

PE2171/A: Stop the use of prisons for punishment and focus them on public protection

Scottish Government written submission, 24 July 2025

Does the Scottish Government consider the specific ask[s] of the petition to be practical or achievable? If not, please explain why.

The Scottish Government recognises the benefits that can be provided by community justice, including through the use of community sentences and other community-based interventions. While it considers that there will always be a need for prison, in many circumstances keeping people out of custody is the best way to prevent further offending, reduce victimisation, and keep our communities safe.

As noted in the National Strategy for Community Justice and the Vision for Justice in Scotland, the Scottish Government's ambition is to use prison only for those who pose a risk of serious harm, while ensuring that protecting victims and the public remains an absolute priority. However, this is considered a long-term aim and while work is underway to encourage a shift in the balance between the use of custody and justice in the community, changing the use of prison in line with the petition raises complex and multifaceted issues and is not considered practical or achievable in the shorter term.

It should be noted that sentencing in any given case is for the independent courts, taking account of all the relevant facts and circumstances of each case before them. The courts make their sentencing decisions within the legal framework set by Parliament and using any relevant guidance from the independent Scottish Sentencing Council. Of particular relevance in the context of the issues being raised by the petitioner are the Sentencing Council's Guideline on the Principles and Purposes of Sentencing, and its Guideline on Sentencing for Statutory Offences of Causing Death by Driving. These can be found at [Approved guidelines | Scottish Sentencing Council](#).

The petition specifically refers to the use of custodial sentences for driving offences. The power to set maximum penalties for driving offences is reserved to the UK Parliament. As such, if the petitioner has comments or concerns about these they may wish to raise this with the Ministry of Justice. If the petitioner has comments or concerns about the Scottish Sentencing Council's Guideline on Sentencing for Offences of Causing Death by Driving, they may wish to contact the Sentencing Council directly.

What, if any, action the Scottish Government is currently taking to address the issues raised by this petition and is any further action being considered that will achieve the ask[s] of this petition?

The Scottish Government has a longstanding aim to take a person-centred and rehabilitative approach to community justice to encourage a shift in the balance between custodial and community interventions. This is set out in the National Strategy for Community Justice, which recognises that while public protection is paramount, there is clear evidence that community-based interventions and sentences are more effective in reducing reoffending than short custodial sentences and may provide greater opportunity for rehabilitation. To support community justice services and ongoing work that further enables a shift away from the use of custody,

the Scottish Government has increased community justice funding by £25m over two years, bringing the total funding for community justice to £159m in 2025-26.

In 2019 the presumption against short sentences (PASS) was extended from three months or less to twelve months or less to support a further shift away from ineffective short custodial sentences. Under the presumption, sheriffs should not impose custodial sentences of 12 months or less unless they consider that no other method of dealing with the person is appropriate. However, discretion continues to sit with the court in any given case to determine an appropriate sentence, including a custodial sentence if that is considered necessary.

In recent years progress has been made in a range of areas that support the provision of justice in the community and public protection, including electronic monitoring. Electronic monitoring is a reliable and appropriate tool to support a person living in the community rather than being held in custody, and confidence in the measure can be seen through its high usage. The number of electronic monitoring orders has more than doubled between 2021 and 2025, and the number of those on any form of electronic monitoring is currently at record high levels. Public safety and any potential risk to victims are key factors in determining suitability for electronic monitoring, including typically the nature of curfew periods and any restrictions from particular places.

In addition to providing further support to community justice services, the Scottish Government continues to work with partners to ensure prisons continue to function effectively and can provide the full range of support needed for people to leave on a better path. The Scottish Prison Service's new education and employability strategy, "Learning for a Better Future" will further enhance the existing opportunities available in custody. The strategy will support an individual's development and learning towards Health and Wellbeing, Empathy and Citizenship, Life and Work and for the Benefit of Others. It will also form a basis for planning an individual's development pathway during their time in custody.

With regard to exploring the potential for more significant changes in how prison is used, earlier this year the Sentencing and Penal Policy Commission was established, led by an independent Chair and supported by five expert Commissioners. The Commission will examine how and when custodial sentences and community interventions are used, how effective these are, and what more can be done to reduce reoffending, which will help ensure that Scotland has a sustainable prison population over the long term. It will make detailed recommendations for improvements in how offending behaviour can be dealt with in an effective and proportionate manner. The Commission's final report and recommendations are to be presented to the Scottish Government before the end of 2025.

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