This subject map is one of six covering various aspects of the Scottish criminal justice system. It provides a brief description of the operation of the prison service in Scotland, including information on the current system of early release for prisoners.

The other five subjects maps in this series are:

- SB 12/25 The Scottish Criminal Justice System: The Public Prosecution System
- SB 11/62 The Scottish Criminal Justice System: The Police
- SB 11/59 The Scottish CriminalJustice System: The Criminal Courts
- SB 11/54 The Scottish Criminal Justice System: Legal and Administrative Arrangements
- SB 11/53 Children in the Scottish Criminal Justice System
THE SCOTTISH PRISON SERVICE

Introduction

The Scottish Prison Service (SPS) is an executive agency of the Scottish Government. It currently manages 16 prison establishments with an average daily population of 7,853. (Scottish Government 2011a) The SPS is headed by a Chief Executive who is directly accountable to the Cabinet Secretary for Justice for the running of the agency.1

The legislative framework which governs the management of prisons in Scotland includes:

- The Prisons (Scotland) Act 1989
- The Prisons and Young Offenders Institutions (Scotland) Rules 2011 (“the Rules”)
- Directions made under the Rules

The Rules (in force since November 2011) follow consultation on the Draft Prison Rules 2011 (closed June 2011). (Prior to this consultation the relevant rules were last comprehensively reviewed in 1994.)

Whilst the SPS has no statutory duty to rehabilitate prisoners, it has recognised the importance of rehabilitation, setting out in its Vision for Correctional Excellence a commitment to:

“encourage prisoners to take opportunities which will reduce the likelihood they re-offend and help reintegrate them back into their community”.

Other key aims of the SPS are:

- to keep in custody those committed by the courts
- to maintain good order in each prison
- to care for prisoners with humanity

Prison establishments

The Scottish Prison Service estate currently comprises 16 prison establishments – 14 of which are publicly managed and 2 which are privately managed. They range in size and type from Her Majesty’s Prison (HMP) Barlinnie in Glasgow with a design capacity of over 1,000 places, to HMP Inverness which is designed to hold just over 100 prisoners. HMP Open Estate now has a single establishment, at Castle Huntly, which focuses on providing employment training and transitional through-care for prisoners working towards a structured reintegration into society. Her Majesty’s Young Offenders Institution (HMYOI) Polmont is a dedicated establishment solely for male young offenders, while HMP/YOI Cornton Vale near Stirling is the main establishment for female prisoners. Both HMP Addiewell and HMP Kilmarnock are privately managed under contract to the SPS.

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1 John Ewing, the current Chief Executive of the SPS, is due to be replaced by Colin McConnell (currently Director General of the Northern Ireland Prison Service) from May 2012.
Much of the prison estate has benefited from upgrading in recent years with the most recent being HMP Shotts. HMP Low Moss is the newest public sector prison which opened in March 2012. HMP Grampian is under construction and is due to open in 2013/14. It will replace HMP Peterhead and HMP Aberdeen.

As indicated above, prisons vary in type and also in the populations that they hold. The majority of prisons in Scotland are local/remand prisons. For example:

- HMP Barlinnie receives prisoners from the courts in the West of Scotland. It retains male remand prisoners and prisoners serving sentences of less than four years. It also allocates suitable prisoners from its convicted population to other prisons and manages prisoners serving more than four years in the initial phase of their sentence until places become available for them in the long-term prisoner system.

- HMP Shotts is a prison for long-term adult male prisoners. Purpose built in 1978, it caters for long-term prisoners serving sentences of more than four years who are transferred from other establishments and who require to be kept in secure conditions.

- HMP/YOI Cornton Vale provides custodial facilities and services for remanded and convicted females (including young offenders) in all sentence ranges and supervision levels. A number of female prisoners are also housed at HMP Edinburgh, HMP Greenock, HMP Aberdeen and HMP Inverness.

- HMP/YOI Polmont provides custodial facilities for male prisoners between 16 and 21 years of age (in some cases up to the age of 23). Prisoners are both convicted or on remand, with convicted prisoners serving sentences ranging from six months to life.

- HMP Open Estate was established at Castle Huntly in 2007 following an amalgamation of HMP Noranside and HMP Castle Huntly. HMP Noranside closed in October 2011 following a prolonged decline in the Open Estate prisoner population. This decline was largely due to changes implemented following the Foye report, and the further tightening of the criteria before a prisoner could be considered for transfer to that regime. The Open Estate holds low supervision adult male prisoners serving 18 months and over, including life sentence prisoners, who have been assessed as suitable to serve part of their sentence in open conditions.

Scottish Prison Population and Capacity

The Scottish Government’s statistical bulletin Prison Statistics Scotland 2010-11 (Scottish Government 2011a) indicates that the average daily number of prisoners (including young offenders) held during 2010-11 was 7,853\(^2\). It states that:

“The average daily population for 2010-11 shows a small dip of 1 per cent compared to the previous year (…). The recent figures suggest that the rate of change is currently slowing down to some extent, after the sustained increases observed in the prison population since 2000-01. However, it is still too early to tell whether this represents the beginning of a longer term levelling out of the prison population. This dip is primarily due to marked drops in the young offender population for both remand and direct sentenced prisoners by 14 and 17 per cent respectively.” (paras 2-3)

\(^2\) Unless stated otherwise, prison population figures in this briefing do not include prisoners on Home Detention Curfew (HDC). HDC allows some prisoners to be released early to serve the final part of their sentence in the community.
The number of prisoners held on any particular day varies. The design capacity of the prison estate (i.e., the number of inmates intended for prison facilities based on minimum standards) may also change during the course of a year. For example:

- 1 April 2010 – design capacity of 7,488 against a population of 7,758
- 31 March 2011 – design capacity of 7,335 against population of 8,034\(^3\)
- 7 March 2012 – design capacity of 7,148 against a population of 8,420.\(^4\)
- 30 March 2012 – design capacity of 7,848 against a population of 8,295

The difference between the design capacity of the prison estate and actual prisoner numbers can provide an indication of prison overcrowding. However, overcrowding may also be a particular problem within certain parts of the estate (e.g., for certain types of prisoner). The Scottish Prison Service Annual Report and Accounts 2010-11 (Scottish Prison Service 2011) notes that:

"Overcrowding limits our ability to deliver the quality of regimes needed to meet prisoner needs and tackle offending behaviour. SPS has no control over the number of offenders sent to prison. Our commitment is to ensure that all those sent are held securely and treated humanely during their time in our custody." (p 4)

The Scottish Government’s statistical bulletin Scottish Prison Population Projections: 2010-11 to 2019-20 (Scottish Government 2011b) includes projections (based on the extrapolation of past trends) up to 2019-20. The most recent projections are outlined in the table below:

Table 1: Prison Population Projections (from December 2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>Average daily population</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>8,000</td>
</tr>
<tr>
<td>2012-13</td>
<td>8,300</td>
</tr>
<tr>
<td>2013-14</td>
<td>8,600</td>
</tr>
<tr>
<td>2014-15</td>
<td>8,800</td>
</tr>
<tr>
<td>2015-16</td>
<td>9,000</td>
</tr>
<tr>
<td>2016-17</td>
<td>9,100</td>
</tr>
<tr>
<td>2017-18</td>
<td>9,200</td>
</tr>
<tr>
<td>2018-19</td>
<td>9,400</td>
</tr>
<tr>
<td>2019-20</td>
<td>9,500</td>
</tr>
</tbody>
</table>

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3 Figures for 1 April 2010 and 31 March 2011 were provided in a personal communication with SPS officials (September 2011). The numbers of prisoners on HDC on 1 April 2010 and 31 March 2011 were 351 and 336 respectively.

4 The figure for 7 March 2012 was prior to the opening of HMP Low Moss on 12 March 2012. This is the highest ever population figure. The number of prisoners on HDC on that date was 368. Updated prison statistics and prison population projections are due to be published in June 2012.
Developments in the Prison Estate

In March 2002 the SPS published its Estates Review following a study aimed at identifying likely pressures on the prison estate over the long term and producing options to meet those pressures. The work included an assessment of the level of new prison accommodation required over a ten-year period in order to:

- replace unfit and temporary accommodation (including the ending of slopping-out\(^5\))
- meet projected increases in demand for prisoner places

The options set out in the Estates Review were based on:

- a prison estate with a design capacity of 6,300 prisoner places at the time of the review
- an assessment that only 3,900 of those places were fit for purpose
- a projected average daily prison population of 7,200 by 2010-11

On this basis, it estimated that 3,300 new prisoner places would be required – 900 to take account of the projected increase in prison population and 2,400 to replace accommodation which was not fit for purpose.

Table 2 provides a summary of the recommendations of the Estates Review in relation to the closure of accommodation which was no longer fit for purpose and the provision of new accommodation.

<table>
<thead>
<tr>
<th>Action to be taken</th>
<th>Expected impact on capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closure of accommodation which is not fit for purpose</td>
<td></td>
</tr>
<tr>
<td>Closure of HMP Low Moss</td>
<td>-375</td>
</tr>
<tr>
<td>Closure of HMP Peterhead</td>
<td>-306</td>
</tr>
<tr>
<td>Reduction in capacity of HMP Barlinnie</td>
<td>-480</td>
</tr>
<tr>
<td>Changes at other prisons</td>
<td>-1,239</td>
</tr>
<tr>
<td>New accommodation</td>
<td></td>
</tr>
<tr>
<td>Three new prisons</td>
<td>+2,200</td>
</tr>
<tr>
<td>New houseblocks</td>
<td>+1,100</td>
</tr>
<tr>
<td>Overall impact</td>
<td>+900</td>
</tr>
</tbody>
</table>

Since the time of the Estates Review, the old Low Moss prison closed in May 2007 and a significant prison building programme has resulted in both additional prisoner places and the replacement of much accommodation which was considered unfit for purpose. Results of the building programme have included:

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\(^5\) The absence of access to integral sanitation in prison cells.
• a new houseblock at Edinburgh opened in December 2008, providing 116 new prisoner places
• a new prison at Addiewell opened in December 2008, providing 700 new prisoner places
• a new houseblock at Polmont opened in November 2009, providing 137 new prisoner places, with further redevelopment completed in 2010-11
• redevelopment at Glenochil (completed in 2010-11), Perth (completed 2011-12) and Shotts (first phase completed 2010-11) providing improved accommodation and facilities

As a result of this work, the design capacity of the prison estate increased from around 6,300 at the time of the Estates Review to 7,848 as at 28 March 2012, which includes the recently opened HMP Low Moss. The increase in capacity is more than the original figure proposed in the Estates Review. As outlined above, it had also been intended to reduce the capacity of HMP Barlinnie however, due to a significantly increased prisoner population, this has not proved possible.

In relation to HMP Low Moss, the [SPS website](http://www.sps.gov.uk) states:

> The new HMP Low Moss has been delivered under budget at a cost of £120 million. It will provide 700 cells as well as facilities to allow prisoners to address their reoffending and reintegrate into the community on their release from prison. These facilities will include a link centre where prisoners will be able to deal with matters relating to employment, housing, social work, through-care addiction service. The new HMP Low Moss in East Dunbartonshire has replaced the old prison accommodation that had previously occupied most of the site.

The new prison at Low Moss is being run by the SPS (ie publicly run). Although this is the norm within the prison estate, the last two prisons to open (at Kilmarnock and Addiewell) are both run by private companies on behalf of the SPS.

With regard to the female prison estate, the Convener of the Scottish Parliament’s Justice Committee recently wrote to the SPS requesting an update on specific recommendations contained in Her Majesty’s Chief Inspector of Prisons most recent report on HMP Cornton Vale (June 2011). In its response, the SPS stated:

> Already this year, additional capital funding has been provided to HMP Cornton Vale to improve facilities there. SPS has also opened a new women’s facility at HMP Edinburgh which houses 115 women offenders.

> Our long-term intention is to develop a number of units for females, allowing many to locate closer to home than one central facility provides. We believe there will continue to be a requirement for a central facility which we aspire to become a centre of excellence for the management of women in custody. As the Committee are aware, we currently house c105 female prisoners in HMP Edinburgh, a small number in HMP Greenock and a small number close to liberation in the Community Integration Units in HMPs Aberdeen and Inverness.

> In the context of developing the prison estate, we are also committed to building a new community facing prison, HMP Grampian, which will be operational in 2013-14. This will include a 50 place dedicated unit for managing female offenders from the Northern Community Justice Area. Work will also commence on constructing HMP Inverclyde (the replacement for HMP Greenock) which will be another community facing prison and will include a unit to house female offenders, primarily from the West of Scotland. The development of HMP Grampian and plans for HMP Inverclyde will enable us to deliver
on our on-going commitment to a more community facing prison model which will allow women prisoners to better maintain access to their families and enhance re-integration opportunities. (Scottish Prison Service 2012)

In June 2011, the Scottish Government established a Commission on Women Offenders to examine ways in which to improve outcomes for women in the criminal justice system. The Commission published its report on 19 April 2012. The Commission made a number of recommendations including that HMP Cornton Vale be 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.

**Her Majesty’s Inspectorate of Prisons for Scotland**

HM Inspectorate of Prisons for Scotland was established in its present form following the publication in 1979 of a report by the Committee of Inquiry into the United Kingdom prison system. The report recommended that there should be a system of inspection of the prison service distanced as far as might be practicable from the respective Prison Departments. Subsequently, the post of Her Majesty’s Chief Inspector of Prisons for Scotland (“the Chief Inspector”) was approved and the Inspectorate commenced operations on 1 January 1981.

The Chief Inspector’s main statutory responsibility is the regular inspection of individual establishments. In carrying out this function, matters that are inspected and reported on include physical conditions, quality of prisoner regimes morale of staff and prisoners, facilities and amenities available to staff and prisoners, questions of safety and decency, and the establishment’s contribution to preventing re-offending. Other areas of responsibility for the Chief Inspector include the inspection of legalised police cells, the undertaking of periodic thematic studies that focus attention on specific areas or aspects of the SPS and a statutory requirement to publish an annual report which is laid before the Scottish Parliament.

All reports are submitted to Scottish Ministers. All inspection reports are published in full, save occasionally parts of reports which the Chief Inspector has indicated should not be published as they touch on confidential matters involving security. The Chief Inspector has no direct input to the policy or management of the SPS, though recommendations in reports may have implications for either or both.

The Chief Inspector is appointed by the Crown on the basis of a recommendation from the Scottish Ministers. The current Chief Inspector is Brigadier Hugh Munro CBE who took up the role in June 2009.

**Scottish Prison Complaints Commission**

The Scottish Prison Complaints Commission (“the Commission”) closed on 30 September 2010. At that point, the functions of the Commission (to investigate complaints made by prisoners that were not resolved through the internal complaints system of the SPS), transferred to the Scottish Public Services Ombudsman (“the SPSO”). This transfer was brought about as a result of provisions contained in the Scottish Parliamentary Commissions and Commissioners etc Act 2010. The SPSO handles complaints about public services in Scotland including councils, the National Health Service, housing associations, the Scottish Government and its agencies and departments, universities and colleges and most Scottish public authorities.
Early Release Arrangements for Prisoners

“Early release” is the term given to the present system which permits the release of a prisoner, on either a discretionary or an automatic basis and either with supervision (conditional release) or without (unconditional release), prior to the expiry of the sentence of imprisonment imposed by the court. With some exceptions (eg special provisions dealing with certain sexual offenders) the question of which rules govern the release of a prisoner is determined by the length of sentence. There are different rules for “short-term prisoners”, “long-term prisoners” and “life prisoners”:

- short-term prisoners sentenced to less than a four-year term of imprisonment are released automatically and unless made subject to a supervised release order, without supervision after serving one-half of their sentence

- long-term prisoners sentenced to four years or more may be released on licence after serving one-half of their sentence if this is directed by the Parole Board for Scotland and must be released on licence after serving two-thirds of their sentence

- prisoners sentenced to life imprisonment may be released on life licence after serving in full the “punishment part” of their sentence imposed by the court, if this is directed by the Parole Board for Scotland.

Provisions contained in both the Custodial Sentences and Weapons (Scotland) Act 2007 and the Criminal Justice and Licensing (Scotland) 2010 Act seek to change the current system of early release but, as yet, the relevant measures in both pieces of legislation have not been brought into force.

The Scottish Government introduced the Criminal Cases (Punishment and Review) (Scotland) Bill in the Parliament on 30 November 2011. Part 1 of the Bill\(^6\) seeks to amend some of the statutory rules used by courts when calculating the “punishment part” of a life sentence (ie the period a life prisoner must serve in custody before being eligible to apply for release on parole). The Scottish Government’s proposals in this area are in response to the decision of the High Court of Justiciary in the case of Petch & Foye v HM Advocate (2011). A recent [SPICe briefing](#) on Part 1 of the Bill (McCallum 2012) provides further information.

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\(^6\) Part 2 of the Bill seeks to establish a framework under which the Scottish Criminal Cases Review Commission may disclose information about cases it has referred to the High Court of Justiciary where the relevant appeal has subsequently been abandoned.
SOURCES


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