

Automatic Early Release of Certain Short-Term Prisoners: Consultation

Social Work Scotland Response

February 2026

Introduction

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience for those involved in the criminal justice system, who require a social work service. As an organisation and across our members we are committed to service improvement and ongoing development, based on evidence and research on how we can best meet the needs of those we work with and particularly those who experience the greatest challenges and barriers to their wellbeing and lives.

Social Work Scotland represents social work leaders across Scotland. The profession is based on the principles of human rights, reflecting the value of all individuals and upholding their rights. This is expressed in the SSSC Codes of Practice and in the BASW code of ethics. These underline the inherent worth and dignity of all people, demonstrated in practice through relationships and promotion of self-determination, participation and wellbeing. However, there is a challenge in working with individuals in the criminal justice system, who are often a stigmatised group, hence the need to advocate on their behalf. Contributing to release planning and the parole process is a key element of our work in Justice Social Work (JSW).

Social Work Scotland welcomes the opportunity to respond to this consultation and the statement made by the Cabinet Secretary in parliament on 3 February 2026. This response is based on consultation and discussion with our membership which covers senior leaders in social work, including Chief Social Work Officers and senior members of our Justice Standing Committee.

Consultation Questions

1. What are your views on changing the release point for certain short-term prisoners to 30%?

We believe that Scotland has a disproportionately high prison population which makes rehabilitation in custody challenging, creates health and safety concerns within prisons and does not contribute towards reducing re-offending long term. We are also aware that measures applied to reduce the prison population such as the Presumption Against Short Term Sentences, Bail with Electronic Monitoring and the recent Early Release schemes have had limited effect.

We therefore believe that automatically releasing some short-term prisoners when they have served 30% of their sentence is a necessary pragmatic measure but we are concerned about a risk of unintended consequences. It seems possible, for instance, that to ensure offenders receive what Courts consider to be an appropriate period in custody, they will impose longer sentences. A 2-year sentence would result in a person serving only 7.2 months. It is unlikely that appropriate rehabilitation programmes will have been made available during this time. The disruption to individual's lives caused by a short prison sentence cannot be understated.

We also believe lessons can be applied from Early Release Schemes, including Governor veto decisions. This has proved helpful in ensuring that people who meet the eligibility criteria but may otherwise present a risk of harm to or from others or themselves are not necessarily released. It has helped to maintain the credibility of the system and the manageability of risks both within prisons and the community.

We also believe other measures need to be strengthened or newly developed, such as moving away from the 'presumption' against 12 months or less sentences, replacing short periods in custody with community-based alternatives and adopting a holistic approach towards Bail with EM by routinely ensuring it is accompanied by supervision. These measures could be implemented through similar legislative change and community-based resource.

2. What are your views on excluding those serving sentences for domestic abuse and sexual offences?

Given the physical and/or psychological harm caused by these offences, we believe this is necessary, defensible, victim-centred and in the interests of justice. It also corresponds with the current Vision for Justice, which notes prisons should be used for people who present a risk of harm. There should be a greater opportunity to address the offending behaviour while in custody for this cohort.

3. What are your views on making equivalent changes for children detained in secure accommodation?

We believe that the Care and Justice (Scotland) Act 2024 has rightly emphasised that young people aged 16-17 years are fundamentally children; that Children's Hearings have extended powers to apply formal measures; and that where offences are so serious that they require prosecution in a Sheriff Court and custody is imposed, they must not be sentenced to prison and placed in secure care instead.

Article 37 of the UNCRC makes clear that depriving a child of their liberty must always be a measure of last resort and for the shortest appropriate time. In Scotland, children placed in secure accommodation often experience challenges at points of transition, including inconsistent or insufficient community supports. From both a children's rights and public protection perspective, aligning children in secure care with the proposed 30% release point would support earlier, planned reintegration and reduce the potential harms associated with prolonged periods of restriction.

Introducing equivalent changes for children is also important from an equality standpoint. If adults are to benefit from earlier release, it would be potentially discriminatory for sentenced children not to be afforded the same approach. As they are automatically care experienced, subject to formal planning/review processes and often present with complex needs, developments will need to ensure sufficient time is available to prepare for their supported resettlement into the community

It is also important to note that children are placed in secure accommodation for a range of reasons and through a variety of legislative routes. The majority of children in secure care are *not* placed there by the courts. As such, any change to release timescales would apply only to children who are sentenced, which is a relatively small subset of the secure care population.

If equivalent changes are introduced, this should be accompanied by robust transition planning, as reflected in the Secure Care Pathway and Standards, to ensure that children's needs are met, that support is in place on return to the community, and that any risks are managed safely and proportionately.

These are welcome measures and represent an improvement on previous arrangements but we believe that it would be UNCRC compliant for young people requiring consideration of formal measures to always be dealt with in the Children's Hearing system and not prosecuted in the Sheriff Court. Where a Children's Hearing is considering custody, decisions must be informed by a Chief Social Work Officer approved assessment of needs, risks and alternatives.

4. What are your views on the changes applying to short-term prisoners serving sentence for fine defaults and contempt of court?

We believe the changes should apply to this group, as well as individuals sentenced to short-term prison sentences for previous non-compliance with community alternatives. As we understand that breaches constitute a reasonably high and growing proportion of the prison population, we also believe that methods of engagement and enforcement requirements with people subject to community sentences should be reviewed.

5. What are your views on the proposed transitional approach to initial releases?

We believe that applying the approach only after the current Early Release Scheme has been finalised in April 2026 is sensible. It would allow partners to jointly continue to ensure that this scheme operates effectively, whilst also preparing for current prisoners to be released at the 30% stage of sentence. We believe the ERS has largely worked well and joint information sharing, assessment and planning could be usefully transferred to this approach.

6. Do you have any other comments

We also look forward to the findings from the Commission on Penal Policy and Sentencing report due for publication on 6 February 2026. We believe that instead of introducing radical long-term measures or supposed panaceas, the emphasis ought to be on strengthening existing partnership governance arrangements, fully utilising all currently available interventions, tightening interventions, enhancing data analysis and improving performance management.

The implications of sentencing an individual to a short sentence, who will then be released following a brief period in custody needs to be considered. The loss of accommodation, employment and detrimental impact on relationships is likely to be long lasting and have an effect on successful rehabilitation.

It will be valuable to consider lessons learned from STP 40, to assist with a smooth transition to STP30.

Sharon Stirrat
Justice Social Work Policy and Practice Lead
Social Work Scotland