



RESPONSE

by

THE FACULTY OF ADVOCATES

to

Independent Sentencing and Penal Policy Commission: Call for Evidence

The Faculty of Advocates is the independent referral Bar in Scotland. Faculty is pleased to have the opportunity to respond to this consultation, although should make it clear at the outset that Faculty does not seek to comment upon issues of policy. We would comment on the questions listed as follows:

Question 1 - What changes could be made to community sentences and other alternatives to prison to reduce crime, protect victims, and create safer communities?

The Faculty recognises that other stakeholders in the criminal justice system tasked with delivering community sentences and other alternatives to prison will be better placed to evidence the efficacy of existing community sentences and existing alternatives to prison. Further, these stakeholders will be better placed to identify (i) changes to the existing arrangements to reduce crime and protect victims and (ii) the resource implications for implementing any changes. Public confidence in any changes will be an important consideration.

Question 2 – In your view, what are the priority issues affecting bail and remand? In Scotland, what needs to change and why?

The Faculty observes that any remand system must carefully balance an individual's right to liberty with the important public interests to secure a fair trial and to protect public safety. Periods spent on remand and on bail are now substantially longer than the pre-pandemic periods. Priority issues are (i) to identify less restrictive measures than remand which safeguard these important public interests and (ii) to reduce the periods spent on remand and on bail. Other stakeholders will be better placed in identifying what needs to change and the resourcing implications for implementing any changes. The reasons for

change are to reduce the number of people held on remand and/or the length of periods on remand. Further, it is important to recognise that being placed on bail for a significant period of time and/or being made subject to restrictive bail conditions (e.g. a daily curfew) are significant restrictions on a person's liberty. A priority issue in respect of bail is to identify the least restrictive bail conditions.

Question 3 – In your view, what are the priority issues affecting release from prison custody? In Scotland, what needs to change and why?

The Faculty recognises that other stakeholders in the criminal justice system tasked with managing and supporting individuals upon release and with supporting victims will be better placed to evidence the efficacy of existing arrangements for the release of individuals from prison in securing the best outcome for those individuals, victims and the public. One area to highlight is the importance of appropriate resources being available within prison for early intervention in managing the risk of prisoners considered to pose a significant risk to the public upon release.

Question 4 – Are there any recommendations from the McLeish Commission or subsequent reports by other bodies that haven't been put into action yet but could still be beneficial

The Faculty observes that other stakeholders within the criminal justice system are better positioned to address this question.