

Highland Community Planning Partnership
Community Planning Board – 3 October 2019

Agenda Item	10.
Report No	CPB 12/19

Update on Presumption Against Short Term Sentences

Report by Group Manager Niall MacLennan, Chair of the Community Justice Partnership

Summary

This report aims to provide the CP Board with an overview of the recent changes in the Scottish Justice System to Presumption Against Short Term Sentences (PASS), the potential impact this could have on Community Justice delivery and the future consideration for the Highland Community Justice Partnership.

1. Background

- 1.1 A Presumption Against Short Sentences (PASS) was implemented in Scotland in February 2011. An amendment in the Criminal Justice and Licensing (Scotland) Act 2010, this stated that “a court must not pass a sentence of imprisonment for a term of 3 months or less on a person unless the court considers that no other method of dealing with the person is appropriate”.
- 1.2 In the Programme for Government 2017, the Scottish Government announced that a proposal to extend PASS from 3 to 12 months would be laid before Scottish Parliament. As with the initial implementation of PASS in 2011, the proposal entails a presumption against, **not a ban** of, short sentences. The level of impact of the extension of the presumption to 12 months will be dependent on judicial decision making.
- 1.3 Community Justice Scotland supports the extension of PASS. Evidence shows that short-term prison sentences are not effective in meeting a person’s needs and reducing their likelihood of reoffending, and in fact often do more harm than good.

2. Potential Impact of PASS on Community Justice.

- 2.1 Since 2011, the number of community sentences has increased, largely driven by the introduction and subsequent uptake of the Community Payback Order (CPO). However in recent years, this trend has declined, a decrease of 10% was observed between 2016- 17 and 2017-18. This mirrors an overall drop in total convictions but compares with a 6% decrease in custodial sentences.
- 2.2 The effects, in terms of increase in numbers of community sentences, of extending PASS to 12 months are difficult to predict. The intention behind the extension of PASS is for people who may previously have been given a short prison sentence to instead receive an appropriate community-based disposal. If this aim is successful, people who previously might have been in prison will instead serve their sentence in the community.

- 2.3 In terms of what a shift from custodial to community sentences might look like following an extension to PASS, for people who may previously have been given a short term sentence Community Justice Scotland has used the following figures to project possible scenarios:
- **LOW** impact of PASS: **20%** of custodial sentences become community sentences;
 - **MEDIUM** impact of PASS: **50%** of custodial sentences become community sentences;
 - **HIGH** impact of PASS: **70%** of custodial sentences become community sentences.
- 2.4 At a national level even a low conversion rate of prison to community-based sentences would result in a noticeable increase in the number of people completing CPOs (7.5% increase in additional community sentences).
- 2.5 In order to plan for an increase in the number of people completing community sentences we need to understand the daily and longer-term needs of those people. People serving short prison sentences face a range of issues that might require support, including housing, health, addiction, finance and benefits. Usually these issues are complex and closely linked, with individuals rarely experiencing them in isolation.
- 3. Future Considerations for the Highland Community Justice Partnership**
- 3.1 Not only will an increase in numbers of people serving community sentences be apparent following the extension of PASS, but research suggests that a proportion of these people may have more complex needs that will require more support than the current 'average' person completing a CPO.
- 3.2 Increased numbers of people on CPOs, and potentially an increase in complexity of need, have to be supported by a range of service providers. It should be noted that the needs identified are not those that can be met solely by services provided by Criminal Justice Social Work. Many relate to needs which are more usually addressed through routine public services. A range of partners, including third sector and Community Justice statutory partners, require strategic coordination to meet the needs of people in communities.
- 3.3 The implications of the 12-month PASS are not fully understood nationally or in Highland but we will monitor the impact of PASS and other factors closely, including the availability of community sentences relative to demand.

Recommendations

The Board is asked to note the report.

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