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Margaret Mitchell MPS
Convenor
Justice Committee
Scottish Parliament
EDINBURGH
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21 November 2016

Dear Ms Mitchell,

HOME DETENTION CURFEW LICENCE (AMENDMENT) (SCOTLAND) ORDER 2016

At the Justice Committee's meeting last week, during your consideration of the above Order, a Committee member asked about the statistical evidence that the Expert Working Group on Electronic Monitoring in Scotland referred to in support of its Recommendation no. 7 on removing certain exclusions to the Home Detention Curfew (HDC) scheme.

My officials have engaged with Working Group members and with the Scottish Prison Service to confirm and re-establish the relevant data. The statistics available to the Group provided a snapshot of the population within the prisons' estate which were subject to the specific exclusions currently in place for HDC that we are now seeking to remove; and also some information on the factors that give rise to individuals on the HDC scheme being recalled to custody and, therefore, being excluded from the scheme in future.

While the majority of prisoners released on HDC complete the HDC period successfully, of those individuals who do not complete their HDC period, only a minority of those recalled were due to the individual having committed a further offence whilst on HDC.

The Expert Working Group's overall conclusion was that HDC is helpful for reintegration and supporting offenders to desist, whilst ensuring an appropriate element of control. At present, Section 16 and 17 prevent this measure from being used to its full potential and acts as a barrier preventing offenders from demonstrating progress in their rehabilitation. The Working Group felt that this exclusion was unfair and should be removed, and as such included this recommendation in their report.

As I set out during the Committee session, it is important to emphasise that, even if these specific exclusions are removed, release on HDC will not be automatic. Before being released on HDC, prisoners will be assessed by the prison authorities to ensure that they are not a risk to the public and that their risk of reoffending is low. A number of other important exclusions from HDC will remain, for example for sexual and violent offenders who are serving an extended sentence imposed under Section 210A of the Criminal Procedure (Scotland) Act 1995 and sex offenders who are subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.

I hope this information is helpful to the Committee ahead of its further consideration of this Order at its meeting on 22 November.

Your sincerely,

A handwritten signature in black ink that reads "Annabelle Ewing". The signature is written in a cursive style with a large initial 'A' and 'E'.

Annabelle Ewing

**HOME DETENTION CURFEW LICENCE (AMENDMENT) (SCOTLAND) ORDER 2016 –
EXPERT WORKING GROUP ON ELECTRONIC MONITORING: DATA SETS**

The following data sets were available to the Expert Working Group on Electronic Monitoring during the consideration of its recommendations.

- I. *For each establishment the number of individuals currently eligible for consideration for HDC at present and the additional numbers of individuals that would be considered if Sections 16, 17 and 17A exclusions were withdrawn.*

N.B. This data has been updated from that provided to the Working Group to reflect the current position. This shows that a total of 107 people are currently potentially eligible for consideration for HDC and this would rise to 295 (an additional 188) if Sections 16, 17 and 17A were withdrawn. Of current prisoners, SPS estimate that around an additional 266 would become eligible for consideration for HDC up to February 2020 if the current exclusions are withdrawn. SPS have indicated that people currently excluded from HDC are serving short-term sentences for a wide variety of offences, including assault; threatening and abusive behaviour but also drugs possession, shoplifting, road traffic offences and bail offences.

- II. *Number of people by month and by year on HDC recalled to prison during 2012-13 to 2015-16*

N.B. The Working Group noted in its Report that during 2015, 1,426 new HDC licences were imposed, 89% of which were for males and 11% of which were for females. The figures show that during 2015 a total of 242 (17%) individuals were recalled from HDC. Of these, 84 (6%) were recalled due to a warrant being issued for a new offence committed whilst on HDC, whilst 158 (11%) were recalled for breaches of their HDC and license conditions, e.g. breach of curfew; damaging equipment; etc.