

## **Bail and Release from Custody (Scotland) Bill: Inverclyde HSCP response to the Financial Memorandum**

**Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?**

Inverclyde contributed to the initial consultation “Bail and Release from custody arrangements in Scotland” in early 2022. However, this did not specifically address nor ask for comment on the financial assumptions made. The initial request for comments on the Financial Memorandum (FM) does not appear to have been directed at appropriate personnel within Inverclyde HSCP who would have wished to participate.

**If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?**

Please refer to above. Inverclyde HSCP are of the view that their comments on the financial assumptions made have not previously been sought and therefore could not be reflected.

**Did you have sufficient time to contribute to the consultation exercise?**

As per above. In relation to this particular follow-up response, the time allowed was sufficient.

**If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.**

We have addressed some of the specific points that cause us concern below. However, we believe that the implementation of this Bill will have significant financial implications for Justice Social Work and, having a prison within our local authority area, for prison based social work services too. In general terms, we would highlight that determining the true costs of delivering Justice Social Work services both in the community and the prison has not been attempted for some considerable time. Thus, the assumptions on which the FM have been based are at best outdated. There is work being led by SG colleagues to review the funding formula for Justice Social Work which has been ongoing since July 2021. However, this is tasked only with looking at constituent parts of the formula itself opposed to the actual cost of service delivery. This work, Inverclyde HSCP understands, is yet to commence. Therefore, we would contend all estimates within the FM, as they apply to Justice Social Work, will be significantly understated. Moreover, we would also contend that there is a level of complexity and risk associated with assessing and supervising individuals both pre and post sentence which has been underestimated in calculating the impact of the Bill’s measures on Justice Social Work staff activity/workloads. Finally, none of the financial assumptions take account of the ancillary costs involved for Justice Social

Work in delivering on these measures such as training, administrative support and line management oversight.

**Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?**

**Section 1 (Enhanced Role for justice social work in provision of information to the court)** – Inverclyde notes that calculations have been made against costings for a full time qualified social worker. We, like many other local authorities, foresee this role being primarily carried out by paraprofessional staff. That said, there appears to have been no consideration given to associated costs such as training and cover for annual leave and sickness. There has been no allowance made for the costs of providing line management and administrative support.

In addition, we would consider the estimation of 90 minutes per assessment to be on the conservative side. Anecdotal evidence from Inverclyde's experience of providing Bail Supervision assessments to date is suggestive of an average assessment time of 120 minutes.

Our initial experience suggests that the success of this provision is very much dependent on Justice Social Work staff being available to the Court when required. Prisoner transportation and Procurator Fiscal marking are external factors which impact on resource efficiency. Late arrival of prisoners at Court and/or only being advised of bail opposed cases late in the day can result in Courts themselves sitting late to get through the business. This in turn can lead to Justice Social Work staff being asked to work out with their contracted hours.

The Service is also aware that there remains a significant backlog of criminal cases following the Covid-19 pandemic. We understand that Court sittings on weekends may still be considered. This would suggest that allowance for overtime and atypical hours should be considered as necessary to provide a service that effectively meets the needs of the Court.

**Section 7 (Release of long-term prisoners on licence)** - In respect of paragraph 127, Inverclyde HSCP welcomes the recognition that this will increase the workload of Prison Based Social Work (PBSW) teams. As PBSW is provided by local authorities to Scottish Prison Services (SPS) under Memorandum Of Understanding (MOU) arrangements, Inverclyde HSCP would be keen to be involved in further discussion over these costings and how they might be distributed across the 13 PBSW teams which service the SPS estate.

Regarding para 130, Inverclyde HSCP would query the estimated unit cost of £9,034 per year for the provision of statutory throughcare. This figure is derived using a dataset from 2016/17 and the document which it was lifted from, (Costs of the Criminal Justice System in Scotland dataset 2016-17) itself, urges care when using these costs. This is because the document recognises the unit costs are simply based on funding allocation at the time rather than how much it costs to deliver the provision. With both the currency of the data and the methodology open to question Inverclyde HSCP

would urge this notional figure needs to be treated with caution, as it likely to significantly understate actual costs.

Inverclyde HSCP would additionally highlight that the costs of providing this measure appears to have been based solely on the supervision of the reintegration licence for the period following release. However, Justice Social Work teams would need to be involved in the assessment of suitability for release involving the preparation of at least one additional report and the associated time and costs (including time to travel to prisons across Scotland to meet with prisoners). It is not simply a matter of introducing this assessment process earlier into the prisoner sentence. To illustrate, consideration of release prior to PQD would presumably require an additional home background or TARL report to be produced to support decision making. Echoing the earlier cautions in regard to the difficulty in assessing the actual costs involved in completing Justice Social Work tasks; we would estimate that this would entail upwards of a day's work for a qualified social worker- assuming that the case is relatively straightforward and the prisoner is located locally. This would increase in line with complexity.

Similarly, there is no account taken of the additional time and resource involved in preparing breach paperwork which it would be reasonable to assume would increase in line with offenders being released at an earlier point in their sentence and supervised in the community for longer periods.

Again, there is no consideration given to the line management and administrative costs incurred in providing this additional service.

**Section 8 (Power to Release Early)** – Inverclyde HSCP notes that this power is expected to be used in exceptional circumstances. However, in reflecting on our experience from the Covid-19 pandemic, there were clear expectations placed on Justice Social Work to support the assessment of suitability of prisoners being considered for release and to be considerably more proactive in the offer of voluntary throughcare assistance and support. We would also highlight the impact of such measures on other HSCP services, such as homelessness, who may face significant challenges in responding to such a release.

**Section 10 (Throughcare Support)** – Inverclyde HSCP notes the intention in paragraph 184 to engage with COSLA regarding the costs to local authorities of introducing operational standards in this area. This is welcomed. Inverclyde HSCP would like to note the resource challenges arising from a growing number of high-risk prisoners being released at their Sentence End Date and thus requiring voluntary throughcare of an intensity and complexity not previously anticipated.

in terms of paragraphs 185-189 Inverclyde would reflect that the current provision of third sector support to individuals leaving custody continues to be inconsistent and dependent on sentence type, gender and local authority area possibly suggesting that this is under resourced.

**If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?**

No. Inverclyde HSCP has throughout this response commented that the financial assumptions within the FM as they apply to Justice Social Work are at a minimum understated. There is a need, to begin in earnest, work to understand what it actually costs to deliver Justice Social Work services rather than relying on data and methodology which we would argue are no longer fit for purpose. Within this context we would suggest having a funding formula for Justice Social Work (as is the case at present) that does not have due regard for levels of poverty and deprivation within local authority areas misses a key driver associated with complexity and vulnerability which adds to workload.

While we generally support the proposed measures, we are of the view that adequate centralised funding is required for them to be implemented in a meaningful and successful way. While accepting the complexities of the issue we would further suggest that to successfully reduce the prison population and provide effective and meaningful community interventions; financial resources will ultimately need to be transferred from the custodial estate to the community.

**Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?**

While the FM acknowledges that the financial impact of the Bill is difficult to predict in most areas it offers no assurances regarding how and when any additional funding may be distributed. This leads to concern that Justice Social Work may be required to resource these demands in advance of receiving additional funds which would be challenging. Considering the concerns of and demands on our current staff, adding additional duties without associated resource would impact staff wellbeing and retention.