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Dear David,

ORDERS FOR LIFELONG RESTRICTION (OLR)

Thank you for your letter of 30 September 2026 regarding Orders for Lifelong Restriction (OLRs).

I welcome your interest in understanding more about the operation of this important sentencing disposal. This is in the context of considering what role the Criminal Justice Committee may have in this area.

As you note in your letter, OLRs were introduced to provide robust public protection while also allowing for progression and risk management where this can be achieved safely. The sentence remains available only to the High Court and is reserved for a small number of individuals convicted of serious violent or sexual offences whose assessed risk is such that lifelong risk management measures are considered necessary for the protection of the public.

As I know you will be aware, and as is the case with sentencing more generally, decisions on whether an OLR should be imposed are matters for the independent courts. Decisions on release are matters for the Parole Board for Scotland, which may direct release only where it is satisfied that the individual's continued confinement is no longer necessary for the protection of the public.

I have responded below to each of the points raised in your letter.

1. Has the Scottish Government undertaken any recent review, formal or informal, of the operation of the OLR sentence since its introduction, including consideration of whether it continues to operate in accordance with its original policy intent?

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Policy and legislation is kept under continual review as we respond to new findings, legal judgements and emerging evidence, although no recent formal review of the OLR sentence has been undertaken directly by the Scottish Government. However, the operation of OLRs continues to be informed by ongoing engagement with key partners including the Risk Management Authority (RMA), the Scottish Prison Service (SPS) and the Parole Board for Scotland.

It is relevant here that the Risk Management Authority (RMA) in Scotland have an enhanced role in statute in relation to oversight of the OLR and have been a principle source of ongoing and detailed research in relation to the OLR, providing a very rich picture of the operation of the sentence. They have published a a range of research studies relating to the OLR including: The offending behaviour of those sentenced to the Order for Lifelong Restriction; Initial insights into experiences of release, community integration & recall; Psychopathy & the OLR, and, most recently, The Implementation of the Order for Lifelong Restriction Sentence: Analysis of 50 Individuals Subject to the Sentence.

Use of the OLR has remained in line with expectations when first introduced as an exceptional sentencing disposal. At introduction in 2006-07, it was estimated that approximately 10 to 15 offenders a year would receive an OLR, indicating the very high threshold required for this sentence to be imposed. The average since then has been 16 OLRs imposed per year.

The Scottish Government remains of the view that the OLR performs an important role in protecting the public from a small number of individuals whose assessed risk is such that lifelong risk management measures are considered necessary for the protection of the public.

2. What assessment has the Scottish Government made of the findings and recommendations contained in the Scottish Human Rights Commission's 2025 discussion paper on OLRs, particularly those relating to progression opportunities, rehabilitation and compliance with human rights obligations?

The Scottish Government recognises the importance of the issues raised by the Scottish Human Rights Commission (SHRC), including progression opportunities, rehabilitation and human rights considerations.

The Scottish Government continues to engage with relevant partners on these matters and recognises the importance of ensuring that arrangements remain consistent with Scotland's human rights obligations while maintaining appropriate public protection.

We have also sought views from the RMA, and the RMA's position is that human rights considerations are fundamental to effective risk assessment and risk management and are reflected in both the FRAME approach and the statutory oversight arrangements that apply to OLRs, including the standards and guidelines

for risk management. The RMA has also highlighted the importance of the independent oversight of Risk Management Plans, which provides an appropriate safeguard within the OLR framework.

The RMA has welcomed publication of the SHRC discussion paper and has engaged constructively in discussions regarding its finding, including establishing an internal task and action group on human rights and OLRs to consider both short and longer-term actions, which Scottish Government officials will consider in detail once available.

3. What work, if any, has been undertaken by the Scottish Government following the 2024 Court of Session judgment concerning access to rehabilitative opportunities for an OLR prisoner, and has the Government considered whether any systemic issues arise from that case?

The Scottish Government carefully considers the implications of significant court judgements relating to prison management and rehabilitation. The Scottish Prison Service continues to monitor access to programmes, interventions and progression opportunities required to support risk reduction and rehabilitation across the prison estate.

SPS, with support from other partners, continue to review operational practice to ensure appropriate opportunities are available to support progression where this is consistent with risk management and public protection requirements.

4. What information does the Scottish Government hold on the number of people currently subject to OLRs including: the number who have completed their punishment part but remain in custody; the average period spent in custody beyond the punishment part; the number currently living in the community on OLR licence; and trends in those figures over time?

Current information provided by operational partners indicates that:

There are currently 268 individuals serving OLRs within SPS custody. Of those, 219 individuals (approximately 81%) have served the punishment part of their sentence and therefore remain in custody in light of the risks they pose. There are also 4 individuals within NHS Secure Care who have completed the punishment part of their sentence who again remain in Secure Care due to the risks they pose.

The design of an OLR reflects that the punishment part is imposed in respect of the seriousness of the index offence, while the lifelong restriction element reflects the individual's assessed risk to the public. The decision to impose an OLR and, as part of this decision, what the length of the punishment part should be, are matters for the independent courts. Once the punishment part has expired, any decision on release rests solely with the independent Parole Board, which will only authorise release if it is satisfied that the individual's continued confinement is no longer necessary for the

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protection of the public. In some cases, an individual may not be released at that point, or potentially at all.

When an OLR is imposed, the High Court – who are the only level of court authorised to impose an OLR – clearly explain a person subject to an OLR may never be released. The decision on possible release relates to a future assessment of risk taken at the time when release is being considered.

It should be noted that trends in OLR punishment part figures may be influenced by a range of factors, including cases where an individual has received an additional sentence following further offending, or where punishment part dates have subsequently been revised through judicial or procedural processes.

The RMA currently records 19 individuals living in the community subject to OLR licence conditions. Information on the average period spent in custody beyond the punishment part is not currently held as management information and would require further analysis to produce.

The RMA website holds a range of relevant statistics which may be useful in observing particular trends over time: About the OLR - RMA - Risk Management Authority.

5. What assessment has the Scottish Government made of access to programmes, interventions and progression opportunities that may be required by individuals serving OLRs to demonstrate that risk can be managed safely in the community?

Individuals serving OLRs are subject to statutory risk management arrangements established under the Criminal Justice (Scotland) Act 2003. In accordance with these provisions, a Risk Management Plan (RMP) is prepared and subject to RMA approval. The RMP is regularly updated and amended to reflect significant events throughout the duration of the OLR, including progression through custody and any transition to community release. Additionally, the lead authority is to report annually to the RMA as to the implementation of the plan.

The RMA's Standards and Guidelines for Risk Management support the assessment, planning and delivery of these arrangements, including the requirement for a designated case manager. The RMP identifies factors relevant to the individual's risk, responsivity and risk management needs, and sets out the measures, interventions and supports required to manage risk and promote safe progression.

The interventions available may include accredited offending behaviour programmes, psychological treatment, trauma-informed interventions, mental health support, substance use services, education, employability activity and offence-focused one-to-one work. The precise package of interventions is determined by assessed need rather than by application of a standard pathway.

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As noted above, RMPs are subject to regular review and oversight by the RMA. Annual implementation reports seek to provide assurance regarding progress against agreed objectives and identify any barriers requiring operational attention.

SPS continues to invest in a range of evidence-based interventions and progression opportunities across the prison estate. Progression is not dependent on completion of any single programme. Rather, decisions to consider progression are informed by a holistic assessment of behaviour, engagement, evidence of risk reduction and the extent to which risk can be managed safely within increasingly less restrictive environments.

Where assessed risk permits and subject to the aforementioned OLR statutory regime, individuals may progress through the prison estate and access opportunities designed to support reintegration and to provide the evidence required by the Parole Board when considering whether risk can be managed in the community.

6. Has the Scottish Government examined whether there are barriers to progression for older prisoners, prisoners with disabilities, or those with significant health conditions who are serving OLRs?

The Scottish Government recognises that an increasingly diverse and ageing prison population may present different progression and support needs. For individuals serving OLRs, progression takes place within the statutory risk management framework established by the Criminal Justice (Scotland) Act 2003 and is informed by ongoing assessment of risk, risk management needs and public protection considerations. Age, disability or health status are not determinative factors in progression decisions, although they may require consideration in the planning and delivery of appropriate support and interventions.

At the same time, SPS is required to take account of individual circumstances and to make reasonable adjustments where required. This can include adaptations to programme delivery, healthcare provision, accessibility arrangements and bespoke management measures to ensure that individuals are able to engage meaningfully in risk management processes.

Operational partners continue to monitor the experience of older prisoners and those with significant health conditions. In appropriate circumstances, compassionate release provisions may also be considered in accordance with the relevant statutory framework. There are examples of individuals serving OLRs having been released on compassionate grounds, released from closed conditions by the parole board when health had markedly deteriorated or have additional support and measures in place in less secure conditions, in line with the assessed risk they pose.

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7. What information is held regarding recalls of individuals subject to OLRs?

Information held by the Scottish Government Community Licence Team indicates that between 1 April 2021 and 19 October 2026, 13 individuals subject to an OLR were recalled to custody.

Of those recalls, three involved allegations of new offending and ten related primarily to breaches of licence conditions. As with all recall data, these figures reflect circumstances at the point of referral and do not necessarily indicate the final outcome of any associated criminal proceedings.

Recall forms an important component of Scotland's public protection arrangements. OLRs are lifelong sentences and individuals released on licence remain subject to ongoing supervision and risk management. Where information suggests that risk can no longer be managed safely in the community, mechanisms exist to enable swift intervention, including recall to custody.

Evidence from operational partners suggests that recalls arise from a range of circumstances including alleged offending behaviour, substance misuse, failure to comply with licence conditions and concerns relating to escalating risk. These arrangements provide an important safeguard within the wider framework of community risk management.

8. Has the Scottish Government carried out any assessment of the long-term demographic profile of the OLR population, including the implications of an ageing population?

The Scottish Government and operational partners recognise the importance of understanding the long-term demographic profile of the OLR population. Given the lifelong nature of the sentence, demographic trends are particularly relevant to future planning for prisons, healthcare services and community supervision arrangements.

Data held by SPS indicates that a proportion of the OLR population is entering older age. SPS reports that between 2007 and 2025 there were eight individuals aged over 60 at the point of sentence and a further 52 individuals aged between 51 and 60.

Recent RMA research has identified a number of issues that may become increasingly significant as the cohort ages, including physical health needs, long-term conditions, alcohol-related illness, social care requirements and the interaction between ageing and risk management.

The Government will continue to work with SPS, the RMA and other partners to ensure that future service planning takes account of demographic change and the implications of an ageing OLR population for assessment, progression, healthcare and public protection arrangements.

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9. Considering continuing debate elsewhere in the UK regarding indeterminate sentences, including scrutiny of former Imprisonment for Public Protection arrangements, has the Scottish Government undertaken any comparative analysis of lessons that may be relevant to the operation of OLRs in Scotland?

The Scottish Government is aware of developments elsewhere in the United Kingdom concerning indeterminate sentencing, including the experience of Imprisonment for Public Protection (IPP) sentences in England and Wales.

While it is important to consider lessons from other jurisdictions, there are significant differences between the IPP framework and Scotland's system of OLRs. OLRs were designed from the outset as a highly targeted sentencing disposal for a small cohort of individuals whose assessed risk is such that lifelong risk management measures are considered necessary for the protection of the public. The sentence can only be imposed following a robust statutory process involving specialist risk assessment and determination by the High Court.

In contrast to the substantially larger IPP population, the number of individuals sentenced to an OLR has remained comparatively low, consistent with the intention that OLRs be reserved for Scotland's most dangerous offenders. While 305 OLRs were imposed in Scotland between 2006-07 and 2024-25, a total of 8,711 IPP sentences were imposed between 2005 and 2013. This demonstrates the markedly higher use of IPPs compared with OLRs. (The IPP figure refers to sentences rather than individuals, as some offenders received more than one IPP sentence.) The framework also places particular emphasis on structured risk management through mandatory Risk Management Plans and oversight by the RMA.

10. Does the Scottish Government have any plans to review or reform the OLR framework, or to undertake further research into its operation and outcomes?

The Scottish Government has no current plans to undertake wholesale reform of the OLR legislative and operational framework. The Government remains of the view that OLRs perform an important role in protecting the public from a small number of individuals whose assessed risk is such that lifelong risk management measures are considered necessary for the protection of the public.

At the same time, the Government recognises the importance of maintaining an evidence-based approach to policy development. Considerable research activity has been undertaken in recent years by the RMA and academic partners examining different aspects of the operation of OLRs.

This includes research into implementation of the sentence, offending behaviour, psychopathy and personality disorder, experiences of release and recall, responsivity characteristics and the impact of adverse childhood experiences. Further work is also being undertaken to improve understanding of outcomes for those who receive an OLR and comparison with those who were assessed but not ultimately sentenced under the framework.

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The Government will continue to consider emerging evidence, research findings and operational experience from SPS, the RMA, the Parole Board and other stakeholders. This will help ensure that the OLR framework continues to balance public protection with effective rehabilitation and risk management opportunities.

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