

Response ID ANON-9126-2M8J-K

Submitted to Bail and release from custody arrangements in Scotland
Submitted on 2022-02-06 18:52:21

Questions 1-9 (page 1 of 4)

1 Which of the following best reflects your view on the changes proposed regarding when judges can refuse bail?

I agree with the proposed change, so that judges can only refuse bail if there are public safety reasons for doing so.

Please give reasons for your answer:

Given the well evidenced reasons for keeping people out of prison and remand, we would agree that judges should only refuse bail on grounds of public safety. Especially in cases of under-25s. This change to policy will need to be resourced in terms of current bail support services and other third sector alternatives. This change in policy should also be looked on as an opportunity to link people into correct services e.g. addiction and mental health. Wherever possible, a holistic, wrap-around, whole-systems approach should be used to support the person on bail and reduce the likelihood of re-offending.

2 Which of the following best reflects your view on the changes proposed regarding how judges consider victim protection when making decisions about bail?

I agree with the proposed change, so judges should have to have particular regard to the aim of protecting the victim(s) when making bail decisions

Please give reasons for your answer:

We would agree with the judge paying particular regard to protecting victims in their decision making. Not only to give further protections to victims but to help reduce the cycle of re-offending given the evidence that many who offend are also likely to be victims of crime.

3 To what extent do you agree or disagree that the court should be empowered to make decisions on the question of bail in all cases using a simplified legal framework?

Strongly agree

Please give reasons for your answer:

We agree as this will give courts more discretion in decision-making.

4 Judges must give reasons when they decide to refuse bail to an accused person. Which of the following best reflects your view on how those reasons should be communicated?

I agree with the proposed change, so judges must give reasons both orally and in writing

Please give reasons for your answer:

We would agree that judges should state reasons both orally and in writing for more accountability in light of the ambition towards the Presumption Against Short Sentences and so that more can be learned about reasons for refusing bail.

5a When a court is considering bail decisions, which of the following options do you consider preferable.....in cases where the prosecution opposes bail?

The court must ask for information from social work. Social work must provide it

Please give reasons for your answer:

To ensure all appropriate information and more context is available to help inform decision making. It is worth noting that this will need properly resourced if it is to be implemented. It is also worth noting that voluntary organisations working with the individuals should be considered. There is often an entirely different relationship between individuals and voluntary organisations and social work which should be carefully considered if the full context is truly being sought.

5b When a court is considering bail decisions, which of the following options do you consider preferable.....in cases where the prosecution is not opposing bail?

The court must ask for information from social work. Social work must provide it

Please give reasons for your answer:

To ensure all appropriate information and more context is available to help inform decision making. It is worth noting that this will need properly resourced if it is to be implemented.

6 To what extent do you agree or disagree that courts should be required to consider electronic monitoring before deciding to refuse bail?

Somewhat agree

Please give reasons for your answer:

We would encourage that all alternatives to custody are fully considered by the courts and not just electronic monitoring. Again, as alternatives to custody take time and resources, it will need properly funded to be successful.

7 When a court decides to refuse bail, to what extent do you agree or disagree that they should have to record the reason they felt electronic monitoring was not adequate in this case?

Strongly agree

Please give reasons for your answer:

In light of the ambition towards the Presumption Against Short Sentences and so that more can be learned about reasons for refusing bail and refusing the use of electronic monitoring.

8 To what extent do you agree or disagree that time spent on bail with electronic monitoring should be taken into account at sentencing?

Strongly agree

Please give reasons for your answer:

To reduce overall time spent in custody and in acknowledgement that time spent under electronic monitoring is a form of custody in itself - similar to how time spent in remand is considered.

9 If time on electronic monitoring is to be taken into account at sentencing, to what extent do you agree or disagree that there should be legislation to ensure it is applied consistently?

Strongly agree

Please give reasons for your answer:

We agree that legislating in this area would provide for a consistent approach to be taken and help to ensure no unfairness would arise in how courts determine the relevance of time spent on bail subject to electronically monitored conditions for sentencing purposes.

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10 Please use this space if you would like to make any comments about the idea of a law in Scotland that would prevent courts from remanding someone if there is no real prospect that they will go on to receive a custodial sentence in the proceedings.

Please provide your comments:

In light of the ambition of the Presumption Against Short Sentences and to reduce the high Scottish Prison population, we think it is entirely reasonable that where there is no real prospect someone will receive a custodial sentence that remand is not used.

11 To what extent do you agree or disagree that legislation should explicitly require courts to take someone's age into account when deciding whether to grant them bail?

Strongly agree

Please give reasons for your answer, If you agreed, how do you think age should be taken into account when deciding whether to grant someone bail?:

In line with the incorporation of the UNCRC into Scots law, in support of rights-based approaches and based on the academic research evidence given in 'The development of cognitive and emotional maturity in adolescents and its relevance in judicial contexts' and its support by the Scottish Sentencing Council and the Children and Young People's Centre for Justice, we would agree that age is a significant factor in sentencing.

A lead from other policy areas around what is considered a 'young person' e.g. the maximum age (26) of a young person for Corporate Parenting in Children and Young People (Scotland) Act 2014, The Age of Criminal Responsibility (Scotland) Act 2019 and the recommendations of the Scottish Sentencing Council, could be used to influence how to take age into account, however we would also to defer to specialists in this area - The Children and Young People's Centre for Justice around this area.

12 In principle, to what extent do you agree or disagree that courts should be required to take any potential impact on children into account when deciding whether to grant bail to an accused person?

Strongly agree

Please give reasons for your answer. Do you have any comments on how such a requirement could best be brought in?:

Given the well known evidence we have around trauma, ACES and the role incarceration can have in traumatising families, we would strongly agree.

13 To what extent do you agree or disagree that, in general, enabling a prisoner to serve part of their sentence in the community can help their reintegration?

Strongly agree

Please give reasons for your answer:

In line with the ambitions of Community Justice Scotland and in agreement with the recent Audit Scotland Report: Community Justice - Sustainable Alternatives to Custody, we too believe that community justice can be transformative for communities and individuals in terms of integration and rates of offending. We also feel alternatives to custody should be utilised for the benefit of the public purse.

14 What mechanisms do you think should be in place to support a prisoner's successful reintegration in their community?

Please provide your comments:

We would defer to the expertise of Community Justice Scotland and the Criminal Justice Voluntary Sector Forum on this matter, however we have no doubt that services need to be well resourced, wrap-around, holistic and person-centred.

15a Do you agree that through good behaviour, or completing education, training and rehabilitation programmes, prisoners should be able to demonstrate their suitability for.....early release?

Yes

Please give reasons for your answer:

To reduce the harm of incarceration as much as possible and reduce the Scottish prison population, as long as public safety is assessed not to be in jeopardy. We would also support more funding for education, training and rehabilitation programmes in prisons.

15b Do you agree that through good behaviour, or completing education, training and rehabilitation programmes, prisoners should be able to demonstrate their suitability for.....the ability to complete their sentence in the community?

Yes

Please give reasons for your answer:

To reduce the harm of incarceration as much as possible and reduce the Scottish prison population, as long as public safety is assessed not to be in jeopardy.

We would also support more funding for education, training and rehabilitation programmes in prisons.

In line with Q13, we believe that community justice can be transformative for communities and individuals in terms of integration and rates of offending. We also feel alternatives to custody should be utilised for the benefit of the public purse.

16 Do you have any comments on how you envisage such processes operating in the Scottish justice system? Who should be able to earn opportunities in this way? What risks do you see with either of these approaches, or what safeguards do you feel would need to be in place?

Please provide your comments:

We would defer to the expertise of Community Justice Scotland and the Criminal Justice Voluntary Sector Forum on this matter.

17 Which of the following options in relation to automatic early release for short term prisoners would you say you most prefer?

Automatic early release changes to earlier in the sentence, but the individual is initially subject to conditions and monitoring, until the half-way point

Please give reasons for your answer:

In support the PASS, reducing the Scottish prison population and the harm of incarceration, we would support that automatic early release changes to earlier in the sentence, but the individual is initially subject to conditions and monitoring, until the half-way point. Again this would need well resourced with appropriate support for the released prisoner. We would also defer to Victim Support Scotland for how victims should be supported around early release.

18 Currently long-term prisoners can be considered for release by the Parole Board for Scotland once they have completed half of their sentence. Which of the following options would you most prefer?

Change to allow some long-term prisoners to be considered by the Parole Board earlier if they are assessed as low risk

Please give reasons for your answer:

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19 Do you agree that the Scottish Government should ban all prison releases on a Friday (or the day before a public holiday) so people leaving prison have greater opportunity to access support?

Yes

Please give reasons for your answer. If you agree, what wider changes would be needed to ensure people leaving prison have access to the support they need?:

The issues regarding lack of access to support on Friday/public holiday release have long been recognised and we would welcome this problem addressed, while acknowledging that adequate support for released prisoners must be well resourced when delivered on every day of the week. We would defer to the expertise of the Criminal Justice Voluntary Sector Forum regarding wider changes.

20a Prisoners must actively apply for Home Detention Curfew (HDC). Should HDC be considered automatically for some categories of prisoners instead?

Unsure

Please give reasons for your answer or share any comments you would like to make on which categories of prisoners you think might be automatically considered:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20b The maximum length of time allowed on Home Detention Curfew (HDC) is 6 months (or one quarter of the sentence). Do you think this should...

Not Answered

Please give reasons for your answer, or share any comments you would like to make on how long you think is appropriate.:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20c The minimum sentence for which Home Detention Curfew (HDC) can be considered is 3 months. Should this limitation be removed?

Unsure

Please give reasons for your answer, or share any comments you would like to make on what sentence length you think is appropriate:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20d There is currently a list of exclusions that make someone ineligible for Home Detention Curfew. Should this list be reviewed with the intention of expanding eligibility for HDC?

Unsure

Please give reasons for your answer, or share any comments you would like to make on what criteria are relevant to whether someone should be eligible for HDC:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20e Currently, the Scottish Prison Service make decisions to release prisoners on Home Detention Curfew (HDC) following a risk assessment and engagement with community partners. Do you think this responsibility should remain with SPS?

Unsure

Please give reasons for your answer, or share any comments you would like to make on the role of SPS in determining release on HDC:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20f Do you think decisions on whether to release prisoners on Home Detention Curfew (or similar) should be taken by the Parole Board for Scotland in the future - even for those prisoners serving less than 4 years?

Unsure

Please give reasons for your answer:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

20g Do you think decisions about the length of time an individual would serve in the community at the end of their custodial sentence should instead be set by the court at time of sentencing?

Unsure

Please give reasons for your answer, or share any comments you would like to make on what role the courts could have in determining the proportion of sentence an individual could serve in the community:

We would defer to the expertise of the Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter.

21 To what extent do you agree or disagree that the Scottish Government should consider whether information on individuals being released from custody can be shared with third sector victim support organisations, for example, to enable them to provide proactive support to victims and carry out safety planning?

Somewhat agree

Please give reasons for your answer:

While we are supportive of proactive planning to help victims, we feel this approach must carefully balance the rights of victim and of released prisoner. GDPR and Human Rights legislation must be complied with.

22 In addition to information on individuals being released, to what extent do you agree or disagree that victims and victim support organisations should be able to access further information?

Somewhat agree

Please give reasons for your answer. If you agree, please state what information should be provided and for what purpose.:

Again, we feel this approach must carefully balance the rights of victim and of released prisoner. GDPR and Human Rights legislation must be complied with.

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23 Which of the following best reflects your view on public service's engagement with pre-release planning for prisoners?

Existing duties are not sufficient; public services should have a specific duty to engage with pre-release planning

Please give reasons for your answer:

Given it is stated that it is not a consistent picture, then we would support actions to remedy this to provide maximum support to released prisoners for successful reintegration and reduced risk of re-offending. This would need to be well resourced to be successful.

24 If public services had an additional duty to engage in pre-release planning for prisoners, which services should that duty cover?

Please list each service and what each should be required to do.:

This is not our area of expertise and we would again defer to Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter, however - housing, homelessness, substance use, mental health and domestic violence would certainly be areas for consideration.

25 To what extent do you agree or disagree that support should be available to enable prisoners released direct from court to access local support services in their community?

Strongly agree

Please give reasons for your answer. If you agree, please explain how you envisage that support would look and which bodies you feel should be involved:

In order to provide maximum support to released prisoners for successful reintegration and to reduce the risk of re-offending. This would need to be well resourced to be successful.

26 To what extent do you agree or disagree that revised minimum standards for throughcare should incorporate a wider range of services?

Strongly agree

Please give reasons for your answer. If you agree, please list the services you think these standards should cover and what you think their role should be:

As stated in the provided information that the evidence shows that individualised, holistic interventions which address multiple criminogenic needs are more effective at reducing reoffending, we would strongly agree.

Again, regarding listing services, we would defer to Criminal Justice Voluntary Sector Forum and Community Justice Scotland on this matter, however - housing, homelessness, substance use, mental health and domestic violence would certainly be areas for consideration.

27 To what extent do you agree or disagree that revised minimum standards for throughcare should differentiate between remand, short-term and long-term prisoners?

Somewhat agree

Please give reasons for your answer. If you agree, please state how you think these standards should differ for each cohort:

If these standards are a minimum then it stands to reason they be applied to all. However, we appreciate the need for bespoke and targeted approaches to best support prisoners.

28 To what extent do you agree or disagree that revised minimum standards for throughcare should be statutory?

Strongly agree

Please give reasons for your answer:

We strongly agree that ensuring that consistent support is available for prisoners leaving remand, including in cases where release occurs straight from court, would be beneficial in supporting successful reintegration and reducing the risk of re-offending.

29 Do you think other changes should be made to the way throughcare support is provided to people leaving remand/short-term/long-term prison sentences?

Unsure

Please give reasons for your answer. If you think other changes should be made, can you provide details of what these changes could be?:

This is not our area of specialism. We would defer to other partners for their expertise such as Community Justice Scotland.

30 Should other support mechanisms be introduced/formalised to better enable reintegration of those leaving custody?

Yes

Please give reasons for your answer. If you think other mechanisms should be introduced, can you provide detail of what these could be?:

We believe formalising arrangements will result in greater consistency,

31 To what extent do you agree or disagree with the introduction of an executive power of release, for use in exceptional circumstances?

Somewhat agree

Please give reasons for your answer:

In light of the pandemic and the high Scottish prison population we would support this suggestion, however it would need to be carefully considered to avoid unintended consequences.

32 If an executive power of prisoner release was introduced for use in exceptional circumstances, what circumstances do you consider that would cover?

Please provide details:

In light of safety - for example, pandemic and other health and safety concerns.

About you

What is your name?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Scottish Community Safety Network

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: