

## SPICe Briefing

# The Scottish Criminal Justice System: The Prison Service

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This briefing is one of six covering various aspects of the Scottish criminal justice system. It provides a brief description of the operation of prisons (including young offender institutions) in Scotland.

The other five briefings in this series are:

- The Scottish Criminal Justice System: Legal and Administrative Arrangements
- The Scottish Criminal Justice System: The Police
- The Scottish Criminal Justice System: The Public Prosecution System
- The Scottish Criminal Justice System: The Criminal Courts
- Children and the Scottish Criminal Justice System



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# SCOTTISH PRISON SERVICE

## Organisation

The [Scottish Prison Service](#) (SPS) is an executive agency of the Scottish Government with responsibility for Scotland's prisons and young offender institutions. Its responsibilities extend to both publicly and privately managed prisons. The latter are operated under contract by private companies, but are still part of the SPS estate. All prisoners, regardless of their location, are managed in accordance with the prison rules.<sup>1</sup>

The SPS operates in accordance with a [framework document](#) (SPS 2016a) which is approved by the Scottish Ministers. It provides guidance on topics including:

- the role of the Scottish Ministers (including information on issues delegated to the SPS Chief Executive)
- the role of the SPS Chief Executive
- accountability to the Scottish Parliament

In an introduction to the framework document, the SPS Chief Executive stated that:

“the aim of the Scottish Prison Service is to contribute to a safer Scotland by contributing to reducing re-offending through the care, rehabilitation and re-integration of those citizens committed into custody. I am personally accountable to the Scottish Parliament for the efficient and effective operation and financial management of the Scottish Prison Service and for performance against key performance indicators. Further specific accountability and governance arrangements that are in place between myself, as Agency Chief Executive and Accountable Officer, the Scottish Government and Scottish Ministers are captured in this document.”

## Funding

The SPS is funded by the Scottish Government. Its [Draft Budget 2017-18](#) (Scottish Government 2016a) noted that:

“The Scottish Prison Service (SPS) budget covers expenditure associated with operating the prison system (both publicly and privately-managed prisons) and the provision of a Court Custody and Prisoner Escorting Service (CCPES) on behalf of Scottish Courts, Police Scotland and the wider justice system. The SPS provides a wide range of services to care for and support those who are in custody and their families, as well as operating a Victim Notification Scheme for registered victims of crime.” (p 69)

It included the following figures:

**Table 1: Scottish Prison Service Funding<sup>2</sup>**

	2016-17 Budget (£m)	2017-18 Draft Budget (£m)
Operating Expenditure	345.7	345.2
Capital Spending	10.0	15.8
Total	355.7	361.0

<sup>1</sup> See the Prisons and Young Offenders Institutions (Scotland) Rules 2011 and the SPS website under the heading of [Prison Rules and Directions](#).

<sup>2</sup> Scottish Government 2016a (p 69).

In its [Annual Report & Accounts 2015-2016](#), the SPS (2016b) stated that:

“In line with the delivery of an efficient service, SPS has achieved a cost per prisoner place of £34,399.” (p 9)

The [Auditor General for Scotland](#) is responsible (with the support of Audit Scotland) for the audit of most public bodies.<sup>3</sup> Her role includes ensuring that public money is spent properly, efficiently and effectively by the SPS. She is independent and reports to the Scottish Parliament’s Public Audit Committee.

## PRISONERS

### Types of Prisoner

Adult prisons and young offender institutions (YOIs) hold both remand and sentenced prisoners:

- remand – people who have been remanded in custody awaiting trial or following conviction awaiting sentence
- sentenced – people who are serving a custodial sentence

In general, people aged between 16 and 20 (inclusive) are held in YOIs when remanded in custody or serving a custodial sentence.<sup>4</sup>

Prisoners serving sentences are also categorised as:

- short-term prisoners – determinate custodial sentences of less than four years
- long-term prisoners – determinate custodial sentences of four or more years
- life sentence prisoners – indeterminate custodial sentences (life sentences and orders for lifelong restriction)

The above categorisation by length of sentence affects early release and throughcare arrangements (both considered later in this briefing).

### Prison Population Statistics

Following a period when the average daily prison population hovered around 6,000, sustained increases during the period 2001-02 to 2009-10 led to the average population reaching almost 8,000. In 2011-12 the figure passed that mark, but has since then fallen (to 7,675 in 2015-16).<sup>5</sup>

In his [2015-16 annual report](#) (2016), HM Chief Inspector of Prisons for Scotland stated that:

“We should be encouraged that the apparently inevitable and steady increase in the total prison population in Scotland over the last two decades continues to show signs of being halted and potentially stabilised. The daily average population for 2015-16 was 7,675 in comparison with 7,731 for 2014-15. This was itself the lowest daily average population since

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<sup>3</sup> The work of the Auditor General for Scotland does not extend to the audit of local authorities (which is carried out by the Accounts Commission).

<sup>4</sup> A small number of persons aged 21 or over may be held in YOIs and small number of young offenders under 21 may be held in adult prisons if warranted by special circumstances, such as proximity to courts.

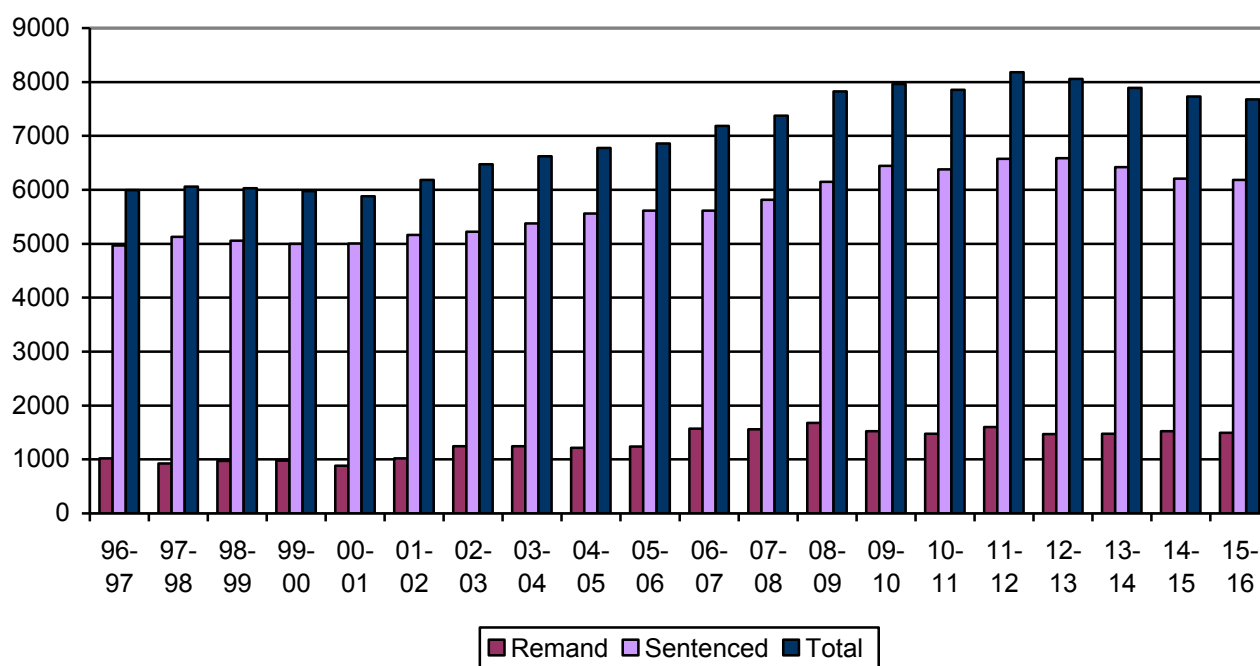
<sup>5</sup> Unless stated otherwise, prison population figures include prisoners held in YOIs.

2007-8. That there are fewer young men in HMYOI Polmont than there were a decade ago continues to provide grounds for encouragement.

While these statistics are encouraging, I believe that more still needs to be done to reduce the prison population. Compared to other European countries, Scotland still imprisons approximately 50 per cent more than the average and about twice those that imprison the fewest. I meet too many people in prison with mental health problems, addicted to alcohol or drugs, who are vulnerable to self-harm or suicide. Prison is not the right place for many of them to receive the treatment and care that they need.” (p 4)

Chart 1 indicates how the average daily prison population has changed over the last 20 years. As well as showing the total population, it includes a breakdown into remand and sentenced prisoners. Table 2 provides figures for the last ten years, which are further broken down into male and female prisoners.

**Chart 1: Average Daily Population by Type of Custody, 1996-97 to 2015-16<sup>6</sup>**



**Table 2: Average Daily Population by Type of Custody, 2006-07 to 2015-16<sup>7</sup>**

Year	Male			Female		
	remand	sentenced	total	remand	sentenced	total
2006-07	1,471	5,362	6,833	101	253	354
2007-08	1,444	5,560	7,004	117	256	372
2008-09	1,545	5,868	7,413	133	280	414
2009-10	1,417	6,121	7,538	105	321	426
2010-11	1,369	6,049	7,418	105	331	436
2011-12	1,493	6,217	7,710	108	361	469
2012-13	1,362	6,236	7,598	107	353	459
2013-14	1,368	6,094	7,462	106	326	432
2014-15	1,420	5,885	7,305	105	319	424
2015-16	1,396	5,875	7,271	98	306	404

The Scottish Government’s [Prison Statistics and Population Projections Scotland: 2013-14](#) (2015a) noted that:<sup>8</sup>

<sup>6</sup> Scottish Executive 2006 (p 15), Scottish Government 2015a (p 25), SPS 2015 (p 62) and SPS 2016b (p 72).

<sup>7</sup> Scottish Government 2015a (p 25) and SPS officials.

“The current set of prison population projections suggests that the daily prison population in Scotland will remain stable over the projection period with an annual average of 7,800.<sup>9</sup> These projections take into account trends in the prison population up to 2013. It should be noted that the projections are based on past trends and do not explicitly model the potential impact of future changes in policy or practice on the prison population.” (p 14)

The figures considered above relate to the average daily prison population during particular years. As well as providing more detailed statistics on this, the above Scottish Government (2015a) publication includes:

- maximum prison population figures – the most prisoners held in a particular establishment, or across the whole prison estate, during a year. The daily prison population is subject to significant fluctuations. Maximum prison population figures are, for example, useful when considering the capacity of prisons to deal with such fluctuations
- prison reception figures – providing an indication of the flow of prisoners through the system<sup>10</sup>

## PRISON ESTATE

### Current Estate

The prison estate currently consists of 15 prisons (including YOIs):

- 13 publicly managed prisons
- two prisons (Addiewell and Kilmarnock) managed by private sector operators

The publicly managed prisons include the only open prison in Scotland (Castle Huntly), which accommodates low supervision adult male offenders.

In relation to the two private sector prisons, the SPS Annual Report & Accounts 2015-2016 noted:

“The SPS has awarded Public Private Partnership (PPP) contracts, to design, construct, manage and finance prisons at HMP Kilmarnock and HMP Addiewell. Both contracts were let for 25 year operating periods, commencing in March 1999 for HMP Kilmarnock and in December 2008 for HMP Addiewell.” (SPS 2016b, p 53)

Population figures for the 15 prisons are set out in table 3 below. Further information on individual prisons (along with a map of prison locations) is provided on the SPS website under the heading of [Prisons](#).

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<sup>8</sup> The publication of more recent Scottish Government statistics has been delayed by various technical issues.

<sup>9</sup> The projection period covers the years 2014-15 to 2022-23.

<sup>10</sup> Prison receptions are not the same as persons received into prison (see Scottish Government 2015a, p 19).

**Table 3: Average Daily Population and Maximum Number by Penal Establishment, 2015-16<sup>11</sup>**

Establishment	Average Daily Population			Daily Maximums <sup>12</sup>		
	male	female	total	male	female	total
<b>Prisons</b>						
Addiewell	699	-	699	711	-	711
Barlinnie	1,208	-	1,208	1,306	-	1,306
Cornton Vale	-	204	204	-	226	226
Dumfries	171	-	171	187	-	187
Edinburgh	769	94	863	832	106	938
Glenochil	641	-	641	657	-	657
Grampian	368	44	412	413	52	465
Greenock	180	43	223	197	58	255
Inverness	116	-	116	129	-	129
Kilmarnock	500	-	500	510	-	510
Low Moss	747	-	747	775	-	775
Open Estate	230	-	230	259	-	259
Perth	625	-	625	667	-	667
Shotts	531	-	531	538	-	538
<b>YOIs</b>						
Cornton Vale	-	15	15	-	23	23
Grampian	-	4	4	-	8	8
Polmont	486	-	486	509	-	509
<b>Total</b>	<b>7,271</b>	<b>404</b>	<b>7,675</b>	<b>7,690</b>	<b>458</b>	<b>8,148</b>

The current prison estate is the result of a period during which significant building works were undertaken in order to increase the capacity of the estate and improve the conditions within prisons. In 2002, a Scottish Executive [consultation](#) on the future of the prison estate said:

“Much of the estate is Victorian but these prisons do not meet the standards expected in a modern society. In 2002, it is not satisfactory that around 1,900 prisoners in Scottish prisons are required to go through a process of slopping out every day. Moreover it is equally unacceptable that SPS staff, and those in other organisations which deliver services in prison, have to work in these conditions.” (p 7)

In his 2015-16 annual report (2016), HM Chief Inspector of Prisons for Scotland stated that:

“The majority of prisons in Scotland were built in the last 25 years, but there remain four prisons which were built over 100 years ago. It is clearly a challenge for the SPS to deliver the requirements of a modern prison service in accommodation and facilities that were designed and built for another era.” (p 2)

## Plans for Female Prisoners

As indicated in table 3 above, the average female daily prison population during 2015-16 was 404, with women held in four prisons/YOIs: Cornton Vale; Edinburgh; Grampian; and Greenock.

In 2011, the Scottish Government established a [Commission on Women Offenders](#), chaired by Dame Elish Angiolini (a former Lord Advocate), with the following remit:

<sup>11</sup> SPS 2016b (p 71).

<sup>12</sup> The figures in these columns cannot be added to produce a total maximum number as the individual establishment figures relate to different days during the year. Maximum figures for Cornton Vale and Grampian include the YOI population.



“To consider the evidence on how to improve outcomes for women in the criminal justice system; to make recommendations for practical measures in this Parliament to reduce their reoffending and reverse the recent increase in the female prisoner population.”

The Commission’s [report](#) (2012) set out recommendations on a range of issues (eg service redesign, alternatives to prosecution, sentencing and community reintegration). In relation to the prison estate, recommendations included:

- the replacement of Cornton Vale with a smaller specialist facility for long-term and high risk prisoners
- the use of local prisons for most remand and short-term sentence prisoners

Initial plans put forward by the Scottish Government and SPS in response to the recommendations included the development of a new prison for female prisoners with a design capacity of 300 (capable of expanding to 350 as an operational maximum). It was proposed that it would operate as both a national facility and a local facility for women from the west of Scotland. However, following concerns expressed by some stakeholders, the Scottish Government subsequently outlined new plans which do not include a large national prison for women. Its news release [New Plans for Women in Custody Announced](#) (2015b) stated that:

“Under plans unveiled by Justice Secretary Michael Matheson, a new small national prison with 80 places will be created, alongside five smaller community-based custodial units each accommodating up to 20 women across the country.

The smaller community-based custodial units will provide accommodation as women serve out their sentence, with access to intensive support to help overcome issues such as alcohol, drugs, mental health and domestic abuse trauma which evidence shows can often be a driver of offending behaviour. The units will be located in areas close to the communities of female offenders so that family contact can be maintained. (...)

The proposals will deliver 180 high quality gender specific places for women, in addition to the 50 Scotland already has at the recently opened HMP Grampian. The new build national facility, based on the current site at Cornton Vale, will house the most serious offenders who still present a risk to others, as well as themselves. Renewed action to reduce the number of women being sent to prison will start immediately through enhanced support for, and promotion of, community based alternatives. The new national facility and community units will be in place by 2020, with other changes taking place gradually thereafter.”

In February 2016, a Scottish Government news release [Women in Custody Move to Polmont](#) (2016b) added that:

“Justice Secretary Michael Matheson said today that more than half of the women currently housed at Cornton Vale will be moved to HMP Polmont over the summer to allow preparatory work to begin. Mr Matheson also confirmed today that construction on the new national prison in Cornton Vale is expected to begin mid-2018. (...)

Work is under way on the delivery of a new small national prison with 80 places alongside five smaller community-based custodial units each accommodating up to 20 women across the country, to be operational by 2020. Construction on the new, improved national prison at Cornton Vale is expected to begin in mid-2018 subject to financial and planning approvals.”



## Other Plans

The Scottish Government's [Infrastructure Investment Plan 2015](#) (2015c) noted that:

"The Scottish prison estate has been modernised and improved in recent years, with the completion of HMP Shotts (Phase 2) in 2012 and HMP Grampian in 2014. HMP Grampian provides the first custom built community facing prison in Scotland, including a unit for women offenders. (...)

Work to identify suitable potential sites for a replacement for HMP Glasgow is also ongoing." (p 97-98)<sup>13</sup>

The plan also referred to a feasibility study on a potential site for HMP Highland, as a replacement for the current HMP Inverness. Since then, the SPS has announced that it has identified an alternative site for the new HMP Highland. Further information on plans to replace the current prison at Inverness is set out on the SPS website under the heading of [HMP Highland Proposal](#).

## RELEASE OF PRISONERS

### Early Release

The rules on early release from a custodial sentence are set out in the Prisoners and Criminal Proceedings (Scotland) Act 1993. They differ depending upon whether the person is a:

- short-term prisoner – serving a determinate custodial sentence of less than four years
- long-term prisoner – serving a determinate custodial sentences of four or more years
- life sentence prisoner – serving an indeterminate custodial sentences (life sentence or order for lifelong restriction)

The rules include the following:

- short-term prisoners must be released after serving one-half of the sentence. For most prisoners, this release is not subject to licence conditions and thus not subject to supervision by criminal justice social work. However, sex offenders receiving sentences of between six months and four years are released on licence
- long-term prisoners serving sentences imposed before 1 February 2016 may be released after having served at least one-half of the sentence. If not already released, such prisoners must be released after serving two-thirds of the sentence. Any decision to release before the two-thirds point is taken by the Parole Board, following an assessment of whether a prisoner is likely to present a risk to the public if released. Long-term prisoners are, irrespective of the proportion of sentence served in custody, released on licence (under conditions set by the Parole Board) and subject to supervision by criminal justice social work. The licence, unless previously revoked, continues until the end of the whole sentence
- long-term prisoners serving sentences imposed on or after 1 February 2016 may also be released after having served one-half of the sentence, but automatic early release at the two-thirds point of the sentence no longer applies.<sup>14</sup> However, the rules include

<sup>13</sup> Also see Annex A (p 149-150) of the Infrastructure Investment Plan 2015.

<sup>14</sup> Changes to the rules, limiting the scope of automatic early release, were made by the Prisoners (Control of Release) (Scotland) Act 2015.

provisions seeking to ensure that a period of post-release supervision is preserved for long-term prisoners. For some, this is achieved by retaining automatic early release at the point when the prisoner has six months of the sentence left to serve. Any decision to release before this point is taken by the Parole Board on the same basis as for long-term prisoners sentenced before 1 February 2016. The provisions relating to licence conditions and supervision are also the same as before

- life sentence prisoners have a punishment part set by the court when imposing the sentence. This is the period that the court considers appropriate to satisfy the requirements of retribution and deterrence, but ignoring any period of confinement necessary for the protection of the public. The prisoner serves the whole of the punishment part in custody. Such a prisoner may be released after this point if the Parole Board considers that continued incarceration is not required for the protection of the public. The possibility of release is considered again periodically where the Parole Board does not initially order the release of the prisoner. Prisoners are released on licence, continuing until the person's death, under the supervision of criminal justice social work

Breach of licence conditions can lead to a released prisoner being recalled to custody.

The Custodial Sentences and Weapons (Scotland) Act 2007, as amended by the Criminal Justice and Licensing (Scotland) Act 2010, includes provisions setting out significant reforms to the rules on early release. However, the relevant provisions have (as yet) not been brought into force.<sup>15</sup>

## Throughcare

Throughcare seeks to support the rehabilitation and reintegration of prisoners. It can involve measures both within prisons and in the community. A 2013 [review](#) of throughcare, carried out by the Scottish Centre for Crime & Justice Research (SCCJR) on behalf of the Scottish Government, noted that:

“Throughcare provision aims to reduce the likelihood of future reoffending by addressing the needs of prisoners. Evidence suggests that accommodation problems, health and addiction issues and/or disrupted family relationships can increase the risk of re-offending.” (p 5)

And that:

“Throughcare should, theoretically, begin at the point of sentence, with the process starting in the prison. Prisoners on lengthy sentences prepare for release through courses and programmes in prison, and through community based social workers, engagement with agencies concerned with housing, employment, health and other services, as well as placement in the community, periods in open conditions and home leaves.” (p 14)

Throughcare arrangements differ depending upon whether or not a prisoner is released on licence conditions and subject to supervision by criminal justice social work. Thus, throughcare for short-term prisoners and long-term prisoners can differ. The above review reported that:

Throughcare provision can be voluntary or statutory. Voluntary throughcare is available for prisoners sentenced to a custodial sentence of less than four years and when an extended sentence or a supervised release order has not been imposed. The prisoner and his/her family are entitled to access this support from the point of sentence, while they are in prison, and for up to one year after release. Statutory throughcare forms part of criminal justice

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<sup>15</sup> Further information is set out in the SPICe briefing [Early Release of Prisoners](#) (McCallum 2014, p 13-14).

social work provisions and is imposed on prisoners serving a prison sentence of four years or more; or who are sentenced to an extended sentence or a supervised release order. The throughcare process starts at the point when the custodial sentence is imposed. During an individual's time in custody, the criminal justice social worker will contribute to the sentence planning process by sharing information relative to the assessment of risk and identifying issues which may influence the resettlement prospects of the prisoner." (p 15)

Also in 2013, a [report](#) produced by the Scottish Parliament's Justice Committee (following an inquiry into purposeful activity in prisons) included the following comments on throughcare:<sup>16</sup>

"The Committee welcomes the increased emphasis being given to throughcare as it is vital that an adequate support package is provided to prisoners on release which recognises the broad range of factors which may have caused their offending behaviour.

The Committee remains of the view that statutory throughcare should be available to short-term prisoners and urges the Scottish Government to consider this as part of its SPS strategy, as well as part of its redesign of the community justice system." (paras 180-181)<sup>17</sup>

More recently, a Ministerial Group on Offender Reintegration [reported](#) (Scottish Government 2015d):

"The Ministerial Group on Offender Reintegration was established in October 2013 to address the demand for better integration between the justice system and wider universal services and to focus attention on the role of non-justice sector contributions to the reintegration of individuals transitioning from custody back to our communities." (p 3)

It noted that:

"The group focused its attention on the reintegration needs of those leaving prison serving short-term custodial sentences as this group accounts for the greatest level of reoffending." (p 4)

Key messages of the report included:

"Delivery of immediate and hands on support post-release to help make the transition from custody directly through SPS Throughcare Support Officers or by linking in with mentoring services or other third sector providers is fundamental." (p 7)

In his 2015-16 annual report (2016), HM Chief Inspector of Prisons for Scotland said:

"for effective and successful reintegration, it is essential that all the contributing agencies work collaboratively. This is necessary to ensure that the good work carried out by prison staff, the healthcare staff, providers of housing and benefits advice, and third sector partners has a high level of continuity into the community after the person returns home. Whilst there are lots of examples where excellent support is organised, far too often people leave prison without any accommodation arranged, without being registered with a GP and unable to receive their benefits without undue delay. The absence of such basic arrangements create unnecessary barriers to a constructive and positive life, where the likelihood of reoffending is reduced." (p 4)

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<sup>16</sup> In 2011 and 2012, as part of work on [women offenders](#), the Scottish Parliament's Justice Committee also considered the particular issues affecting throughcare for female prisoners.

<sup>17</sup> The Scottish Government and SPS (2013) provided a joint written [response](#) to the committee's report.

## INSPECTION OF PRISONS

[HM Inspectorate of Prisons for Scotland](#) (headed by HM Chief Inspector of Prisons for Scotland) inspects the 15 prisons (including YOIs) across Scotland. The Chief Inspector reports on the treatment of and conditions for prisoners. Reports include an annual report which is presented to the Scottish Ministers and laid before the Scottish Parliament

The Chief Inspector also has responsibility for inspecting the treatment of and conditions for prisoners under escort.

Since 31 August 2015, with the coming into force of the Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015, the Chief Inspector has also had overall responsibility for the monitoring of prisons. This monitoring is carried out on a day-to-day basis by independent prison monitors. The Chief Inspector's 2015-16 annual report (2016) noted that:

“Independent Prison Monitoring replaced the previous arrangements of Visiting Committees and is now carried out by 120 volunteer Independent Prison Monitors (IPMs) attached to each prison and young offenders institution in Scotland. (...)

The twin activities of inspecting and monitoring are distinct, but complementary, functions. Inspecting is carried out infrequently, but in-depth, by a team of professional inspectors; whereas monitoring is a regular, weekly activity in each prison in Scotland, carried out by local members of the community with the necessary skills and training.” (p 4-5)

## PRISON COMPLAINTS

The [Scottish Public Services Ombudsman](#) looks into complaints about public services. Its work includes examining complaints from prisoners which have already been considered through internal SPS complaint procedures. (It took over the work of the former Scottish Prisons Complaints Commission in October 2010.)

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