

Includem Response - Prison Population and Penal Reform: Working Towards Sustainability

About includem

Founded in 2000, Includem works alongside children, young people and families facing some of the greatest barriers to accessing consistent and trusted support.

For more than 25 years, our approach has been underpinned by “stickability” - building enduring relationships, remaining alongside children, young people and families through periods of crisis and providing support when it is needed rather than when traditional service structures dictate.

Our practice is delivered through A Better Life, Includem’s structured, evidence-informed framework, which places trusted relationships at the heart of sustainable change.

Includem has extensive experience supporting children and young people up to age 25 involved in, or at risk of becoming involved in, the justice system, including young people affected by exploitation, organised crime, serious violence and gang affiliation.

Our experience of intensive community intervention contributed to the development and implementation of Scotland’s Intensive Support and Monitoring Service, providing intensive one-to-one support as part of credible alternatives to secure care.

Today, Includem delivers intensive whole family support across more than nine local authority areas. In February 2026, the Care Inspectorate described our services as “sector leading”, recognising the quality, consistency and impact of our relationship-based practice.

We welcome the opportunity to engage with this consultation and have focused our response on proposals which align with our experience of supporting children, young people and families, including young people up to age 25 involved in or at risk of involvement in the justice system. Our response particularly considers prevention and early intervention, intensive community-based Whole Family Support, diversion from custody and the conditions required for community alternatives to be effective. We have not responded substantively to proposals concerning the technical operation of sentencing law, court procedure or sentence length where these fall outside our organisational expertise.

Question 10 – Please share any views you have on how effective CPOs are in their current form and whether the legislation underpinning them is appropriate.

Includem supports the principle that community-based interventions should be used wherever they can safely and effectively address offending behaviour and the underlying circumstances contributing to it. Evidence cited within the consultation demonstrates that community sentences are more effective than short custodial sentences in reducing reoffending.

Our experience of supporting children, young people and families reinforces the importance of addressing unmet need using a strength-based approach. Involvement in offending behaviour can sit alongside poverty, trauma, poor mental health, substance use, insecure housing, disengagement from education or employment, difficult family relationships and other forms of adversity¹.

A credible community sentence therefore needs to be more than an alternative location in which a punishment is delivered. It must provide an opportunity to address the circumstances contributing to offending and support sustainable change and positive outcomes for those receiving support, and the wider community.

Our experiences of delivering services and engaging with local authority partners also highlight limitations in the current delivery of community alternatives. For example, there can be constraints on how and at what stage services are able to engage with individuals. This can limit opportunities to provide the timely and intensive support needed to address the circumstances contributing to offending and to support successful engagement with an order.

The Independent Sentencing and Penal Commission concurs that there is a need to improve support available to help people successfully complete their community orders. This should include support to engage with, and stay connected to, other services.

The third sector must be considered a key partner in supporting CPOs. Our model of Intensive Whole Family Support operates 24/7 over 365 days a year, ensuring children, young people and their families have access to support when they need it. CPOs must be underpinned by support from organisations that are able to engage with individuals in a genuinely flexible, and needs-led way to ensure they are supported to meet the requirements of their order and successfully engage in work to reduce reoffending and improve their outcomes.

¹ [Justice That Works: Report of the Scottish Sentencing and Penal Policy Commission](#)

Our experiences of delivering structured deferred sentencing support in South Lanarkshire², and our Glasgow Bail Pilot demonstrated the high degree of flexibility required when supporting young people aged up to 25 experiencing some of the most significant need³. Community alternatives will only command confidence if the services required to make them work are consistently available and adequately resourced across Scotland.

Further consideration should be given to what constitutes ‘effective’ CPOS. In our view, effectiveness of CPOs should be measured not only through completion of an order, but through its impact on reoffending and outcomes for individuals, families, victims and communities.

² <https://includem.org/wp-content/uploads/2024/06/South-Lanarkshire-Evaluation.pdf>

³ <https://includem.org/wp-content/uploads/2024/06/Glasgow-Bail-Support.pdf>

Question 11 - To what extent do you think the current framework allows sufficient flexibility to tailor CPOs to individual circumstances, including the roles of both sentencers and justice social workers?

Includem supports greater flexibility to tailor community interventions to individual circumstances and needs.

The consultation notes that mental health, alcohol and drug treatment requirements are used comparatively infrequently and identifies concerns that rigidity and complexity can restrict their use. We therefore welcome consideration of how community sentences can become more person-centred and responsive.

Our practice demonstrates that people's circumstances can change rapidly. Effective support must be able to respond as needs, risks and strengths change. For young people in particular, this should include recognition of developmental stage, trauma, neurodivergence, family circumstances and wider support networks.

Greater flexibility must, however, be accompanied by investment in services. Giving practitioners greater discretion will have limited impact if appropriate community-based support is unavailable locally, not delivered flexibly enough to meet needs, or subject to lengthy waiting lists. Crucially, services that deliver intensive community-based support must be involved in the planning of these services as their unique insight and experience can helpfully inform development of pathways and supports with fewer barriers for young people to successfully meet their aims.

We have also submitted a response to the Community Justice for Scotland Strategy consultation, reflecting similar themes and recommendations.

Question 12 – Please share any views you have on how the current CPO legislative framework could be improved to ensure CPOs are a credible alternative to custodial sentences.

Includem does not have specific expertise in the legislative framework for Community Payback Orders and therefore does not propose legislative amendments.

We would, however, encourage the Scottish Government to ensure that any reform enables, rather than restricts, person-centred, needs-led and flexible support.

The effectiveness of a community sentence depends not simply on the requirements available within legislation but on the infrastructure surrounding the individual. This includes access to housing, mental health and substance-use support, education and employability opportunities, family support and consistent relationships with trusted professionals.

We would particularly caution against increasing the number or complexity of requirements simply to demonstrate that community sentences are sufficiently robust. Requirements should have a clear purpose and contribute to rehabilitation, reduced offending and positive outcomes rather than inadvertently increasing the likelihood of breach.

Question 13 – Please share any views you have on the extent to which CPOs provide sufficient support to address the underlying causes of offending behaviour and whether there are any barriers to ensuring support needs are met.

Includem strongly agrees that strengthening community sentences must include strengthening the support available alongside them.

The consultation recognises that people subject to CPOs frequently experience multiple and overlapping needs and that meeting those needs requires a coordinated multi-agency response involving justice social work, wider public services and the third sector. We welcome this recognition.

For community alternatives to custody to be effective, support must be available at the intensity and flexibility required by the individual rather than determined primarily by service thresholds or geography.

“This total does hide the large variation between each young person. For example, just over 9% Asher’s support was provided during out-of-hours, whereas 52.6% of Max’s support was provided out-of-hours. The nature of the out-of-hours support was not limited to the 24hr helpline. includem workers were able to meet young people at whatever time suited them.” ([Includem Glasgow Bail Support](#))

Includem's experience demonstrates the value of persistent, relationship-based support which works alongside the young person and, where appropriate, their family. For young people with complex needs, this may require frequent contact, practical support, help to sustain accommodation or education, support with relationships and emotional wellbeing, and coordinated work with other agencies.

Whole Family Support is particularly important. Offending behaviour does not occur in isolation from family and community circumstances, while custody itself can disrupt relationships and other protective factors. Support which works with the wider family can help stabilise circumstances, strengthen relationships and address difficulties before they escalate.

If Scotland is serious about reducing its reliance on custody, investment in community infrastructure must therefore accompany sentencing reform. The availability of intensive support cannot be an afterthought: it is part of what makes a credible alternative to custody possible.

Question 14 – Please share any views you have on the introduction of an Enhanced Combination Order model in Scotland.

Includem is supportive in principle of exploring an Enhanced Combination Order model for Scotland, particularly where this would enable more intensive, individualised and coordinated support to be provided in the community.

However, we would caution against assuming that creating a new form of order will itself improve outcomes. Its effectiveness would depend on whether the support underpinning it is adequately and sustainably funded, consistently available across Scotland and sufficiently flexible to respond to individual circumstances.

For young people in particular, an enhanced model should take a developmental and trauma-informed approach and recognise the importance of relationships, family and wider support networks.

Question 15 – Please share any views you have on the proposal to amend how CPOs are set out in law, so they are clearly framed as a sentence that can be used where justice social work intervention could address the underlying causes of offending behaviour.

We support the consultation's emphasis on earlier intervention and agree that people should be able to access effective support before their needs or offending behaviour escalate.

The consultation itself recognises that CPOs are currently most often used where an individual is already close to custody, despite evidence that earlier justice social work intervention can help address offending before it escalates.

This should form part of a wider shift towards prevention and early intervention within Scotland's justice system. Where underlying needs can safely and effectively be addressed in the community, individuals should be able to access sufficiently intensive support at the earliest opportunity. This support does not need to be delivered solely through justice social work. Third sector organisations have an important role in providing flexible, specialist and relationship-based interventions which can support positive outcomes for individuals, families and communities. Any expansion in the use of CPOs should be accompanied by parallel investment in third sector services that underpin their effectiveness, with greater consistency in the availability of support to address underlying need and offending behaviour across Scotland.

Investment in the support required to make CPOs effective should sit within a broader continuum of community-based support and should not result in statutory intervention becoming the default route to accessing that support.

We would caution against equating earlier intervention with the earlier imposition of a statutory community order. Expanding CPOs to people who would not otherwise have been at risk of custody could create a risk of 'net-widening', drawing young people further into justice processes rather than diverting them from them. Earlier intervention should therefore include greater access to diversion, structured deferred sentencing and voluntary, relationship-based intensive whole family support, with statutory interventions used proportionately according to individual need and risk.

Greater availability and awareness of credible community-based programmes would give justice social work a wider range of options to draw upon when identifying appropriate support for people with more complex needs, including non-statutory interventions where these are appropriate.

Question 16 – Please share any views you have on what changes, if any, would be required to make CPOs suitable and effective for more serious offending behaviour.

Includem is not best placed to comment on changes to sentencing thresholds, the maximum duration of orders or other technical aspects of the CPO framework.

We can, however, comment on the support that would be required if community sentences are to provide a credible alternative to custody for people whose offending behaviour or support needs are more complex.

Greater use of community alternatives for this group would require access to genuinely intensive support. For some young people, a standard or low-intensity intervention will not be sufficient. Support may need to be available frequently, flex around the individual's circumstances and remain alongside them through periods of instability.

This requires investment in multidisciplinary community provision and strong partnership working between justice social work, health, housing, education, employability and specialist third-sector organisations.

Any expansion should therefore be accompanied by investment in the capacity of community services rather than simply widening eligibility for existing provision. The consultation itself suggests options such as increasing restrictions and monitoring, but also explicitly identifies enhancing support provision as part of making CPOs suitable for more serious offending. We would strongly emphasise the latter.

Question 18 – What changes, if any, do you believe are needed to improve breach processes for CPOs to ensure timely, proportionate, and consistent responses to non-compliance?

Includem does not have specific expertise in court procedures relating to breach and therefore does not propose changes to the formal breach process.

We would, however, strongly support a proportionate approach to non-compliance which seeks to understand the reasons for it before escalating an individual further into the justice system.

People subject to community sentences may experience poverty, insecure housing, poor mental health, trauma, neurodivergence, substance use, caring responsibilities and other circumstances which can make compliance with rigid requirements more difficult. Non-compliance should not automatically be understood as disengagement or unwillingness to change.

For young people in particular, relationship-based practice can help practitioners understand what sits behind missed appointments or other difficulties and adapt support appropriately. Early intervention when someone begins to struggle with an order may prevent further disengagement and reduce the risk of breach ultimately resulting in custody. When considering responses to non-compliance, input should be sought promptly from a range of partners, including third-sector organisations delivering support. Our relationship-based practice often facilitates disclosures of challenges, strengths and aspirations that may not previously have been recorded by statutory services.

The evaluation of our Glasgow Bail Support Service and South Lanarkshire Structured Deferred Sentencing Pilot (referenced previously) reveal how punitive the system still is and how young people can be re-traumatised through poor inter-agency communication and complex processes. This must be addressed as a matter of urgency ahead of any legislative changes.

We therefore support the consultation's consideration of graduated and proportionate responses to non-compliance, while recognising that persistent or serious non-compliance will require an appropriate response.

Question 20 – Do you have any other comments in relation to the potential impact on victims, equality or human rights of these proposals to enhance and strengthen community sentences?

Includem believes that equality and human rights considerations should be central to the development of stronger community sentences.

Community-based approaches can avoid some of the significant harms associated with imprisonment, including disruption to housing, employment, education and family relationships. However, community sentences will only represent an equitable alternative to custody if people have meaningful access to the support required to comply with them.

Particular consideration should be given to young people, people experiencing poverty, people who are care experienced, neurodivergent people, those experiencing poor mental health or trauma, and people with caring responsibilities. Requirements which do not take account of these circumstances risk creating additional barriers to compliance and potentially drawing people further into the justice system.

The impact on children and families of people involved in the justice system should also be considered. Decisions about community sentences and the support surrounding them can have consequences beyond the individual, including for children, parents and carers.

There should also be consideration of the role of restorative justice alongside community-based interventions, where this is appropriate. A restorative approach can provide opportunities for people harmed by offending to have their voice heard, while supporting those responsible for harm to understand its impact and take meaningful accountability. Third sector organisations can have an important role in supporting the delivery of restorative approaches, including through specialist, independent, and relationship-based support for those involved. Any such approach must be voluntary, appropriately supported and centred on the needs and safety of those harmed.

A rights-based approach should therefore seek not only to avoid unnecessary deprivation of liberty, but to ensure that community alternatives are accessible, proportionate and supported by the services people need to succeed. They should enhance public and community confidence in community alternatives and ensure victim safety.

Community-based approaches must also retain a clear focus on the needs and safety of victims. Public and victim confidence in community alternatives depends on

interventions being capable of managing risk effectively, promoting accountability and addressing the factors associated with further offending. Where appropriate, reducing reoffending and supporting sustainable change can itself contribute to preventing further victimisation and improving community safety.

Question 23 – Please share any views you have on the proposal that there should be other improvements to the system of electronic monitoring either to help facilitate any of the other reforms in this paper, or more broadly.

Includem supports the appropriate use of electronic monitoring as part of a wider package of community-based alternatives to custody. However, our experience strongly suggests that electronic monitoring should not be viewed as an intervention in itself.

Our previous research into MRC supports confirmed that intensive support services are a vital component of any movement restriction conditions and monitoring. Electronic monitoring can provide structure and boundaries and help manage risk in the community, but on its own it cannot address the circumstances which may contribute to offending behaviour.

For electronic monitoring to provide a credible and effective alternative to custody, it should therefore be accompanied by sufficiently intensive, flexible and relationship-based support. Depending on individual circumstances, this may include support with family relationships, housing, education or employment, mental health and wellbeing, substance use and developing positive connections within the community.

This is particularly important for young people with complex or multiple needs. The level of support should be determined by individual need and risk and should be capable of decreasing or increasing depending on levels of need⁴.

Our experience also demonstrates the importance of trusted relationships. Monitoring can establish restrictions, but it is relationships with consistent workers that can help individuals understand and comply with those restrictions, address the circumstances underlying their behaviour and work towards longer-term positive outcomes.

We therefore encourage the Scottish Government to consider investment in the support infrastructure surrounding electronic monitoring alongside any expansion of the technology itself. Increasing the availability or sophistication of electronic monitoring without ensuring sufficient community capacity risks expanding surveillance without delivering the benefits that community-based alternatives can offer.

⁴ <https://includem.org/wp-content/uploads/2024/06/Glasgow-Bail-Support.pdf>

Question 25 – Please share any views you have on the proposal that people should not be remanded to custody unless they have a reasonable prospect of a custodial sentence of 24 months or more?

Please give reasons for your answer, including whether there are any circumstances in which remand should remain available even where such a sentence is unlikely.

Includem supports the principle of reducing the unnecessary use of remand and ensuring that people are supported to remain safely in their communities wherever appropriate. We do not have the legal or sentencing expertise to comment on whether 24 months represents the appropriate legislative threshold and therefore limit our comments to the importance of ensuring credible and sufficiently resourced alternatives to remand are available.

The consultation highlights the continued high use of remand in Scotland, with the proportion of the prison population held on remand increasing from 19% in 2019–20 to 22% in 2024–25. It also recognises the significant consequences that remand can have, including loss of employment and housing, financial hardship, homelessness and strain on family relationships, with particularly acute impacts for people experiencing existing vulnerabilities.

Reducing the use of remand must therefore be accompanied by investment in robust community alternatives. For young people with complex or multiple needs, this may require intensive and flexible support capable of responding quickly when circumstances change. This should include practical and emotional support and, where appropriate, work with families alongside access to housing, mental health, substance use, education and employability services.

Our experience tells us that restrictions or monitoring alone will not necessarily address the circumstances contributing to offending behaviour or enable someone to comply successfully with bail conditions. Where electronic monitoring or other conditions are used as alternatives to remand, these should be accompanied by relationship-based support proportionate to the individual's needs and circumstances.

A sustainable reduction in remand therefore requires not simply changes to the threshold for its use, but investment in the community infrastructure that gives courts confidence that people can be safely and effectively supported outside custody.

Question 31 – Do you have any comments on the overall package of reforms contained within this consultation, potential interactions, and whether taken together they would help work towards achieving a sustainable prison population?

Includem welcomes the Scottish Government's ambition to achieve a more sustainable prison population and broadly supports the direction of travel towards reducing reliance on short custodial sentences and strengthening community-based responses. It is critical that this ambition is underpinned by recognition of the complexity of people's lives and circumstances, and by coordinated action across sectors, government departments and policy portfolios to reduce child poverty, keep the Promise, tackle violence against women and girls, and protect children and young people from harm.

The evidence presented within the consultation provides a compelling case for change. People released following custodial sentences of 12 months or less are reconvicted nearly twice as often as those sentenced to a Community Payback Order, while imprisonment can disrupt housing, employment and family stability – factors which themselves support desistance from offending.

However, changes to sentencing, bail and remand arrangements cannot on their own deliver a sustainable reduction in Scotland's prison population. The success of the package will depend on whether Scotland simultaneously develops and invests in the community infrastructure required to make alternatives to custody credible, effective and consistently available.

Across our response, we have emphasised the importance of intensive, flexible and relationship-based support. People involved in the justice system frequently experience multiple and interconnected challenges, which can include poverty, trauma, poor mental health, substance use, insecure housing, disrupted education or employment and difficult family circumstances. The consultation itself recognises that people serving community sentences can have multiple overlapping needs and that addressing these requires coordinated responses involving justice social work, wider public services and the third sector.

The wider impact of imprisonment on children and families must also be considered as part of a sustainable approach to reducing Scotland's prison population. It has been estimated that between 20,000 and 27,000 children experience parental imprisonment each year in Scotland, although the absence of routinely collected data means the current numbers are not known⁵. Parental imprisonment can have significant and long-lasting consequences for children, including disruption to family relationships, poverty and poorer outcomes in

⁵ [final-report-short-life-group-children-young-people-affected-family-member-prison-secure-care.pdf](#)

relation to mental health, wellbeing and education. Children with a parent involved in the justice system can too often be overlooked, despite their rights and needs being affected at multiple stages of that journey. The interaction between penal reform, children's rights, child poverty and family support should therefore be explicitly recognised within the implementation of these reforms.

For young people in particular, we believe this should include access to intensive Whole Family Support⁶. Supporting the individual without considering their family, relationships and wider circumstances risks missing both the factors contributing to offending and the protective factors which can support sustainable change.

The same principle applies across the reforms considered in this consultation. Community sentences require meaningful support if they are to address underlying needs; electronic monitoring is most effective when accompanied by support rather than treated as an intervention in itself; and reducing remand requires credible and responsive services capable of supporting people safely in their communities.

Greater continuity across justice pathways is also important. Where possible, people should not be required to repeatedly establish new relationships with services as their legal status or intervention changes. Maintaining trusted relationships across transitions can support engagement, reduce disruption and provide greater consistency at points when needs and risks may be changing.

We therefore encourage the Scottish Government to view investment in community-based support as an essential component of penal reform rather than a separate policy consideration. Increasing the use of community alternatives without increasing the capacity, consistency and intensity of the services underpinning them risks placing additional pressure on already stretched services and undermining confidence in those alternatives.

The Sentencing and Penal Policy Commission's vision, as summarised in the consultation, is not simply of a smaller prison population but of a system which uses imprisonment more wisely, reduces reoffending, strengthens community responses and makes prevention a genuine driver of public service delivery. We believe achieving that ambition requires a corresponding commitment to prevention, early intervention, Whole Family Support and intensive community-based services.

⁶ <https://includem.org/wp-content/uploads/2026/08/Final-PfG-Intensive-Whole-Family-Support-2026.pdf>