

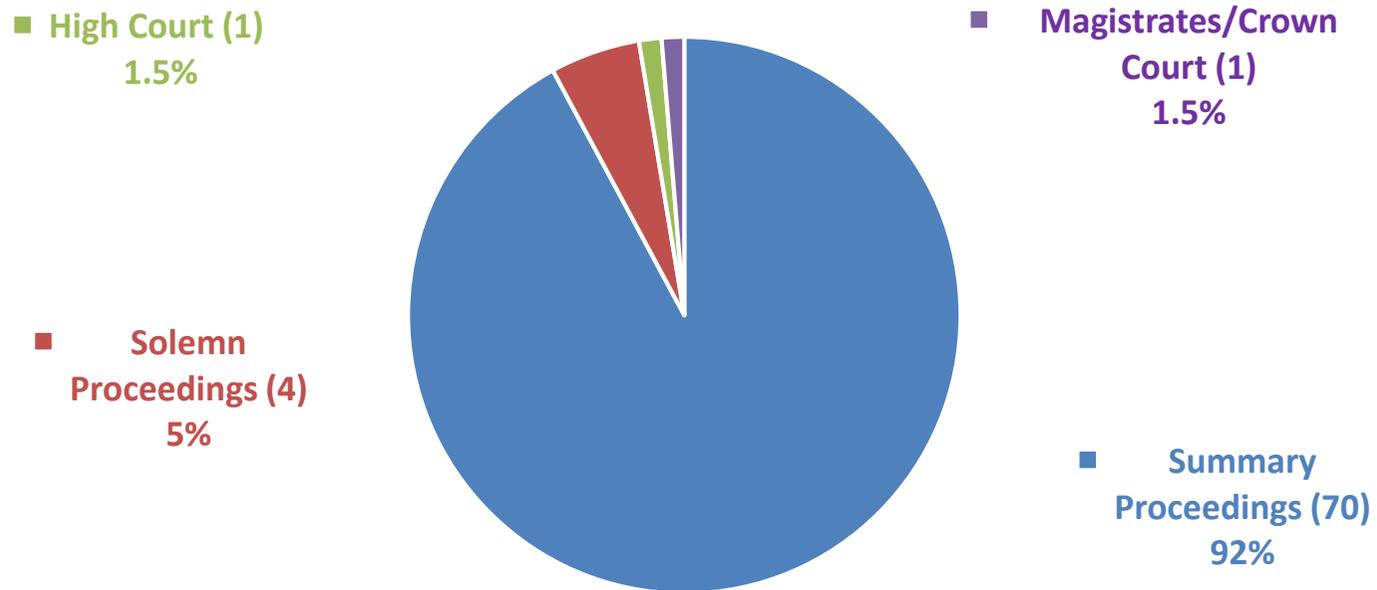
# **Criminal Justice Services**

## **Quarterly Bulletin (October- December 2018)**

Criminal Justice Social Work Services in East Lothian provides a statutory service to people who offend, their families and victims of crime. The key outcomes are community safety and public protection, the reduction of re-offending and promoting social inclusion to support desistance from offending. We are committed to reducing the imposition of custodial sentences by offering a wide range of community disposals. These services take into consideration the needs of the people who offend, the victims of crime and public protection.

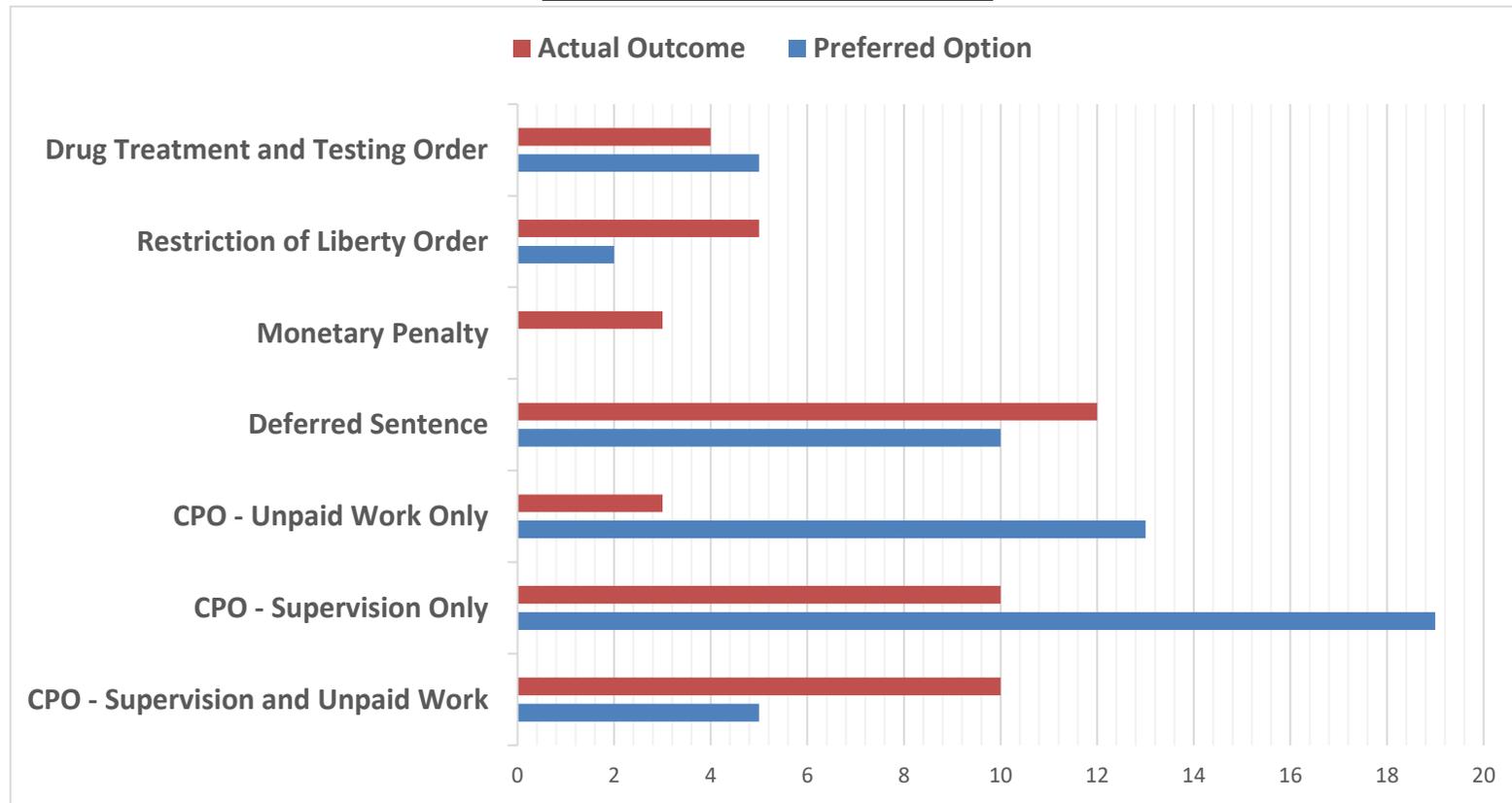
The Criminal Justice Team provide reports to the Court to aid sentencing as well as the Parole Board to support people returning to the community after a period in custody. People with convictions can be subject to supervision and/or unpaid work as part of a community-based disposal – these are known as Community Payback Orders. For those who have been in custody, on their release they are provided with support – this may be as part of a Statutory Throughcare Licence which forms part of their sentence or as Voluntary Throughcare. In all cases, social work staff will develop an action or case management plan to support the individual to avoid further offending and resettle back into their community.

# Criminal Justice Social Work Reports



NOTE – the figures relating to CJSWRs outcomes were received within the given quarter only.

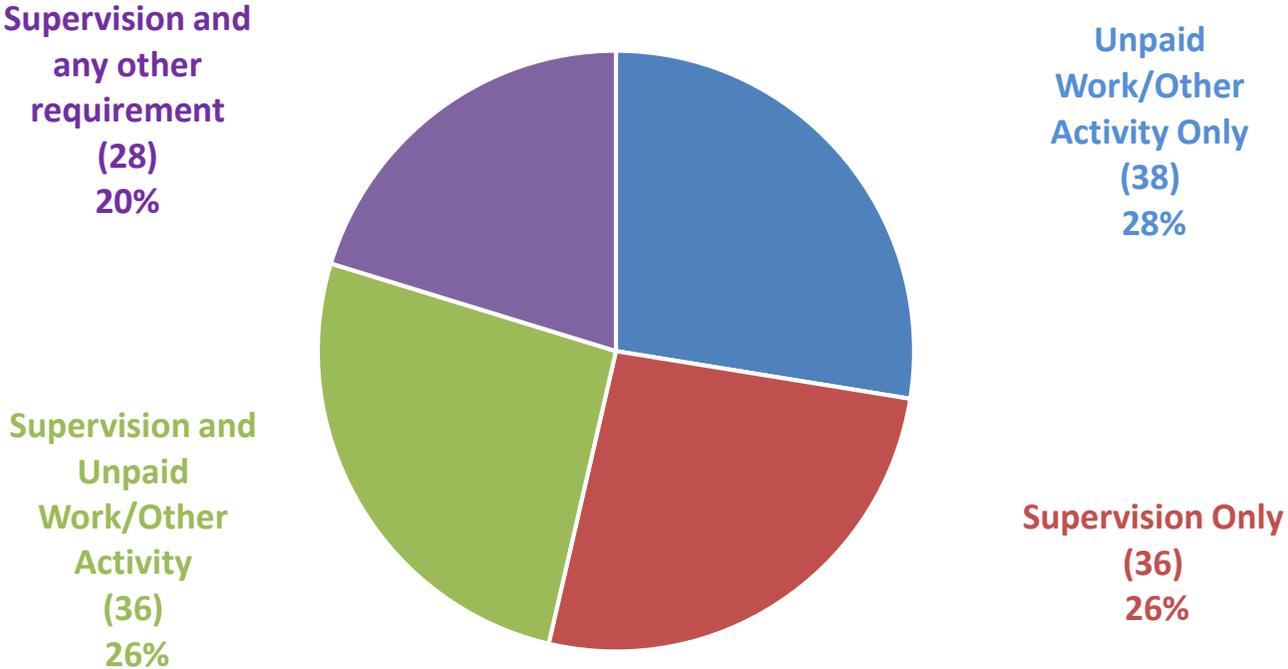
## CJSWR Outcomes



- There were **SEVEN** custodial sentences imposed in this quarter.

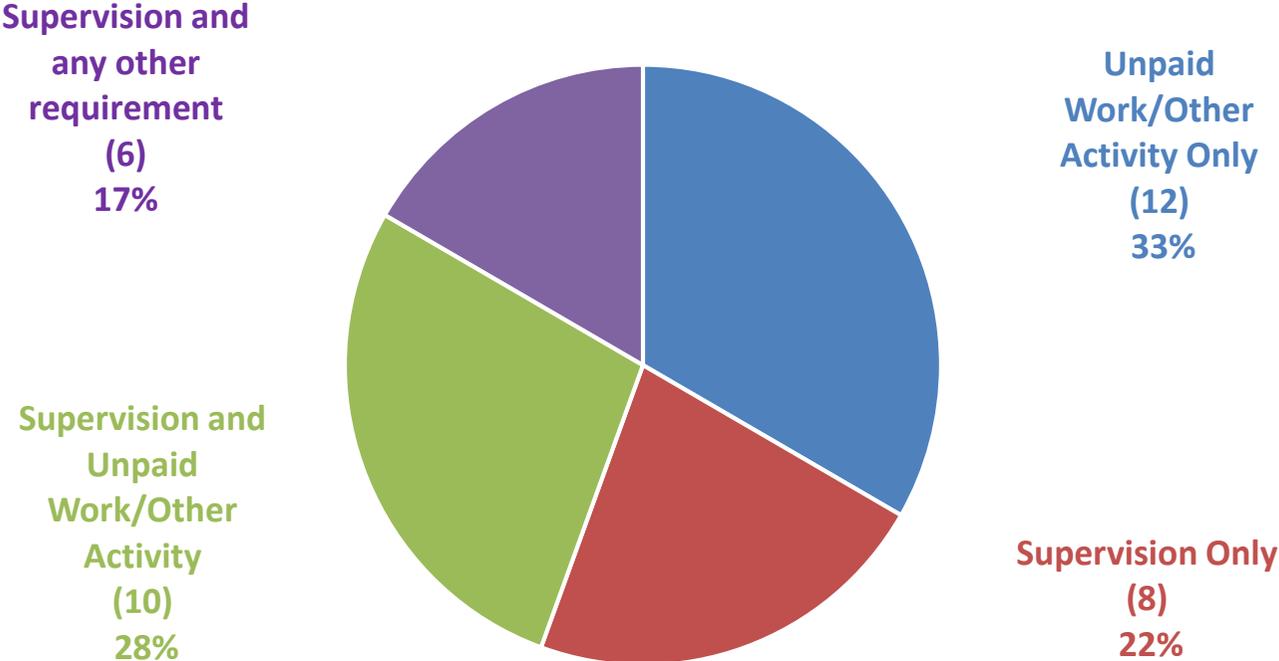
**NOTE – the figures relating to CJSWRs outcomes were received within the given quarter only.**

# Community Payback Orders



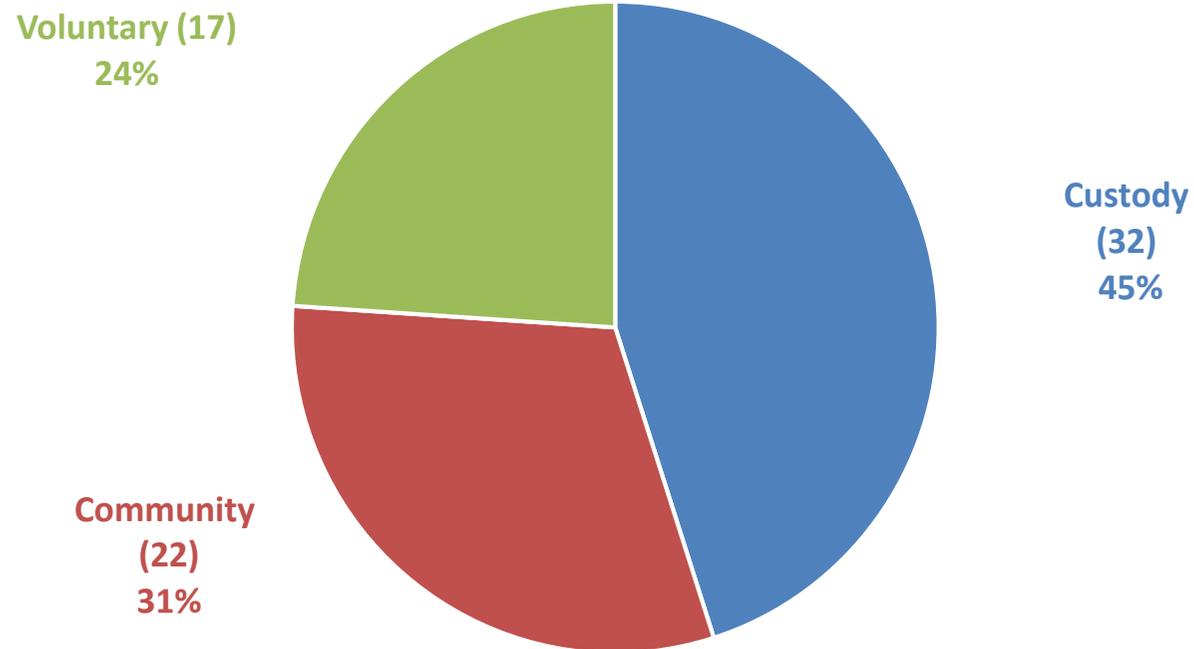
NOTE – the figures relate to the number of open CPOs on 31 December 2018.

# Community Payback Orders



NOTE – the figures relate to the number of CPOs imposed in the given quarter only.

## Throughcare – Open Cases



**NOTE – the figures relate to the number of open Throughcare cases on 31 December 2018.**

## Introduction

These graphs show some of the work that has come into the Criminal Justice Team over the third quarter of 2018/19, September – December 2018. We have decided to use this bulletin to give more information about the services that the Criminal Justice Team in East Lothian provide – our previous bulletins have focused on some of the statutory work we have done with women, young people and those on unpaid work as well as the welfare support we have provided.

This bulletin will give a more general overview of:

- Sentencing and Criminal Justice Social Work Reports
- Community disposals and Community Payback Orders
- Statutory Throughcare
- Voluntary Throughcare
- Addressing offending behaviour

There are social workers, social work assistants, unpaid work supervisors and business support staff working in the Criminal Justice Team. We work mainly with people after they have been convicted of an offence, but we also provide a service to some individuals who are at risk of offending or affected by crime.

## Sentencing and Criminal Justice Social Work Reports

In Scotland if you are charged with an offence and taken to Court, the seriousness of the offence dictates in which Court your case will be held:

- Justice of the Peace Court (previously known as District Court) – cases are heard before either a single, or a bench of three, lay magistrate(s) in the presence of a legally qualified adviser and they consider low-level criminal offences. Sentencing powers are limited to discretionary driving bans, a maximum of 100 hours unpaid work in the community (see below), financial penalties up to £2,500 and/or imprisonment up to 60 days
- Sheriff Court – this is where the majority of criminal cases are heard and sentencing can be passed on all offence types, except murder, rape and treason. The severity of the offence dictates at which level the case is heard:
  - Summary proceedings – where a Sheriff sits alone with sentencing powers limited to all community-based disposals, a financial penalty not exceeding £10,000 and a custodial term of no more than 12 months.
  - Solemn proceedings – here the Sheriff will sit with a 15-person jury and hear the more serious offences. Sentencing powers include an unlimited fine and a custodial term not exceeding five years, alongside all community disposals. A Sheriff also has the power to remit sentencing to the High Court where he or she considers the severity warrants a longer custodial term.
- High Court – the most serious criminal cases (murder, rape, treason, armed robbery etc.) are heard by a Judge sitting with a 15-person jury and they have the power to impose any sentence, including a Life Sentence.

In order to help this decision-making process the Justice of the Peace, Sheriff or Judge may ask for a Criminal Justice Social Work Report. This report will consider the community-based sentencing options and include the likely impact of a period of custody on the individual, their family and anyone else for whom they have a caring responsibility. In some cases a

custodial sentence will be inevitable due to the seriousness of the offence, but a report is still required if the person is under the age of 21 or has never been in custody before.

The report will give details about the offence as well as any previous convictions the individual may have – the report author is assessing and analysing the offending behaviour, to gain insight into what may help to promote desistance. There will also be information about the person's background, relationships, education, employment, health, substance use and leisure activities. The report will make an assessment on the likelihood of the individual committing further offences as well as highlighting any risk of causing harm to the public – these are key to the sentencer deciding how best to dispose of the case. The ultimate decision on sentence lies with the Justice of the Peace, Sheriff or Judge but the report author will state a preferred option to the Court.

The disposals available to the Court are:

- Custody – see Throughcare for more details
- Community Payback Order – see below for more details
- Drug Treatment and Testing Order – see below for more details
- Financial Penalty – individuals may be fined or required to pay compensation to the victim of an offence – these sentences are dealt with directly by the Court
- Restriction of Liberty Order – this is a 'tag' or electronic monitoring and G4S take responsibility for their oversight and management – they communicate directly with the Court if someone fails to comply with their restrictions
- Deferred Sentence – this allows the individual to show that they can be of good behaviour for a period of time before returning to Court for final sentencing
- Admonition – although this sentence remains on an individual's record, there is no additional penalty or expectation other than to be of good behaviour

## **Community Disposals**

If the Court imposes a financial penalty, Restriction of Liberty Order, deferred sentence or admonition there is no input from the Criminal Justice Social Work Services. However, if a **Drug Treatment and Testing Order** (DTTO) is imposed on an individual who lives in East Lothian our partners in Edinburgh assume responsibility for the Order. A DTTO is used where an individual's drug use is chronic, directly related to their offending and when the offence is so serious it could attract a custodial sentence. Those subject to a DTTO have a social worker, resource worker and nurse whom they meet on a regular basis, as well as access to an on-site doctor, who is responsible for substitute prescribing. The Court reviews the DTTO on a monthly basis and reports of the individual's progress are provided to the Sheriff who imposed the initial sentence. The expectation is that individuals will evidence a reduction in their offending behaviour and a commitment to change – support is provided around physical/mental health, social inclusion/welfare needs and offence-focused interventions, alongside a substitute prescription and regular drug testing.

## **Community Payback Orders**

Once the Court has imposed a Community Payback Order (CPO) the management, oversight and compliance of the Order passes to the Criminal Justice Team. There are nine possible requirements that can be imposed as part of a CPO – the Sheriff will decide which ones are most appropriate for the individual offender so they can compensate for, and change, their offending behaviour. A CPO can have either supervision or unpaid work as a stand-alone requirement, but if one of the other requirements is imposed, then a supervision requirement will also have to be imposed.

- Supervision – this requirement will involve an individual being subject to oversight by a social worker for between 6 months and 3 years. The social worker and individual will develop a Case Management Plan that will detail the work to be undertaken to discourage future offending (see below for fuller details).

- Unpaid Work or other activity - the purpose of this requirement is to ensure the individual 'pays back' to the community by completing unpaid work or engaging in other activities that are an opportunity to develop skills, learning and understanding so as to increase life chances. The Court can impose between 20 and 300 hours for completion within a set timescale, normally between 3 and 12 months.
- Programme - this involves a course or planned set of activities over a period of time for the purpose of addressing offending behaviour. This is most appropriate when the offending is specific in nature, for example domestic abuse, and there is an accredited or targeted programme to address the behaviour
- Compensation – is paid directly to the Court in either instalments or a lump sum, with the monies given to the victim of the offence. This is most appropriate where the offence has involved theft or harm to an identifiable victim and the person who has offended wants to offer direct recompense for their behaviour
- Conduct – this requires an individual to undertake an activity, stay away from (or remain in) a certain place or complete specific tasks that are likely to reduce the risk of them committing further offences or to protect the victim.
- Mental Health - if someone has been diagnosed with a mental health condition and/or learning disability which contributes to their offending, this requirement allows for them to be treated as part of an Order
- Drug Treatment – this will be imposed if drug dependency is connected to the offending behaviour but a Drug Testing and Treatment Order is not appropriate, for example because the drug use is not chronic or the offending is not prolific or high tariff. The treatment will be provided by a specific agency or service and be designed to meet the individual's needs for harm reduction, abstinence and/or relapse prevention.
- Alcohol Treatment – this will be imposed if alcohol dependency is connected to offending behaviour, it is not used for simply being under the influence of alcohol at the time of the offence. The treatment programme will be individualised depending on the person's needs and can include elements of medical, psychological and/or counselling intervention.
- Residence – this requires an individual to live at a named address. This requirement is used where the noted accommodation has been identified as providing a protective function for the individual which reduces their risk of further offending, for example where living with a pro-social family member has been shown to reduce the likelihood of an individual associating with an offending peer group

## Statutory Throughcare

Scottish legislation dictates when someone sentenced to a period of custody is subject to statutory supervision on their release with the following Orders or Licences being imposed:

- Short-term sentence – this is covered under Voluntary Throughcare (below) and applies to anyone who is sentenced to less than four years and is not subject to any of the Orders or Licences mentioned below
- Long-term sentence – anyone sentenced to four or more years in custody will be eligible to apply for Parole at the mid-point of their sentence and set times thereafter. If they are unsuccessful, they will automatically be released at the two-thirds point of their sentence (if they were convicted before 1 February 2016) or 6 months prior to their sentence end date if they were sentenced on or after 1 February 2016.
- Supervised Release Order – an individual who is sentenced to more than six but less than 48 months can be made subject to this Order on release, however it cannot last for more than 12 months or pass their sentence end date, whichever is shorter. The individual will automatically be released at the mid-point of their sentence
- Extended Sentence – this is composed of a custodial term plus additional supervision in the community for violent offences where a sentence of four or more years is imposed and sexual offences of any length. The extension period cannot exceed five years in Sheriff Court and ten years in High Court and is imposed where there are additional resettlement needs to support rehabilitation and protect potential victims. Where the sentence is over four years and Parole is unsuccessful, release will be granted after completion of the full custodial term, with shorter sentences having a mid-point release.
- Short Term Sex Offender Licence – any individual sentenced to more than six but less than 48 months in custody for a specified sexual offence will be released at the mid-point of their sentence and subject to supervision until their sentence end date
- Life Sentence – when such a sentence is imposed the Judge must state a minimum punishment part at which point the individual can apply for Parole and on their release they will be subject to supervision for life

- Order for Lifelong Restriction – this is only imposed following a Psychological Risk Assessment Report and will have a minimum sentence attached, at which point an application can be made for release. These sentences are only imposed in the most serious cases where a life sentence is not appropriate but whole life management and oversight is required. There is no automatic release and the individual will be subject to supervision for life

In all cases, the Criminal Justice Social Worker will be in regular contact with the individual and their family throughout the sentence, as well as prison-based social work and Scottish Prison Service staff, to plan for eventual release. Three months prior to release there will be a multi-agency meeting where the individual, their family, prison and community based social workers and Scottish Prison Service staff meet to discuss what supports or restrictions are required for release. A list of proposed Licence conditions are drawn up – these conditions will relate directly to the risks and needs of the individual and be targeted at their rehabilitation and resettlement, as well as protecting previous or potential victims in the community.

On release, the individual will be required to attend regular appointments with their social worker to develop and agree a Case Management Plan – this details the expectations, interventions and supports that will form the basis of supervision. Failure to comply with this plan or the Licence conditions can result in a breach application being submitted to the Parole Board with the ultimate sanction of Licence revocation and recall to custody.

The Parole Board makes the decision as to suitability for release into the community or recall back to custody and it is based on the risk presented by the individual and whether or not, with restrictions, they can be safely managed in the community. As noted above everyone - except those subject to a Life Sentence or Order for Lifelong Restriction who have to prove they have rehabilitated - will be released back into the community at any time from the mid-point of their sentence but definitely six months prior to their sentence end date.

## **Voluntary Throughcare**

This is the Criminal Justice Social Work Service offered to anyone who is sentenced to less than four years custody and not subject to a specific Licence or Order (see Statutory Throughcare) – the individual will be released at the mid-point of their sentence and they can choose whether or not they take up support as this is a voluntary service. The Scottish Government has been promoting a presumption against short sentences for a number of years and, more recently, is looking to extend this to include any sentence of 12 months or less. There is clear evidence that short sentences do little to promote desistance as they often isolate and distance individuals from their communities, families and support networks while simultaneously promoting negative associations and connections with other people who offend.

In East Lothian, the Voluntary Throughcare workers make contact with all those sentenced to custody within six weeks of sentence, offering a prison visit and providing more information about the service. The workers will maintain contact during a sentence and, where an individual takes up the service, visit them in the final 12 weeks to identify key barriers and challenges of returning to the local community. The support is available for 12 months following release and the workers focus on addressing welfare, social inclusion and emotional needs with referral and sign posting to community resources, as appropriate.

Many people subject to short-term sentences have multiple needs with a high incidence of substance misuse, housing instability, financial hardship, mental & physical health problems, unemployment and/or deprivation. Many will lose their home or employment due to their sentence and this can precipitate a downward spiral of need, resulting in further offending or risky behaviour and periods of imprisonment – this is the revolving door of short-term prison sentences that legislation is trying to prevent.

## **Addressing Offending Behaviour – programme and individual interventions**

Anyone subject to a Community Payback Order with a supervision requirement or a post-custody Licence or Order will have a risk and needs assessment completed leading to the development of a Case Management Plan – this will detail the work to be completed during the period of supervision, and covers both welfare needs and offending behaviour.

### **Welfare Needs:**

Many people with convictions experience multiple deprivation with health, housing, employability, substance misuse and financial hardship difficulties being all too prevalent. We have developed a Welfare Clinic that allows anyone who is in receipt of a Criminal Justice Social Work Service to meet with a Social Work Assistant and be supported to access services, including Department of Work & Pensions, Citizens Advice Bureaus, Substance Misuse Services, housing services, foodbanks etc. The sessions are not compulsory and in being client-centred, allow individuals to focus on the specific welfare needs that impact on their community reintegration.

### **Offending Behaviour:**

#### **Individual Work:**

Social workers complete a risk and needs assessment using the nationally recognised and accredited Level of Service Case Management Inventory (LSCMI). The assessment focuses on key risk factors that have been identified as affecting re-offending as well as highlighting an individual's needs in relation to social inclusion. Individual work is normally based on cognitive behavioural therapy techniques that both support and challenge individuals to look at their offending to identify harmful patterns of behaviour, risky situations, key triggers or pathways and the impact on victims, family members and the local community. Where specific pathways are identified, the aim is to offer alternative behaviours and scenarios, supporting informed decision-making and developing consequential thinking so an individual can make a different choice if faced with the situation again. Anger control, substance-related offending, negative peer associations & friendships, poor coping mechanisms, learned anti-social behaviours, impulsivity, poor problem-solving techniques, low self-esteem & confidence and experiences of trauma often feature in the backgrounds of people with convictions. The individual work

completed as part of an Order or Licence is designed to target both the risks and needs of individuals so as to give them the skills and tools to effect lasting change to their lifestyles and, in so doing, reintegrate into local communities and live healthy, safe and positive lives.

**Group Work:**

Sexual Offenders – individuals who have been convicted of a sexual offence are often required to complete **Moving Forward: Making Changes** (MF:MC). Desistance literature around sexual offending has identified that strong challenge, punishment, judgement and shame do little to address this type of offending. Instead, supporting men to better understand their pathways into the offending and to appreciate the impact of their behaviour on others alongside working to promote a ‘better’ life for yourself has been found to reduce the risk more effectively. MF:MC provides a suite of pre-group exercises to be completed prior to attending the group programme – this is a rolling programme of seven essential and eight optional modules, tailored to the individual’s risks and needs. Where MF:MC is a requirement of an Order or Licence, it is expected that the supervision element last for a minimum of three years to allow sufficient time for post-group maintenance and relapse prevention planning.

Domestic Abuse Offenders – men who have been convicted of domestic abuse offences against their female partners or ex-partners can be required to complete the **Caledonian System**. This is a multi-dimensional group programme that provides offence-focused intervention for the perpetrator alongside supportive services to the women and children with whom he is still involved. The programme holds men to account for their behaviour by challenging often deep-seated beliefs around the power, control and ownership rights men have about women – these are learned behaviours rooted in political, cultural and economic systems that support patriarchy. The programme consists of 14 pre-group individual sessions, followed by a rolling group work programme of six modules with an optional period of maintenance support – individuals usually take two years to complete the programme.