



Prison Reform

Introduction

Scotland's prisons are in crisis. There are now more prisoners than the operating capacity, and the Scottish parliament has approved an [early release scheme](#). The incoming PM describes similar problems in England and Wales as 'shocking'.

While this emergency measure was unavoidable, it failed to address the underlying issue. While prison populations have been rising in many countries, Scotland already has one of the highest populations in Europe. In this briefing, we analyse the scale of the problem and point to the urgent need for reform.

Prison capacity

Scottish Prisons have a target operating capacity of 8,007. As of 12 June, there were 8,294 people behind bars, an increase of 400 since 18 March. In May, there were 8,365 prisoners in Scotland, the highest number since 2012. Justice Secretary Angela Constance said there was a 'critical risk' to the safe operation of the prison estate, with several prisons 'essentially full'.

Annex A: Average Daily Population (All) by Financial Year

Financial Year	Average Daily Population	Percentage Change	Overall volume change
2011-12	8,133		
2012-13	8,014	-1.5%	-120
2013-14	7,851	-2.0%	-163
2014-15	7,731	-1.5%	-120
2015-16	7,676	-0.7%	-55
2016-17	7,551	-1.6%	-125
2017-18	7,464	-1.2%	-88
2018-19	7,789	4.4%	325
2019-20	8,197	5.2%	408
2020-21	7,339	-10.5%	-858
2021-22	7,506	2.3%	167
2022-23	7,426	-1.1%	-80

The Scottish Government's [position paper](#) on the prison population highlights the longer-term drivers of the prison population. Recorded crime is falling; consequently, the number of people entering prison each year has fallen from around 14,900 in 2011-12 to 8,400 in 2022-23. Despite this trend, we have a rising prison population, primarily due to an increase in average sentence lengths.

While there has been a longer-term trend away from shorter sentences, these still make up a notable proportion of the sentences given. The ending of automatic early release and the post-pandemic court recovery programme have added to the problem. Previously under-reported crime types such as domestic abuse and sexual offences have been reported and resulted in convictions and can attract lengthy custodial sentences.

Early Release Scheme

The 500 to 550 inmates who will leave custody involve prisoners with 180 days or less to serve from a sentence of under four years. Those serving a life sentence, those convicted of domestic abuse, and those on the sex offenders register will not be eligible for early release unless their conviction is spent under the Rehabilitation of Offenders Act 1974.

The release will take place over four phases to provide certainty for those due to be released and to ensure reasonable planning can take place. However, Victim Support Scotland expressed concerns over early prisoner release and warned it could create trauma and anxiety, 'Victims are still feeling the impact of when prisoners released on an emergency basis during Covid, which resulted in numerous drug deaths and a 40% reoffending rate within the first six months'.

Scottish Government Action

Before the early release scheme, the Scottish Government had extended the presumption against short sentences to those of 12 months or less. Electronic bail monitoring was introduced in 2022, and the home detention curfew was optimised. Some limited additional capacity has been created inside existing prisons, and under eighteens have been transferred into secure care accommodation.

Around a quarter of the country's prison population is on remand, nearly [doubling](#) since 2020. The Bail and Release from Custody (Scotland) [Act 2023](#) is designed to ensure people are only remanded in custody as a last resort.

Helpful though these measures are, as the outgoing UK Justice Secretary put it, releasing

prisoners early would buy the government '18 months' adding, 'It won't buy you any more than that.' A point [emphasised](#) by the Prison Officers Association (POA), 'If there are no support mechanisms out there such as jobs, housing and probation support as they will just reoffend and be recalled to prison.'

In Scotland, HM Chief Inspector of Prisons, in her [annual report](#), has highlighted overcrowding in Scotland's prisons, but also the failings of the prison transport provider GEOAmev, the delivery of healthcare, and prisoner progression compounded by staff shortages. Howard League Scotland [highlighted](#) the increasing numbers dying in custody. Between 2012 and 2022, 350 people died whilst in prison custody in Scotland - an average of 31.8 deaths per year. The Prison Reform Trust has pointed to the [challenges](#) facing very long-term prisoners in Scotland.

Prison Reform

The POA has called for an urgent debate on reform through a Royal Commission or any other inquiry that deals with long-term solutions. They also argue that money for new prisons should be invested in the current estate.

The Howard League for Penal Reform, in a [briefing](#) for the incoming UK Government, proposes a package of measures, including automatic release, community and suspended sentences, and a comprehensive review of sentencing. Broader reforms need to recognise that nine in 10 prisoners have at least one mental health (or substance misuse) need.



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Watch this it's fascinating - I asked James Timpson what he'd do about prisons and sentencing if he was in charge. He believes only a third of prisoners in jail should definitely be there. He's now in charge of prisons (but not sentencing).



The appointment of James Timpson as UK prisons minister points to a recognition that Labour plans to take a reformist approach to criminal justice in England. Timpson [said](#) earlier this year that only a third of people in prison actually needed to be there. Others, he said, would be better off with

mental health support, while prison for women is basically a disaster.

Boosting probation capacity and developing new employment and training options will take time. But unlike building more prison places, these measures look beyond the short-term requirement for punishment.

For successful prison reform, we might look to the [Netherlands](#), which has halved its prison population. There was a widespread public acceptance that, in most cases, a prison sentence does more harm than good. They introduced shorter sentences, alternatives to prison, and, more specifically, tailored mental health support for those offenders who need it. This process of decarceration led to many prisons being closed or repurposed. And it caused very little social disquiet.

They are not alone. Prison numbers have massively dropped even in Russia, which nearly halved its prison rate in a decade (before the Ukraine War military service options). The USA, famous for its high prison rates, has seen a significant drop in its prison rate of 14% since 2018.

Conclusion

Prison populations can go down: the sky won't fall in, and governments don't necessarily topple either. Like in the Netherlands, crime has dropped in Scotland and the UK. Politicians must be brave, rejecting what experts call *penal populism*: politicians implementing harsh policies that they think the public will like rather than following the evidence that harsh sentences solve little and perpetuate social problems.

In Scotland, we also need to be bold. There are legitimate concerns about early release from victims' groups that need to be addressed. Reform also needs to be wider than just our prisons. It includes the courts, NHS mental health services, social work and other related services.

Jimmy Reid Foundation

The Jimmy Reid Foundation is a think tank which brings together different voices from across Scotland to make the case for economic, environmental, political and social equity and justice in Scotland and further afield.

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