael Spurr, Chief Executive, National Offender Management Service
- Anne Marie Heckscher, Prison Governor, Denmark
- Trudy Hoeymakers, Prison Governor, the Netherlands

## **Police**

- John Carnochan QPM FFPH, Detective Chief Superintendent, Director, Scottish Violence Reduction Unit, Strathclyde Police
- Karyn McCluskey, Co Director, Violence Reduction Unit, Strathclyde Police

- Ruairaidh Nicolson, Chief Superintendent, Secretary of Criminal Justice Business Area, Association of Chief Police Officers Scotland
- John Paterson, Chief Inspector, Association of Chief Police Officers in Scotland

## **Politicians**

- Alison McInnes, MSP, Scottish Liberal Democrat, Justice Spokesperson
- David McLetchie, MSP, Scottish Conservative and Unionist, Justice Spokesperson
- Lewis MacDonald, MSP, Scottish Labour Party, Justice Spokesperson
- Dr Richard Simpson, MSP, Scottish Labour Party

## **Prisons**

### **Her Majesty's Inspector of Prisons**

- Brigadier Hugh Monro CBE, Her Majesty's Chief Inspector of Prisons
- Margaret Brown, Her Majesty's Deputy Chief Inspector of Prisons

### **Scottish Prison Service**

- John Ewing, Chief Executive, Scottish Prison Service
- Dr Andrew Fraser, Director of Health and Care, Scottish Prison Service
- Rona Sweeney, Director of Prisons, Scottish Prison Service

- Teresa Medhurst, Governor, HMP Cornton Vale
- Kate Donegan, Governor, HM YOI Polmont
- Jim King, Literacy Lead, Scottish Prison Service
- Kirsty Halliday, Psychology Team, HMP Cornton Vale
- Adam Mahoney Psychology Team, HMP Cornton Vale

### **Prison Officers Association**

- Andy Hogg, Assistant Secretary, Prison Officer's Association
- Tony Quinn, National Officer, Prison Officer's Association

### **Prison Visiting Committee**

- Moira Graham, Prison Visiting Committee (over 21s)
- Jim Scott, Prison Visiting Committee (under 21s)

### **Third Sector**

- David McKenna, Chief Executive, Victim Support Scotland
- Susan Gallagher, Deputy Chief Executive, Victim Support Scotland
- Christine Scullion, Manager, Assessment and Development, The Robertson Trust
- Shonaig MacPherson, Trustee, The Robertson Trust
- Tom Halpin, Chief Executive, SACRO
- Alan Staff, Chief Executive, Apex
- Dr Nancy Loucks, Chief Executive, Families Outside

- Martin Wilkie-MacFarlane, National Services Manager, Shelter Scotland
- Kim Hartley, RCSLT Scotland Officer, Royal College of Speech and Language Therapists
- Charlie McMillan, Director of Operations, Scottish Association of Mental Health
- David Liddell, Director, Scottish Drugs Forum
- Luiza Burns, Communications Manager, Scottish Drugs Recovery Consortium
- Lily Greenan, Manager, Scottish Women's Aid
- Ilene Easton, Prison Project Manager, Open Secret, Falkirk
- Mary Beglan, Service Manager, 218 Service
- Sharon Mercardo, Volunteer, Falkirk Criminal Justice Social Work Services
- Cathy Lang, Chief Executive, Access to Industry
- Kate Still, Director of Development and Delivery, The Wise Group
- Elizabeth McShane, Assistant Director, Development, Barnardos
- Joe Connelly, Head of Programmes, Venture Trust

### **Others**

- The Right Hon Henry McLeish, Former First Minister, Chair of Prisons Commission
- Miranda Alcock, Portfolio Manager, Audit Scotland
- Alexis Jay, Chief Social Work Adviser to Scottish Government
- Reverend John Matthews OBE,

Minister, Ruchill Parish Church,  
Glasgow

- Lindsay Arbrines, Locality  
Reporter Manager for  
Lanarkshire/ Dumfries and  
Galloway, Scottish Children's  
Reporter Administration
- Jane Askew, Head of  
Community Integration Unit,  
Community Justice, Scottish  
Government



## **C. COMMISSION VISITS AND SEMINARS**

### **Visits**

- 218 Service, Glasgow
- Glasgow Custody Cells: City Centre Police Office and Cathcart Police Office
- Glasgow Sheriff Court: Drug Court
- HMP Aberdeen and Community Integration Unit
- HMP Cornton Vale (includes Young Offenders)
- HMP Edinburgh
- HMP Greenock
- The Willow Project, Edinburgh
- Women Ahead Project, Women's Centre, Whitechapel, London
- Women Specific Team, Criminal Justice Social Work, Dundee
- Launch of HM Chief Inspector of Prisons – second Annual Report 2010/11
- Parole Board for Scotland Annual Conference
- Risk Management Authority Conference: 'Which Way Now?'
- Scottish Working Group on Women's Offending<sup>2</sup>
- South West Scotland Community Justice Authority: 'The Hidden Sentence'

### **Seminars**

- Association of Directors of Social Work Criminal Justice Conference and Exhibition: 'Making a Difference'
- Griffin Society Seminar
- Forensic Psychology, Scottish Parliament: 'Not Leaving Risk to Chance'

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<sup>2</sup> Comprises eight Community Justice Authorities; Families Outside; Scottish Trades Union Congress; Scottish Consortium on Crime and Criminal Justice; Apex Scotland; and individuals from Parole Board for Scotland, Criminal Justice Services at City of Edinburgh Council and Scottish Centre for Crime and Justice Research





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- <sup>5</sup> Scottish Government (2010) *Criminal proceedings in Scotland 2009-10*
- <sup>6</sup> Scottish Government (2011) *Criminal justice social work statistics 2010-11*
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- <sup>8</sup> Burman and McIvor (2011) *Understanding the Drivers of Female Imprisonment in Scotland. SCCJR Research Report, No.1. | Briefing Paper.*
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<sup>32</sup> Scottish Government (2011): *Reconviction rates in Scotland 2007-08 and 2008-09 cohorts*.

<sup>33</sup> Scottish Government (2012): Justice Analytical Services.

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<sup>78</sup> Bradford and MacQueen, *supra*.

<sup>79</sup> Richards *et al.*, *supra*.

<sup>80</sup> This is a form of 'conditional caution' applied under the Criminal Justice Act 2003 (c.44). The woman is then directed to further services which offer support in the area of, for example, debt, housing and employment. If the woman fails to comply she can be prosecuted for the offence.

<sup>81</sup> Glasgow Addiction Service (2009) *Evaluation of Persistent Offenders Project*.

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<sup>84</sup> The Scottish Prisons Commission (2008) *Scotland's Choice: The Report of*

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*the Scottish Prisons Commission* noted that the size of the remand population (including all prisoners) was growing faster than the overall prisoner population.

<sup>85</sup> There had been a steady increase in the average daily remand population (untried and convicted) from 54 in 1999 – 2000 to 133 in 2008 – 2009; and the number of women on remand had almost doubled over the last 10 years from 1,176 in 1999-2000 to 2,338 in 2008-09. Scottish Government.

<sup>86</sup> HM Inspectorate of Prisons (2009), *Report on HMP and YOI Cornton Vale*, paragraph 1.1.

<sup>87</sup> Analyses carried out by Scottish Government Justice Analytical Services found that about 30 per cent of women placed on remand in 2008 received a custodial sentence directly following the remand period (including cases where the sentence was backdated to the beginning of the remand period).

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<sup>96</sup> A person can be remanded in custody in summary matters for up to 40 days awaiting trial or four weeks awaiting sentence. Criminal Procedure (Scotland) Act 1995 (c.46) ss 147 and 201.

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<sup>98</sup> Scottish Government (2012) *Supervised Bail in Scotland: Research on Use and Impact*.

<sup>99</sup> Scottish Government (2012) *Supervised Bail in Scotland: Research on Use and Impact*.

<sup>100</sup> See also The Review of Scottish Criminal Law and Practice (2011), Lord Carloway, which recommended that consideration must be given to the reorganisation of the times of existing workloads in the Procurator Fiscal service and the courts to ensure that individuals are not kept in custody for longer than is necessary.

<sup>101</sup> Burman and McIvor (2011), *supra*.

<sup>102</sup> Community Payback Orders, which replace Community Service and Probation, were introduced by the Criminal Justice and Licensing Act 2010 (asp 13).

<sup>103</sup> McIvor, G., Barnsdale, L., Eley, S., Malloch, M., Yates, R., and Brown, A. (2006) *The Operation and Effectiveness of the Scottish Drug Court Pilots*. Edinburgh: Scottish Government.

<sup>104</sup> Instead of imposing a sentence on an offender, a court can impose a Drug Treatment and Testing Order which requires that the individual undertakes treatment, as directed, with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs and includes regular drug testing. Criminal Procedure (Scotland) Act 1995, ss 234B – K.

<sup>105</sup> Forty-seven per cent compliance in drug courts as compared with 35 per cent of DTTOs in other courts.

<sup>106</sup> The National Institute of Justice's Multi-Site Adult Drug Court Evaluation (2011) (Edited by Shelli B. Rossman, John K. Roman, Janine M. Zweig,

Michael Rempel, and Christine H. Lindquist).

<sup>107</sup> Ross *et al.*, (2009) study of Melbourne's Neighbourhood Justice Centre reported that the rate of imprisonment for Justice Centre defendants was significantly lower than that of sentenced offenders at other courts, 10 per cent compared to 28 per cent.

The Midtown Community Court's (New York) compliance rate with community service mandates in its first three years was 75 per cent—compared with about 50 per cent in the centralised Manhattan court (Sviridoff *et al.*, 2000, 2001). Over the entire 16-year lifespan of the Midtown Community Court, its community service compliance rate is reported to be 84 per cent and its social service compliance rate is 75 per cent (Center for Court Innovation, 2008).

<sup>108</sup> The Scottish Prisons Commission (2008) *Scotland's Choice*.

<sup>109</sup> McIvor *et al.* (2006) *supra*, and The National Institute of Justice's Multi-Site Adult Drug Court Evaluation (2011) (Edited by Shelli, B., Rossman, John K., Roman, Janine, M., Zweig, Michael, Rempel, and Christine H. Lindquist).

<sup>110</sup> Judiciary and Courts (Scotland) Act 2008, asp 6

<sup>111</sup> Prisons (Scotland) Act 1989 s15.

<sup>112</sup> Criminal Procedure (Scotland) Act 1995 (c.46), s227B.

<sup>113</sup> The Scottish Prisons Commission (2008) *Scotland's Choice*

<sup>114</sup> The Rt Hon Lord Gill, *The Report of the Scottish Civil Courts Review* (2009)

<sup>115</sup> Scottish Government Response to the Report and Recommendations of the Scottish Civil Courts Review.

<sup>116</sup> Inspectorate of Prisons (2009) *Full Inspection Report of HMP & YOI Cornton Vale*.

<sup>117</sup> HMP Inspectorate of Prisons (2011) *Follow Up Inspection of HMP& YOI Cornton Vale*.

<sup>118</sup> National Institute for Health and Clinical Excellence (2009) *Borderline Personality Disorder: treatment and management*.

<sup>119</sup> Scottish Prison Service (2010) *Strategy Framework for the*

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<sup>120</sup> HMP Inspectorate of Prisons (2006) *Full Inspection Report of HMP & YOI Cornton Vale.*

<sup>121</sup> Mental Welfare Commission for Scotland (2011) *Mental Health of Prisoners, Themed Visit Report into Mental Health of Prisoners.*

<sup>122</sup> HMP Inspectorate of Prisons (2011) *Follow Up Inspection of HMP & YOI Cornton Vale* and HMP Inspectorate of Prisons (2009) *Full Inspection Report of HMP & YOI Cornton Vale.*

<sup>123</sup> Hutton, L., and Nugent, B. (2011) *Circle's Families Affected by Imprisonment Project.*

<sup>124</sup> Bastels, L., and Gaffney, A. (2011) *Good Practice in Women's Prisons: A Literature Review*, Australian Government.

<sup>125</sup> Prison Reform Trust (2011) *Reforming Women's Justice, Final Report of the Women's Justice Taskforce.*

<sup>126</sup> International Centre for Prison Studies, Kings College London (2008) *International Profile of Women's Prisons.*

<sup>127</sup> Bastels, L., and Gaffney, A. (2011) *Good Practice in Women's Prisons: A Literature Review*, Australian Government.

<sup>128</sup> Scottish Government Press Release, 8/2/2012  
<http://www.scotland.gov.uk/News/Releases/2012/02/budget08022012>

<sup>129</sup> Hutton, L., and Nugent, B. (2011) *Circle's Families Affected by Imprisonment Project.*

<sup>130</sup> Social Work (Scotland) Act 1968 (c.49), s.27 (as amended).

<sup>131</sup> Scottish Government Criminal Justice Social Work Statistics  
<http://www.scotland.gov.uk/Publications/2011/12/19160622/0>

<sup>132</sup> Social Work (Scotland) Act 1968 s.27 (as amended).

<sup>133</sup> Social Work (Scotland) Act 1968, as amended.

<sup>134</sup> The report of the audit on the Throughcare Addiction Service (TAS) The audit covered the period 1 August 2005 to 31 March 2006.  
<http://www.scotland.gov.uk/Publications/2007/05/tasrpp2audit>

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<sup>135</sup> SWIA (2011) *Social Work Services in Scotland's Prisons: A National Inspection.*

<sup>136</sup> Comprises social enterprises, voluntary organisations, cooperatives and mutual's and is non-profit driven, non-statutory and autonomous.

<sup>137</sup> Mapping of employability support for offenders in Glasgow, Glasgow CJA, March 2011.

<sup>138</sup> Partnership Development Initiative: Towards a model framework for third sector criminal justice services, The Robertson Trust, SPS, CJVSF and Lothian and Borders CJA, 2010.

<sup>139</sup> European Monitoring Centre for Drugs and Drug Addiction (2011) *Mortality related to drug use in Europe: public health implications.*

<sup>140</sup> Gelsthorpe, L., and Sharpe, G. (2007) Women and Resettlement in A. Hucklesby and L. Hagle-Dickinson (eds) *Prisoner Resettlement. Policy and Practice.* Cullompton: Willan Publishing.

<sup>141</sup> Unpublished Scottish Government Statistics 2010/11.

<sup>142</sup> Scottish Government announced on 12 December 2011 these will be replaced by Health and Social Care Partnerships.

<sup>143</sup> The eight police forces will merge into a single police force from 1 April 2013.

<sup>144</sup> Office of National Statistics (2011) *Population Estimates for UK, England and Wales, Scotland and Northern Ireland Population Estimates Timeseries 1971 to current year.*

<sup>145</sup> Christie, C. (2011) *Commission on the Future Delivery of Public Services.*

<sup>146</sup> Audit Scotland (2011) *Overview of Scotland's Criminal Justice System.*

<sup>147</sup> Section 3(5) of the Management of Offenders (Scotland) Act 2005.

<sup>148</sup> Scottish Parliament Public Audit Committee. *1<sup>st</sup> Report, 2012 (Session 4) An Overview of Scotland's criminal justice system*

<sup>149</sup> Scottish Government (2011) *Statistical Bulletin – Reconviction Rates in Scotland: 2007-8 and 2008-9 Offender Cohorts.*

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<sup>155</sup> Campbell Christie (2011) *Commission on the Future Delivery of Public Services*.

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