

## CONSULTATION QUESTIONS

**Question 1: Should the presumption against short periods of imprisonment of three months or less be extended?**

Yes

No

*You may wish to provide information to support your views, for example, what do you consider to be the key factors for or against the proposal?*

Social Work Scotland agree with the Prison Commission's Report: Scotland's Future that prison should only be for those individuals who commit serious offences or who are assessed as posing significant harm to others. Therefore, while we welcomed the introduction of the presumption against short periods of imprisonment of three months or less, we do not believe that this goes far enough to achieve that aim.

We also believe that the current system has not had a sufficient impact on reducing the numbers of people in prison, and if we as a country we are determined to reduce our prison population to levels corresponding to our Nordic neighbours then we need to be more ambitious in our approach. This would involve not only extending the period for which the presumption against short sentences of imprisonment apply but also strengthening the presumption itself.

**Question 2: If you agree that the presumption against short periods of imprisonment should be extended, what do you think would be an appropriate length?**

6 months

9 months

12 months

Social Work Scotland agree with the findings in the Prison Commission report that prison should only be for those individuals who commit the most serious offences or pose a risk of serious harm to the public. A logical conclusion from this position is that the presumption against short sentences should apply to all cases that are brought before the Court under summary procedures which, in turn would suggest that the appropriate length of the presumption should be 12 months.

**Question 3: Do you have any specific concerns in relation to a proposed extension of the period covered by the presumption against short sentences?**

The main concern that Social Work Scotland have regarding a proposed extension of the period covered by a presumption against short sentences is that we are not ambitious enough and that there is not enough rigour to ensure the implementation of the proposals. Our concerns relate to that this may be seen as a missed opportunity to radically change our relationship with imprisonment in general and short sentences in particular. We therefore recommend strengthening the presumption against short sentences as well as extending it.

In addition, Social Work Scotland recognise that as the short – term prison population reduces following the extension of the presumption against short sentences that there will be a requirement for additional resources to accompany the increased number of individuals which are being supervised in the community. We believe that the provision of sufficient resources to ensure that individuals can be supervised effectively within the community must be an integral part of any proposal to extend the period covered by the presumption against short sentences.

**Question 4: Do you think there are any specific circumstances to which a sentencing judge should be required to have regard when considering the imposition of a custodial sentence?**

Social Work Scotland support the findings of the Prison Commission Report, which stated that prison should only be used for those individuals who pose a risk of serious harm to others. We are therefore of the view that a sentencing judge should be required to have an assessment of the risk which an individual poses to the public and an assessment of whether they can be managed within the community before passing sentence. We believe that the assessment should indicate a) that the individual poses a risk of serious harm to the public (as defined by the Risk Management Authority and b) that they cannot be managed in the community before a sentence of imprisonment could be passed.

**Question 5: Do you think there are specific offences to which the presumption should not apply (i.e. offences which could still attract a short custodial sentence)?**

Social Work Scotland believe that in order for an offence to warrant a (short) custodial sentence then there must be an assessment that the individual poses a risk of serious harm to other members of the public and the they cannot be managed in the community. We are also of the opinion that anyone subject to such a sentence should be supervised upon release from custody until the expiry of their sentence in order to assist with risk management planning and community reintegration.

**Question 6: Do you think that there are any circumstances in which a custodial sentence should never be considered?**

Social Work Scotland believe that custodial sentences should not be imposed where there is no assessed risk of serious harm to other members of the public. We also believe that there needs to be a wider debate to consider the issue of how the justice system responds to issues of persistence and non – compliance.

We are of the view that imprisonment should primarily be used to contain those who are deemed to pose a risk of serious harm to other members of the public. Therefore, while we recognise the need for rehabilitation of those individuals who are deemed to require to be imprisoned, we believe that rehabilitation in itself should not be an acceptable primary reason for imprisoning someone.

Prison should also not be used in the absence of other services in order to try and help someone. This is particularly relevant to women who are involved in the justice system and also for people with mental health difficulties. It is imperative that if we are to alter our relationship with imprisonment that there are sufficient resources to support the community justice reforms and ensure that services can meet the needs of the most vulnerable in our society at the first point of contact.

**Question 7: Do you think that the Scottish Government should also consider legislative mechanisms to direct the use of remand? If so, do you have any views on what such a legislative mechanism might include?**

Social Work Scotland is of the opinion that remand should only be available where an offence is being prosecuted under solemn procedures and the person accused of the offence(s) is assessed as posing a risk of serious harm to the public. In addition, where appropriate the use of electronic monitoring to support alternatives to remand would be welcomed.

**Question 8: Do you have any additional comments on the use of short-term imprisonment?**

Social Work Scotland believe that in order to radically change the perception of the use of imprisonment and in particular the use of short-term imprisonment that there need to be a consistent and sustained public education campaign which highlights the reality of those being imprisoned, the damage done by imprisonment and the relative cost/ineffectiveness of imprisonment. This also requires us to emphasise the effectiveness of community sentences and linking these current proposals with the overall reform of the justice system.

## Consultation on Proposals to Strengthen the Presumption against Short Periods of Imprisonment

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

##### Organisation Name

Social Work Scotland

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

##### Surname

##### Forename

#### 2. Postal Address

Postcode	Phone	Email

#### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

**Please tick ONE of the following boxes**

**Please tick as appropriate**

Yes  No

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

**(d)** 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?

**Please tick as appropriate**

Yes  No