Families Outside is a national independent charity that works on behalf of families affected by imprisonment in Scotland. We do this through provision of a national freephone helpline for families and for the professionals who work with them, as well as through development of policy and practice, delivery of training, and provision of face-to-face support.

Families Outside is grateful for the opportunity to comment on the Justice Committee’s Scrutiny of the Scottish Government’s Draft Budget for 2012-13. We do not feel we are in a position to respond to all of the questions in the Call for Evidence but will answer the ones we can and comment more generally about the principles involved. We are happy to elaborate on any of these should the Committee require additional information or specific references for the research findings.

Prisons

*Is the Scottish Prison Service budget sufficient to cope with the current and projected prison population?*

*Are sufficient funds available to properly maintain the fabric of the prison estate whilst pushing forward with planned development work?*

The prison population in Scotland is rising at unprecedented levels, particularly for women. The Scottish Prison Service budget cannot realistically expect to keep up with this rise, especially where this requires the continuous building of new prison places and upgrading of old ones. Funding of this is throwing money into a ‘black hole’ at the expense of schools, hospitals and other essential expenditure. In saying this, the SPS cannot be expected to cut costs when it is also expected to cope with the existing and increasing prison population.

With this in mind, we would suggest a number of measures to address this:

1) Impose a cap on the use of imprisonment so that only the most serious and dangerous offenders are housed in prisons.
2) Prioritise spending on measures that will keep people out of prison and reduce offending and reoffending. This includes a focus on education, mental health, substance misuse, family and relationships, housing and employment. This focus is for prisoners but especially for early years to prevent problems developing in the first place.
3) Ensure that capital spend and building works in the prison estate are used to best advantage. For example, HM Inspectorate of Prisons has challenged the closure of the old prison at HMP Shotts once the work on the new building is
complete. This would reduce the risk that serviceable facilities are not demolished without good cause, at considerable cost to the taxpayer.

**Are sufficient funds available to properly staff current and planned prisons?**

Our understanding is that prison staff and capital spending make up the largest proportion of SPS costs. While cutting staff would reduce SPS costs, it would also reduce the ability of dedicated and well-trained staff to make a difference to the lives of the people in their care. In reviewing the budget available for staffing of prisons, we would suggest consideration of the following:

1) Ensure that the roles and responsibilities of prison staff meet the demands of rehabilitation and resettlement of prisoners.

2) Ensure that prison staff receive sufficient training for the increasingly complex roles they are expected to perform, especially regarding prisoners with mental health issues, backgrounds of abuse, learning difficulties and learning disabilities. Basic foundation training at the SPS College is arguably not enough, and releasing staff to take part in additional training later on costs extra staff time and resources.

**Are sufficient funds available to provide meaningful activity for prisoners (including activities aimed at rehabilitation)?**

Provision of ‘meaningful activity’ for prisoners has always been a struggle for prisons, especially where populations are expanding, staying in prison for short periods, facing court cases and dealing with chronic health needs. In our view, activities aimed at rehabilitation should be the primary focus of any meaningful activity. These should be available for all prisoners, including those on remand.

This calls into question the definition of activities aimed at rehabilitation. Whilst offending behaviour programmes have their place, so do activities such as cookery, budgeting, literacy and numeracy, Occupational Therapy, parenting and relationships programmes, and ‘brief interventions’ such as one-off information sessions about alcohol and other drugs, housing, child development and so on. Activities must be designed for the population rather than expecting the population to fit in to the design of a programme. Only then will prisoners be able to benefit from activities that build their essential skills for resettlement.

**The Courts and Legal Aid**

**How will the additional costs arising from the Cadder ruling impact on the legal aid budget?**

While the Cadder ruling will incur additional costs in the short-term, the long-term benefits will include increased diversion from prosecution, increased support for vulnerable defendants such as those with learning difficulties or learning disabilities, and reductions in wrongful conviction and appeals. These savings will themselves be
considerable. Regardless of whether they balance the cost of provision of legal advice from the point of arrest, they ensure a fairer Scotland, which is of benefit to us all.

**How will funding cuts impact on access to justice and will any groups be particularly affected?**

In terms of vulnerable groups, we are concerned that any cuts to the Legal Aid budget would have knock-on effects for victims and for the families of defendants. Victims should not have to leave an offence unaddressed because of a lack of funds to seek justice. Equally those accused of a crime should be able to defend themselves – nor should their families, who have committed no crime, be penalised as a result of a charge or conviction. Cuts in Legal Aid would affect them as much as the alleged offender.

**Will cuts to the SCS budget lead to staff redundancies and/or the closure of courts?**

We strongly support the Scottish Government’s aim to make better use of IT such as video links between prisons and courts, such as for preliminary diets. This would reduce costs in terms of staff time for escorts, prisons and courts as well as considerable discomfort and inconvenience for all concerned. We would expect this to create substantial savings to the justice budget.

**Other issues**

**Are there any other issues that you would like to draw to the attention of the Committee?**

We would like to raise two additional points. First, we disagree with any move towards mandatory sentencing and suggest revisiting mandatory sentencing laws that currently exist. Offence categories will always have exceptional circumstances, and ‘knee-jerk’ reactions to offences such as knife crime risk forcing the courts into inappropriate sentences. A presumption of a certain sentencing type would be more appropriate in such cases, such as the presumption against sentences of three months or less. This guides the courts without binding their hands in circumstances in which the presumed sentence in clearly inappropriate.

Second, we submit that prevention of offending begins outside the Criminal Justice System and is strongly linked to early years and schools, health and mental health, housing, and families and relationships. In the words of Victor Hugo, “He who opens a school door, closes a prison.” This applies in both the short and long term: investment in early years results in longer-term prevention, but equally the focus on meaningful engagement with people already in the criminal justice system will be of value in both the short and long term, both to the offenders themselves and to their children and families.

We appreciate the opportunity to comment on the draft budget and are happy to provide additional information should the Justice Committee request it.