

## Justice Committee

### Prisoners (Control of Release) (Scotland) Bill

#### Written submission from Victim Support Scotland

Victim Support Scotland is the largest organisation in Scotland supporting people affected by crime. We provide practical help, emotional support and essential information to victims, witnesses and others affected by crime, both in the community and in every Sheriff and High Court in Scotland. The service is free, confidential and is provided by volunteers. Victim Support Scotland supports the Scottish Government in its attempts to tackle the matter of the ‘automatic early release’ of prisoners. In providing further written evidence to the Committee on this subject, we would like to take this opportunity to explain our concerns and suggest improvements. We will also provide our views on section 2 of the Bill which looks at improving offenders’ reintegration with the community on release from prison.

#### **The current proposals**

Victim Support Scotland supports the Scottish Government in their aim to change the current system of automatic early release. However, we have highlighted that the proposals as they stand would “further complicate an already confusing system”<sup>1</sup>. VSS wants to see a system that is clear from the stage of sentencing as to what effect the sentence will have in reality, especially in relation to the offender’s release.

We are also conscious that the proposals may unintentionally be removing statutory support and supervision on release from prison for those who are at the highest risk of reoffending, resulting in a possible increase in reoffending rather than a decrease. We note the point made by Professor Fergus McNeill that under the current proposals, an offender could spend their full term in prison if assessed by the Parole Board to be a risk of harm to the public; this would create “an exceptionally abrupt transition, and would leave them highly vulnerable (and in some cases perhaps potentially dangerous) in the period immediately after release.”<sup>2</sup> Victim Support Scotland is therefore alive to the fact that a period of parole (or an alternative arrangement to prepare for release) is required to facilitate enhanced reintegration into the community and support of desistance from further offending, in effect, protecting the public from harm.

---

<sup>1</sup> Victim Support Scotland (2014), ‘Proposals to end the automatic early release of certain categories of prisoner - Written submission from Victim Support Scotland to the Justice Committee’, AER2 p.2  
[http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Inquiries/AER2\\_Victim\\_Support\\_Scotland.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/AER2_Victim_Support_Scotland.pdf)

<sup>2</sup> Professor Fergus McNeill (2014), ‘Proposals to end the automatic early release of certain categories of prisoners – Written submission from Professor Fergus McNeill, University of Glasgow’, AER9 p.2  
[http://www.scottish.parliament.uk/S4\\_JusticeCommittee/Inquiries/AER9\\_Professor\\_Fergus\\_McNeill.pdf](http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/AER9_Professor_Fergus_McNeill.pdf)

## The issues with automatic early release

The underlying issue for Victim Support Scotland with the current system of sentencing and release of prisoners is the lack of clarity and transparency, which results in confusion, frustration, and an inaccurate understanding of the criminal justice system for victims and the general public. Firstly, many individuals do not have knowledge on early release provisions, with research showing that a third of the public think that short-term offenders will serve more than half of their sentence<sup>3</sup>, when in fact this category of offenders are released automatically halfway through their sentence. Furthermore, research tells us that “there is a sense...that the public is being ‘conned’ or ‘cheated’ - that it is being told something at the time of sentence that is very different from what actually happens”<sup>4</sup>; it is our experience that victims and their families are especially confused and upset to learn that their offender has been released ‘early’ from prison with no explanation as to why the judge ‘did not mean what they said’ at sentencing.

It is also difficult for victims to understand why no restrictions or supervision arrangements are placed on short-term offenders when released. Victims are often looking for an element of reassurance that the remainder of the offender’s prison term ‘matters’, for example, that their behaviour will at least be monitored in some way. It is very common for victims to be fearful at the time of the release of their offender from prison, and such individuals would benefit from the knowledge that the offender has conditions in place so as not to approach them, their home or place of work. They should also know the consequences of a breach of these conditions, and how to report such breaches.

We agree that “lack of clarity about the true effect of sentences...may produce mistrust”<sup>5</sup> and it is our view that in order for victims and the public to have faith and confidence in the criminal justice system, there is a need for clearer and more transparent sentencing. This would assist all parties, especially victims, in their understanding of how the sentence has been decided on, the minimum period that an offender will spend in prison, and what the remainder of the sentence will consist of. When releasing an offender from prison, consideration should be given to the victim and the impact that this will have on them; victims should be consulted regarding what conditions should be in place to address their personal safety concerns; and they should be kept up-to-date on the release date and other relevant information to ensure that they can prepare themselves for this.

---

<sup>3</sup> Section 4.4.6 of Justice 1 Committee report (2002), ‘Public attitudes towards sentencing and alternatives to imprisonment’. SP Paper 537

<http://archive.scottish.parliament.uk/business/committees/historic/justice1/reports-02/j1r02-pats-02.htm>

<sup>4</sup> Ibid

<sup>5</sup> Esmee Fairburn Foundation (2004), ‘Crimes, Courts and Confidence – Report of an Independent Inquiry Into Alternatives to Prison’, The Stationery Office, p.55

<http://issuu.com/esmeefairbairn/docs/crimecourtsconfidence-report/3?e=0>

## Suggestions for change

Victim Support Scotland notes the previous attempts to resolve some of these issues through legislation, namely the Custodial Sentences and Weapons (Scotland) Act 2007 as amended by the Criminal Justice and Licensing (Scotland) Act 2010. We strongly support the principle behind this currently un-enacted legislation, as we believe the relevant provisions would go a long way to addressing the problematic elements of the current system, as we have raised. Through the creation of ‘short-term custody and community’ and ‘custody and community’ sentences, this legislation would not only ensure that the punishment part of the sentence was clearly stated (for which the offender would spend a minimum period in custody), but would reassure victims and the public that **all** prisoners would be released on community licence. This would be easily understandable to victims, who would have clear knowledge of when the offender would be eligible for release, and be reassured by the fact that the rest of the sentence would be served, albeit in the community, with conditions in place.

Creating a clear and transparent criminal justice system for victims of crime and the general public in Scotland will not be achieved solely through changes to the release of prisoners; a more holistic approach is required to look at improvements in victim notification and representation, and sentencing practices more generally. Regardless of the changes made to the current system of automatic early release, it **is of paramount importance that victims are kept informed of the release arrangements of their offender**, including any conditions that are in place for the community part of their sentence. The views of the victim(s) should also be taken into account in relation to the release of the offender, especially regarding what conditions should be in place to address their personal safety concerns. VSS calls for a review of the current Victim Notification Scheme, as we believe that changes are required to ensure that **all** victims are kept informed and able to provide representations to the relevant authority on the release of the offender.

We also look forward to the establishment of a Scottish Sentencing Council through implementation of the Criminal Justice and Licensing (Scotland) Act 2010. We believe this will lessen local disparities in sentencing and enable courts to deliver similar outcomes for the same crime type across Scotland. To demonstrate the delivery of more consistent sentencing across the country and increase public confidence in the criminal justice system, VSS recommends the establishment of a public domain of sentencing where victims may look for sentencing trends to compare with circumstances in their own case, allowing more informed and reasonable expectations.

## Section 2 – Community reintegration

Victim Support Scotland is aware that, “Moving from prison back into the community is the time when people are most at risk of returning to their offending behaviour”<sup>6</sup> and recognise that early access to key public services is important in facilitation of prisoners’

---

<sup>6</sup> Audit Scotland (2012), ‘Reducing Reoffending in Scotland’, [http://www.audit-scotland.gov.uk/docs/central/2012/nr\\_121107\\_reducing\\_reoffending.pdf](http://www.audit-scotland.gov.uk/docs/central/2012/nr_121107_reducing_reoffending.pdf) p.24

reintegration into the community. We therefore support the Bill's proposals to allow the Scottish Prison Service to release prisoners up to two days early in circumstances in which retaining the original release date would present challenges to the offender's reintegration into the community. If the decision is made to bring the release date forward however, the victim must be informed as quickly as possible, ensuring that this happens **before** the offender is released. In keeping with the creation of a clear and transparent criminal justice system, the reasons for this should be explained to the victim at the time this information is given.

Victim Support Scotland  
5 January 2014