



JUSTICE

Sentencing Bill

House of Lords – Second Reading

November 2025

Introduction

1. JUSTICE is a cross-party law reform and human rights charity working to create a fair justice system within everyone's reach.
2. This briefing addresses the Sentencing Bill 2025 (the “**Bill**”). By way of context, in summer 2024, prisons were operating at over 99% capacity,¹ with a population of 83,796 in adult male prisoners the week of 5 July 2024,² which brought the prison system “*dangerously close to collapse*”.³ Emergency release measures were adopted to address the capacity challenges as well as prompting the former Lord Chancellor David Gauke to commission an Independent Sentencing Review (the “**Sentencing Review**”). As of 3 November 2025, there is a population of 86,888 adults in prison, with a usable operational capacity of 89,291 data suggests that prisons are operating at approximately 97.3% capacity currently.⁴ The Bill sets out important reforms to reduce the unnecessary use of custodial sentences.
3. However, JUSTICE is concerned that measures will fail without providing sufficient resourcing, investment and training to the Probation Service and voluntary third-sector organisations. We are also concerned by other measures which without transparent, clear guidance and a thorough review of current inequalities and system challenges, risk setting people up to fail, exacerbating existing disparities, and infringing on ECHR rights.

Part 1: Sentencing

Suspension of sentences

1. Clause 1 would introduce a presumption against the use of short custodial sentences of 12 months or less. Judges will have discretion to impose a short sentence in necessary circumstances but will also have the

¹ HM Treasury, ‘[Spending Review 2025](#),’ (2025)

² Ministry of Justice, ‘Prison population: weekly estate figures: [Population and Capacity Briefing for Friday 05 July 2024](#),’ (2024)

³ Ministry of Justice, ‘[Independent Sentencing Review](#),’ (2025)

⁴ Ministry of Justice, ‘[Prison population: weekly estate figures](#)’ (2025)

option to use suspended sentences instead. The Bill would also provide judges with discretion to suspend short custodial sentences for up to three years and defer sentences for up to 12 months.

2. JUSTICE welcomes the government's pledge to invest £700 million into the Probation Service and reforms which bolster the use of suspended sentences and community orders for the following reasons:

- a. **Safer Communities:** this measure is a logical response to evidence indicating that certain sentences served in the community are more effective in reducing reoffending than short sentences in custody.⁵ Over 50% of those serving a sentence of less than 12 months reoffend and for those serving a sentence of 6 months or less the reoffending figure is 58%. This contrasts those with suspended sentence orders with requirements where the reoffending rate is 24%.⁶ Short sentences are also detrimental in disrupting family ties, housing, employment and preventing engagement with treatment programmes.⁷ Short sentences do not address the factors present leading up to criminal behaviour such as education and employment issues, peers associated with offending, family problems, alcohol and drug abuse, and specific mental health conditions.⁸ Alternatively, with the right investment, community sentences provide opportunity for those who are subject to short sentences to engage with rehabilitation initiatives, such as mental health treatment, alcohol misuse treatment and drug misuse treatment.⁹ Ensuring that victims are informed of plans for community sentencing is essential to uphold trust and confidence of the practicality and effective delivery of these sentences.¹⁰ Lower reoffending rates which are associated with Suspended Sentence Orders with requirements will have wider societal benefits, crucially by protecting the public and decreasing the number of future victims.
- b. **Cost Savings:** Ministry of Justice figures reflected that the estimated cost of sending someone to prison for a year (2023-24) was £53,801.¹¹ As well as consequences for victims and the public, reoffending was estimated to cost around £23.6 billion per year.¹² Therefore, as well as reducing

⁵ Ministry of Justice, '[Sentencing Bill Factsheet: Short Sentences](#)', (2023)

⁶ Ibid.

⁷ Revolving Doors, '[Reducing the use of short prison sentences in favour of a smarter approach](#),' (2022)

⁸ Miguel Basto-Periera, David P. Farrington, '[Developmental predictors of offending and persistence in crime: A systematic review of meta-analyses](#)' (2022)

⁹ Revolving Doors, '[Reducing the use of short prison sentences in favour of a smarter approach](#),' (2022)

¹⁰ Victim Support, Make Justice Work '[Out in the open - what victims really think about community sentencing](#)' (2012)

¹¹ Ministry of Justice, '[Costs per place and costs per prisoner by individual prison](#),' (2023-24)

¹² The Times, '[Cost of reoffending rises to more than half total impact of crime](#)' (2025)

reoffending, increasing the use of community sentences may result in long term savings as they are generally less expensive to deliver than short custodial sentences.¹³

- c. **Easing the pressure of the prison capacity crisis:** The link between short sentences and reoffending contributes to the pressures on the prison capacity crisis.¹⁴ The Sentencing Review reflected that replacing certain short sentences with community alternatives could lead to 32,000 fewer proven reoffences per year.¹⁵ Given the current estimation that the demand for prison places will outstrip supply by 9,500 in early 2028¹⁶, this measure is particularly necessary to help ease the prison capacity crisis.

Concerns

3. There is already evidence to suggest that Suspended Sentence Orders can have a 'net-widening' effect, in that they are imposed on individuals who should have received a Community Order;¹⁷ given that the Bill bolsters the use of Suspended Sentence Orders we are concerned that this risk will be heightened. Community Orders allow individuals to tackle the root causes of offending, for example by engaging with mental health, alcohol or drug treatment and allow people to maintain their jobs, homes and community ties where possible.¹⁸ Despite the benefits of Community Orders, there has been a significant decline in use.¹⁹ We are concerned that the focus the Bill puts on Suspended Sentence Orders will lead to a further decline in the use of Community Orders.
4. A Suspended Sentence Order is a custodial sentence, in that a person will receive a criminal record, and it can result in being sent to custody if the terms of the order are breached, a Community Order, instead, is a non-custodial sentence. If a Suspended Sentence Order is breached the likelihood of the individual being immediately imprisoned is far greater than if a Community Order is breached.²⁰ Therefore, should there be an increase in the use of Suspended Sentence Orders in circumstances where imposing a Community Order would have been more appropriate it is unlikely that the Bill will be fit for purpose in easing the prison capacity crisis. Rather than reducing the use of short custodial sentences there is a risk that short custodial sentences will simply be delayed by an increase in the use of Suspended Sentence Orders.

¹³ House of Lords, '[Cutting crime: better community sentences](#)', (2023-24)

¹⁴ Catch 22, '[New year, same population crisis?](#)' (2025)

¹⁵ House of Lords Library, '[Short prison sentences: Calls for change](#)' (2020)

¹⁶ Ministry of Justice, '[Sentencing Bill: overarching factsheet](#)', (2025)

¹⁷ Sentencing Academy, '[The-Suspended-Sentence-Order-in-England-and-Wales](#)' (2021)

¹⁸ Nacro, '[Are community orders a soft option?](#)' (2025)

¹⁹ House of Lords, '[Cutting crime: better community sentences](#)', (2023-24)

²⁰ Sentencing Academy, '[The-Suspended-Sentence-Order-in-England-and-Wales](#)' (2021)

5. This issue is especially relevant for individuals who are subject to Community Sentence Treatment Requirements, including Mental Health Treatment Requirements (MHTRs), Drug Rehabilitation Requirements (DRRs) and Alcohol Treatment Requirements (ATRs), long delays in starting treatment requirements can affect reoffending outcomes and negatively affect chances of rehabilitation.²¹ The inability to deliver Community Sentence Treatment Requirements can set people up to fail, result in a breach, which would likely see the individual ending up in custody.
6. Sentences that involve community options are dependent on the proper resourcing, staffing and funding of the Probation Service. As of 31 March 2025, 241,540 individuals were being supervised by the Probation Service in England and Wales.²² Yet the Probation Service is greatly overstretched with caseloads too high for probation practitioners to be expected to handle.²³ There is a severe shortfall of probation service staff, in August 2025 this deficit was reported to be around 10,000.²⁴ Despite 1,153 probation services officers being appointed in the last year, the target staffing level of FTE Probation Officers remains unmet, with a shortfall of 2,315 FTE.²⁵ Whilst the government's pledge to recruit 1,300 trainee probation officers by 2026 is welcome, we are concerned that this will be insufficient to address the shortfall.²⁶
7. Tackling the constraints and underfunding of the Probation Service is important given the increased reliance on this service as a result of the reforms introduced by the Bill. The impact assessment estimates that the presumption to suspend short sentences is expected to require an additional 580 probation FTE on average each year and the extension of suspended sentence orders from 2 to 3 years is expected to require an additional 50 FTE on average each year.²⁷
8. Simultaneously, Probation capacity is unable to be feasibly scaled up quickly enough to deliver the expectations put on it by the Bill, the Probation Service will rely on community-based organisations in the voluntary sector²⁸ which play an essential role in ensuring that community sentences and those on licence are supported with rehabilitation, providing distinct services for those with complex needs, reducing

²¹ UK Parliament, '[Written evidence submitted by Revolving Doors](#)' (2025)

²² Ministry of Justice, '[Offender management statistics quarterly: January to March 2025](#)' (2025)

²³ Ministry of Justice, '[Lord Chancellor sets out her vision for the probation service](#)' (2025)

²⁴ BBC, '[Leaked report shows 10,000 shortfall in probation staff](#)' (2025)

²⁵ Ministry of Justice, '[HM Prison and Probation Service workforce quarterly](#)' (2025)

²⁶ Ministry of Justice, '[Tens of thousands more to be tagged under biggest ever expansion](#)' (September 2025)

²⁷ Ministry of Justice '[Impact Assessment template](#)' (2025)

²⁸ Institute for Government, '[Public services performance tracker](#)' (2025)

reoffending and improving community collaboration and safety.²⁹ Volunteer sector organisations will be all the more important in ensuring that reforms around community sentences are effectively implemented and wrap around support is provided to those in the community. Probation services will need to work with volunteer sector organisations to ensure that community sentences are used effectively to prevent the risk of community sentences becoming a form of delayed custodial sentence

9. Clauses 13-18 set out new requirements that can be imposed as Community or Suspended Sentence Orders. Whilst we support measures to bolster community sentences to ensure that victims feel sufficiently safe, restrictions introduced by the Bill must support the opportunity for rehabilitation to ensure efficacy and reduce reoffending. Overly restrictive measures are unlikely to support meaningful justice, could limit opportunities to access employment, education and rehabilitation services and risk setting people up to fail and increasing pressures on an already overstretched probation service.
10. In order to achieve the Independent Sentencing Review's recommendation to reset sentencing to ensure that it works to "reduce crime and protect victims,"³⁰ it is essential that Probation and third-sector organisations are equipped to implement successful community sentences which actually prevent individuals from reoffending. Services need sufficient funding, training and resourcing in order to implement diversion and intervention schemes which will provide a longer-term solution to a criminal justice system which is at capacity and reduce the number of victims exposed to criminal activity.
11. In the youth justice sector, there has been a focus on reducing offending and creating safer communities; over the last decade there has been a reduction in the number of children entering the youth justice system and the number of children in custody.³¹ Similarly, Greater Manchester has developed a model which focusses on reducing reoffending, improving rehabilitation outcomes and delivering a person-centred justice. Within this model, drug and alcohol audit assessment tools have been embedded into courts which has seen improvements in volumes of DRRs and ATRs for 2022/23.³² Further, there is evidence that Greater Manchester's 'prevention, intervention, education, divert' (PIED) scheme has prevented future offending and contact with the police, improved mental health and wellbeing, promoted children back to education and prosocial activities and supported those with substance misuse issues.³³

²⁹ Clinks, '[The voluntary sector working in the criminal justice system](#)'

³⁰ Ministry of Justice, '[Independent Sentencing Review](#),' (2025)

³¹ Youth Justice Board '[The Youth Justice Board strategy for delivering positive outcomes for children by reducing offending and creating safer communities](#)' (2024–2027)

³² HM Prison & Probation Service '[Greater Manchester Reducing Reoffending Plan](#)' (2022-25)

³³ Wigan Council, '[PIED \(prevention intervention education divert\)](#)' (2025)

12. To achieve a reduction in crime across the UK the driving factors behind offending behaviour must be explored and addressed. Research demonstrates that suffering from a traumatic brain injury (TBI) is a risk factor for earlier and more violent offending, and TBIs are associated with poor engagement with treatment, non-compliance in custody and reoffending/reconviction.³⁴ Further, people with TBIs are incarcerated at high cost in facilities that might not be well placed to address their needs.³⁵ There is a need for further data and examination of the causal mechanisms that link TBIs and crime given the link between the presence of a TBI and the chance of a violent crime, which in turn could determine methods of reducing the risk of crime.³⁶
13. The Independent Sentencing Review was clear that there must be a focus on reducing and preventing crime and diverting individuals away from the criminal justice system rather than focussing on implementing punitive measures. **We urge Peers to ensure that this focus is not lost through the implementation of the Bill.**

Recommendation

14. Given the significant Probation shortages and the added pressures to community services the Probation Service and associated community services must be provided with the necessary funding and resources to be well placed to deliver support to greater numbers of individuals in the community as to prevent setting people up to fail. Sufficient funding and resourcing will also be essential to uphold public trust and confidence that those serving community sentences are effectively supported and managed to ensure the protection of victims.
15. The Ministry of Justice must provide guidance and oversight to the Probation Service in respect to the implementation of restrictive licence conditions, especially those which limit people to specific geographical areas; such restrictive measures should only be implemented where necessary and proportionate to manage the individual's risk to the public.
16. Training should be provided to practitioners, including sentencers and Probation officers on the proper implementation of Community Sentence Treatment Requirements.
17. Screening for TBIs should be introduced on an individual's entry into the justice system, results from screening should be included in pre-sentence reports which should provide treatment options.

³⁴ Williams WH, Chitsabesan P, Fazel S, McMillan T, Hughes N, Parsonage M, Tonks J. '[Traumatic brain injury: a potential cause of violent crime?](#)' Lancet Psychiatry. (2018)

³⁵ Ibid.

³⁶ Ibid.

18. We further urge Peers to ensure that an increase in the use of Suspended Sentence Orders does not correspond to a reduction in the use of Community Orders and instead corresponds to a reduction in the use of custodial sentences and offending.

Sentencing Council for England and Wales

19. Clauses 18 and 19 of the Bill would amend the Coroners and Justice Act 2009, so that the Sentencing Council must submit a business plan for the year to the Lord Chancellor for approval which must include matters which the Council propose to prepare sentencing guidelines in the year and other activities it proposes to undertake in a year.

20. Further, the Bill would implement a statutory obligation on the Sentencing Council to obtain the Lord Chancellor and Lady Chief Justice's joint approval of all sentencing guidelines prior to issuing them as final, definitive guidelines.³⁷ The then Lord Chancellor considered this to be necessary, stating "*policy must be set by parliamentarians, who answer to the people. Government and Parliament have a legitimate role in setting the sentencing framework. It is right that we now have greater democratic and judicial oversight of the direction of the Council's work and the final guidelines they publish.*"³⁸

Concerns

21. JUSTICE appreciates the importance of Parliament's role in overseeing sentencing policy, enforcing accountability, and scrutinising its effectiveness and impact. However, we are concerned that these measures, if introduced, may have unintended consequences, risking the executive having the ability to influence the judiciary. The Sentencing Council is an independent, non-departmental public body and one of the key responsibilities is to develop sentencing guidelines,³⁹ should the Council have to gain approval from the Lord Chancellor on the development and implementation of sentencing guidelines this removes the independent element of one of their key responsibilities. The erosion to the Council's independence would be concerning given the fact that separation between the executive and the judiciary underpins the rule of law. Further, judicial independence is a fundamental principle of the right to a fair trial.⁴⁰

³⁷ Ministry of Justice, '[Sentencing Bill: Explanatory Notes](#),' (2025)

³⁸ Ministry of Justice, '[Justice Secretary introduces democratic lock over Sentencing Council](#),' (2025)

³⁹ Sentencing Council, '[About the Sentencing Council](#)'

⁴⁰ Courts and Tribunals Judiciary, '[Three Is: Independence, Impartiality and Integrity](#)'

22. It is worth noting that Judicial Attitude Survey results for 2024 demonstrated that 64% of judges in England and Wales were concerned by feeling a loss of respect for the judiciary by the government.⁴¹ Against this backdrop, we must be cautious about adopting measures which risk further damaging the morale and independence of the judiciary.

Recommendation

23. **JUSTICE recommends an alternative approach whereby business plan approval referenced in Clause 18 of the Bill and consent for sentencing guidelines to be issued is sought from the Lady Chief Justice and the Justice Select Committee for the purposes of Clause 18 and 19.** This would achieve the government's aim of ensuring "democratic oversight" of sentencing policy while also preventing any future erosions of judicial independence.

Part 2: Management of offenders after sentencing

Progression Model for Standard Determinate Sentences

24. Clause 20 of the Bill sets new release points with respect to Standard Determinate Sentences ("**SDS**"). This is the most common type of sentence, which has a fixed amount of time in custody before release on licence into the community. For those serving an SDS with previous automatic release dates at the 40 or 50% point, the minimum release point will be the one-third point of the sentence. Similarly, those who were formerly released at the two-thirds point will now become eligible for release no earlier than the halfway point.

25. However, release may be later than the new minimum points if those subject to the scheme have been given added days by an independent adjudicator ("**IA**").⁴² The government have specified that there is no limit on the number of days that could be added to a sentence, and they can be added at any time up until the end of the sentence.⁴³ The Bill provides IAs with strengthened powers to impose double the previous maximum of added days to a sentence. The government has said that linking release to conduct is intended to incentivise positive behaviour in prison, support rehabilitation and help reduce the risk of reoffending.⁴⁴

⁴¹ UCL Judicial Institute, '[UK Judicial Attituded Survey](#)' (2024)

⁴² Ministry of Justice, '[Prisoners Discipline Procedure \(Adjudications\) Policy Framework](#)' (2025)

⁴³ Ministry of Justice, '[Sentencing Bill: overarching factsheet](#),' (2025)

⁴⁴ Ministry of Justice '[Impact Assessment template](#),' (2025)

Concerns

26. JUSTICE supports encouraging participation in education, employment and rehabilitation programmes within prisons and reducing time in custody through early release. However, the 'earned progression' model introduced by the Bill differs from that which was recommended in the Sentencing Review. The Sentencing Review set out that the custody stage of the proposed earned progression scheme would be used to promote compliance with the prison regime, including punishing actions which violate prison rules by pushing back release points and an expectation that those subject to the scheme must engage in purposeful activity and attend any required work, education, treatments and/or training obligations.⁴⁵ The changes that the Bill would make in respect to releasing those serving an SDS do not include incentive to engage with purposeful activity within prison before release.

27. There also remain a number of issues which will prove challenging for the implementation of an earned progression framework where release is based on whether individuals misbehave or not as a result of years of underfunding and a degradation in prison conditions. For example:

- a. **Prison estate crisis:** A key challenge in implementing this approach will be the limitations of the current prison regime. The prison estate is in an extremely poor state, violence, self-harm and drug use are at shockingly high levels and the opportunity to work and engage in education opportunities is extremely limited.⁴⁶ Violence levels are extremely high and rising rapidly, there were over 30,000 assault incidents in 2024 which is the second-highest figure on record.⁴⁷ High rates of overcrowding has increased demand on resources such as healthcare appointments, prison phones, and work and training opportunities. Basic requirements such as getting prisoners to appointments or providing them with both a shower and a hot meal are not being met.⁴⁸ Moreover, prisons are severely understaffed.⁴⁹ Despite recruitment efforts, cuts to prison officers have left the number of prison officers per 1,000 prisoners in March 2024 to be still 8% below 2009/10 levels and the average officer is much less experienced than prior to cuts.⁵⁰
- b. **Lack of purposeful activity:** During 2023-24 in men's reception prisons, 50% of the prison population reported spending less than two hours out of their cell on a typical weekday and 72% reported the

⁴⁵ Ministry of Justice, '[Independent Sentencing Review](#),' (2025)

⁴⁶ Institute for Government, '[Inside England and Wales's prisons crisis: Summary](#),' (2025)

⁴⁷ Institute for Government, '[Public services performance tracker](#)' (2025)

⁴⁸ Ibid.

⁴⁹ Independent, '[Prisons 'time bomb' as officers say they are unsafe, understaffed and underpaid](#),' (2023)

⁵⁰ Institute for Government, '[Inside England and Wales's prisons crisis: Summary](#),' (2025)

same for time out of their cell at weekends.⁵¹ Lack of purposeful activity within prisons is associated with violence⁵². The mental health of prisoners is extremely poor, rates of self-harm in prisons are high and rising, nine out of ten people in prison have at least one mental health, neurodevelopmental or substance use issue.⁵³ At HMP Send, the number of self-harm incidents has increased by nearly 20% between 2024-25 with main triggers being linked to mental health, prison rules and adjudications.⁵⁴ The October 2025 HM Chief Inspector of Prisons thematic review of work and training provisions in adult prisons reflects several concerns and a systemic failure to provide and/or promote purposeful activity within prisons. The prison service has an obligation to protect the public by making those in prison less likely to reoffend when they are released; findings demonstrate the current failure of our prisons to fulfil this duty.⁵⁵

- c. **Unequal access to progression within the prison estate:** The present system of progression within prisons is reportedly discriminatory towards those in prison with disabilities and learning difficulties.⁵⁶ Prisons often lack sufficient infrastructure for those with physical disabilities, for example, prisons that have broken lifts can leave people in wheelchairs unable to access education departments which are located on upstairs wings. Additionally, those who are residing in healthcare wings can become isolated from the rest of the prison estate⁵⁷ and unable to access certain progression programmes. Disabled prisoners report poorer outcomes in nearly all areas of prison life and reported less access to activities.⁵⁸ Research indicates that where those in prison are engaged in purposeful activities that they consider valuable, such as workshops and education, there are less likely to be sites of aggression.⁵⁹ Given that violence which can lead to adjudications will delay release under the progression model, there could be unintended consequences if the disproportionality in accessing purposeful activity is not addressed.
- d. **Unfair adjudication system:** Along with increasingly poor behaviour within prisons, there has been a rise in the number of adjudications.⁶⁰ There were 68,407 adjudication outcomes between April and

⁵¹ HM Inspectorate of Prisons, '[Key findings paper digs deeper into the ongoing failings in purposeful activity](#)' (2024)

⁵² Ibid.

⁵³ Prison Advice and Care Trust, '[Mental health in prisons crisis and opportunity](#),' (2025)

⁵⁴ Independent Monitoring Boards, '[Annual Report of the Independent Monitoring Board at HMP Send](#)' (2025)

⁵⁵ HM Chief Inspector of Prisons, '[Just passing time': A review of work and training provision in adult prisons. A thematic review by HM Chief Inspector of Prisons](#),' (2025)

⁵⁶ Prison Reform Trust, '[Progression within a prison](#)' (2023)

⁵⁷ Leigh Day, '[Disabled prisoners are being failed by the current prison system](#)' (2019)

⁵⁸ Prison Service Journal, '[Next equality challenge](#)' (2011)

⁵⁹ HMPPS, '[Understanding Prison Violence: A Rapid Evidence Assessment](#)' (2018)

⁶⁰ Ministry of Justice, '[Offender management statistics quarterly: October to December 2024](#),' (2024)

June 2025. This is a 6% increase on the same quarter in 2024, approximately 62% of which were proven.⁶¹ This led to an 11% increase in the number of punishments during the same period, totalling 127,324.⁶² Of the punishments awarded between April and June 2025, additional days were awarded on 1,674 occasions.⁶³ Research indicates that the likelihood of committing further misconduct appeared greater, amongst other characteristics, for those who had a learning difficulty and those who experienced mental health difficulties.⁶⁴ The Howard League legal team have reflected that in their experience *“prisoners with learning difficulties and mental health problems are often wrongly adjudicated”* and prisoners in segregation *“often tend to be the most disturbed and vulnerable prisoners, characterised by being young, institutionalised, with mental health difficulties or histories of self-harm and suicide.”*⁶⁵

- e. **Problem with added days:** Doubling the maximum number of added days an IA can impose per incident of prisoner misconduct risks adding to pressures within prison and already existing exacerbate overcrowding issues. Occasions of the use of additional days rose from 4,430 in 2023 to 6,738 occasions in the latest year.⁶⁶ This is likely to further increase if reforms are passed. It bears noting that Scotland abolished the use of additional days in 2016 and there has been no identifiable deterioration in prisoner behaviour as a result.⁶⁷ The progression model also risks those who receive adjudications and added days being incarcerated until the end of their sentence. Given there is no limit on the number of added days that could be added to a sentence, those considered to be of ‘bad behaviour’ could be released at the end of their sentence⁶⁸ with no probation requirements, this would have concerning outcomes from a public protection perspective.

28. We are concerned that without substantial funding and reform of the prison estate, the progression model will be ineffective in easing the prison capacity crisis and reducing reoffending. This could lead to worsening behaviours within prison for those who no longer have a fixed release date. Without addressing issues within the prison estate such as lack of purposeful activity, unequal access to programmes and disparity in adjudications for those with mental health conditions and learning disabilities, the progression model risks worsening pre-existing inequalities and exacerbating poor mental health within prisons.

⁶¹ Ministry of Justice, [‘Offender management statistics quarterly: April to June 2025’](#) (2025)

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Russell Webster, [‘Does the prison adjudication system work?’](#) (2021)

⁶⁵ Howard League for Penal Reform, [‘MHP0013 - Evidence on Mental health and deaths in prison,’](#) (2017)

⁶⁶ Ministry of Justice, [‘Offender management statistics quarterly: October to December 2024,’](#) (2024)

⁶⁷ The Howard League, [‘Out of control’](#) (2017)

⁶⁸ Ministry of Justice, [‘Tens of thousands more to be tagged under biggest ever expansion,’](#) (2025)

29. Further, given the crisis that prisons currently face, it is essential that services such as, Prisons, Probation, mental health, drug and alcohol treatment, housing, education and employment services take a joined-up approach to individuals leaving prison both under the earned progression scheme and more widely. To reduce offending and reoffending and protect the public, services across the criminal justice system must take a coordinate approach to provide interventions and support to prevent poor mental health, homelessness and substance abuse which are all factors that can increase the likelihood of an individual offending.⁶⁹

Recommendation

30. JUSTICE recommends the following:

- a. **A ‘minimum purposeful activity regime’ is established across prisons:** The government must commit to funding and investment into purposeful activity within prisons. Education, employment and rehabilitation programmes must be equally accessible for all prisoners to prevent disproportionate outcomes for those subject to the progression model.
- a. **Clear and objective guidance:** To prevent unintended and unfair outcomes and to ensure that victims are informed of what to expect by the progression model release scheme, the government must provide transparent guidance which can be applied consistently and objectively to all prisoners subject to the model introduced by the Bill.
- b. **Conduct a comprehensive review of the adjudication system and the use of added days to ensure that people are not held back unfairly:** Legal aid must be available for those requiring support with the adjudication procedure. Without strengthening the adjudication system and clear guidance and monitoring, inconsistent or unjustified decisions could raise Article 5 and 6 ECHR concerns.
- c. **Conduct a comprehensive review of access to progression for those with learning difficulties and disabilities.** We must ensure that those in such circumstances are not unduly disadvantaged as result of the new framework.
- d. **Closely monitor outcomes and collect disproportionality data of the progression model and the impact of added days:** This will be essential to promote transparency and fairness, and it will be important to use this data and take measures to prevent systemic biases and intended consequences. Close monitoring will also allow for the assessment of the efficacy and impact of the model from the perspective of victims and the wider public.
- e. **Ensure that Probation and third-sector services have sufficient capacity and resources:** Before the Bill is implemented, Probation Services and third-sector organisations must be provided with adequate resourcing, training and funding to ensure that individuals released under the earned

⁶⁹ Ministry of Justice, ‘[Reducing Reoffending - A Synthesis of Evidence on Effectiveness of Interventions](#)’ (2025)

progression scheme can be safely managed and have an opportunity to access rehabilitation and reintegration services.

31. The second part of the progression model will see those released entering a period of 'intensive supervision'. Probation services will have an increased use of electronic monitoring and Clause 24 sets out a new set of restrictive licence conditions including prohibition of driving; a ban on attending public events, entering drinking establishments, and a power for probation to drug test offenders on licence and set new 'restriction zones.' Subsection (8) inserts content into Schedule 9 of the Sentencing Code setting out that restriction zones can be imposed for a maximum of 2 years. An expansion to the use of drug testing will see probation officers being able to drug test all offenders.
32. JUSTICE appreciates the need to reassure victims and the public that those released under the progression model will be sufficiently managed within the community. At the same time, the process for implementing restrictions must be clear, transparent, and proportionate. If additional conditions are overly burdensome, they risk becoming impractical for Probation Officers to enforce effectively. This could undermine the accurate assessment and management of risk, ultimately increasing the potential danger to victims and the wider public.
33. Added conditions must also be necessary and proportionate to ensure they do not interfere with rights pursuant to Articles 5 (Right to liberty) and 8 (Right to respect for private and family life) of the ECHR. Conditions attached to the 'intensive supervision' phase must not be so onerous that those residing in the community are set up to fail from the beginning.

Concerns

34. The government has confirmed the presumption *"that tagging will be automatically applied to offenders"*⁷⁰ at the point of release into the second part of the progression model. JUSTICE acknowledges that electronic monitoring can be a part of community supervision and may represent an important way of protecting victims. This will operate most effectively where electronic monitoring is deployed proportionately and not in a blanket fashion. The charity Revolving Doors has warned that electronic tags can be especially harmful to women, making it harder for them to comply and increasing their risk of exploitation by exposing their vulnerabilities.. The restriction of an electronically monitored tag can also be triggering or retraumatising for women who have experienced abuse or coercive control.⁷¹ Expansion of electronic monitoring risks *"net-*

⁷⁰ Ministry of Justice, '[Sentencing Bill: progression measures factsheet](#),' (2025)

⁷¹ Revolving Doors, '[A closer look at electronic monitoring and women](#),' (2024)

widening”, expanding social control over individuals.⁷² Heightened surveillance of individuals can also lead to ‘technical violations’ in which despite no offending taking place often results in incarceration of offenders who would otherwise be in the community.⁷³

35. The changes in SDS release points are expected to represent an average annual cost to the Probation services of £11.6 million over the next 10 years.⁷⁴ There will also be associated costs with Community Accommodation Services, amounting to an average annual cost of around £15.3 million.⁷⁵ JUSTICE urges the government to ensure that the expansion of electronic monitoring does not risk unnecessary, significant costs as well as undermine the goal of ensuring that victims and the wider public are adequately safeguarded. The Ministry of Justice must ensure that there is appropriate transparency when implementing any expansion of electronic monitoring. The Probation Service must be provided with the necessary funding and training so that it is well placed to deliver support to greater numbers of individuals in the community; *“community supervision – whether facilitated via new technology or otherwise – will only succeed with a well-resourced, effective probation service”*.⁷⁶
36. We support measures to bolster probation services flexibly delivering Community Orders, including Clauses 33 and 34 of the Bill which would extend the use of unpaid work requirements.
37. Finally, given the added licence conditions set out within the intensive supervision scheme, probation services must be adequately resourced and provided with training to ensure that licence conditions and the use of electronic monitoring are necessary and proportionate, do not interfere with individuals’ rights under Article 8 ECHR and do not set individuals up to fail or hinder their ability to rehabilitate and reintegrate into society.

Recommendation

38. **We urge members to remove Clause 35 which gives probation the power to publish the photographs and names of those subject to an unpaid work requirement order.** This clause risks having unintended consequences for vulnerable individuals and would compromise reintegration and restorative outcomes.

⁷² Elena Kantorowicz, [‘The Net-Widening Problem and its Solutions The Road to a Cheaper Sanctioning System,’](#) (2011)

⁷³ Journal of Criminal Justice, [‘A systematic review of the effectiveness of the electronic monitoring of offenders,’](#) (2020)

⁷⁴ Ministry of Justice [‘Impact Assessment template,’](#) (2025)

⁷⁵ Ibid

⁷⁶ Howard League for Penal Reform, [‘Submission to the Independent Sentencing Review 2024 to 2025: Call for Evidence,’](#) (2024)

39. JUSTICE reiterates the recommendation made in our report *“A Parole System fit for Purpose”*⁷⁷ that the Probation Service should only be able to request that additional licence conditions are imposed where it has demonstrated, with clear written explanations:

- a. how they are reasonable, necessary and proportionate; and
- b. their impact on an individual’s chance of successful rehabilitation.

Recall

40. Recall is the process by which those released on licence can be returned straight back to custody.⁷⁸ An individual can be recalled for the following reasons: (a) they have breached a specific condition of their licence or where (b) the behaviour being exhibited, is sufficiently concerning to indicate that the risk they pose is assessed as no longer safely manageable in the community.⁷⁹

41. The Sentencing Review recommended tightening the threshold for recall so that it is only used to address consistent non-compliance with licence conditions or specific and imminent risk along with a recommendation to increase the length of a fixed term recall (“FTR”) period.⁸⁰ It was noted that of recalls between October and December 2024, only 23% involved a charge for further offending, whilst 74% involved non-compliance.⁸¹

42. Clauses 26-30 of the Bill amend recall procedures; the procedure is similar to that of FTR48 which states that people with sentences of up to 48 months will be subject to fixed 28-day recalls, provided they meet eligibility criteria.⁸² The Bill would implement the recommendation to extend fixed term recalls from 28 days to 56 days for qualifying SDS’s of any length.

43. The government views this provision as necessary to allow those who are recalled having more support with reintegration to the community and to remove determinate recall cases from the Parole Board’s caseload and reduce this backlog.⁸³

⁷⁷ JUSTICE, *‘A Parole System fit for Purpose,’* (2022)

⁷⁸ Ministry of Justice, *‘Probation: Being taken back to prison,’*

⁷⁹ Ministry of Justice, *‘Recall, Review and Re-Release of Recalled Prisoners Policy Framework,’* (2025)

⁸⁰ Ministry of Justice, *‘Independent Sentencing Review,’* (2025)

⁸¹ Ibid

⁸² Ministry of Justice, *‘Content style guide updates’*

⁸³ Ministry of Justice *‘Impact Assessment template,’* (2025)

Concerns

44. JUSTICE is concerned that there is a lack of evidence to indicate that a longer period in custody further to recall will allow for more effective reintegration into the community. SDS prisoners subject to 56-day fixed term recalls can be recalled multiple times until the end of their sentence. Additionally, the recommendation to tighten the threshold for recall has not been implemented within the Bill. Given the lack of oversight of these recall decisions from the Parole Board, without adequate resourcing of probation and community services, such as health, substance misuse and housing services providing support to those released from prison, this provision risks those subject to the amendments spending more short sentences in custody.
45. There has been a concerning increase in recalls, the amount of people who are in prison as a result of recall is currently around 13,500, over 15% of the prison population overall.⁸⁴ Many recalls are as a result of 'technical' violations, more than a third of recalls involved a failure to keep in touch (34%) and almost a quarter involved failure to reside which is often worsened by difficulties in resettlement, such as securing stable accommodation on release.⁸⁵ It is unclear how changes under this Bill would target this important issue.
46. We are also concerned that by increasing the fixed-term recall from 28 days to 56 days, there is a prolonged interruption to the lives and rehabilitation opportunities for individuals who are subject to the recall.

Recommendation

47. JUSTICE therefore recommends that the government commence a robust evaluation of the current FTR48 scheme so that lessons can be learnt before further amendments to the recall system are finalised, which could risk unintended consequences of seeing an increase in 56-day recalls, effectively replicating short sentences and adding to the prison capacity crisis rather than alleviating these pressures.
48. JUSTICE recommends that a stricter criteria and threshold are introduced as recommended by the Independent Sentencing Review. This would include the following:
- a. Recall is no longer permitted at all on the basis of certain reasons including, for example, being late to a probation appointment, becoming homeless, breaching curfew or failing to notify the responsible probation practitioner of a change in contact details where this is not done deliberately.

⁸⁴ Ministry of Justice, '[Sentencing Bill: progression measures factsheet](#),' (2025)

⁸⁵ Prison Reform Trust, '[Dramatic rise in prison recalls threatens to undermine emergency prison overcrowding measures](#)' (2025)

- b. Recall is not permitted unless a specified number of incidents have occurred, for example failing to maintain contact with the responsible probation practitioner, or refusing visits from them.
- c. The recall test specifies that recall should not occur where an individual can be safely managed in the community with the provision of improved rehabilitative support (including counselling or treatment) and should not occur unless all reasonable community-based means to address the increase in risk have been exhausted.
- d. The test for recall should require decision-makers to consider how the recall decision will impact a person's level of risk and prospects of rehabilitation in the long term, taking into account prison conditions and the availability of rehabilitative opportunities and resettlement services.

49. Further, JUSTICE recommends incentivising compliance with licence conditions by adopting a model which rewards compliance with a reduction in time on licence.

Part 3: Bail

50. Clause 41 makes changes to the Bail Act 1976. This includes expanding the range of considerations the court must have regard to when determining bail to include the fact that defendant is pregnant, is a primary care giver, or has been a victim of domestic abuse. We strongly support this addition. The negative impact on children of individuals remanded in custody has been well documented: mothers remanded in custody are at significant risk of their children being taken into care, and due to the limited availability of remand prisons for women, members of this cohort *“tend to be held further from home, creating difficulties in maintaining contact with their families and within the remit of local services.”*⁸⁶ It is right that these unique detriments, which often disproportionately impact women, be considered in decisions regarding bail.

51. However, we remain concerned that the provisions of this Bill do not go far enough in ensuring that vulnerable individuals are not subject to the damaging effects of custody, or in guarding against the use of custody to address social issues that are more effectively dealt with in the community.

52. In particular, we consider this Bill represents an important opportunity to remove the courts' power to remand individuals in custody for their own protection, or in the case of children, welfare. This outdated provision can apply even where the defendant is accused of an offence that would not attract a custodial sentence. As previously articulated by JUSTICE, and many other, remanding defendants in custody for their

⁸⁶ Justice Committee, Seventh Report of Session 2022-23, *The role of adult custodial remand in the criminal justice system*, HC 264 (2023), para 89.

own protection reflects a mistake belief that prisons are suitable places for vulnerable people, when in reality this practice exacerbates social issues and vulnerabilities.⁸⁷ This is particularly true given the limited access remand prisoners have to health care, support services, and rehabilitative initiatives.⁸⁸ There is also evidence that this practice disproportionately impacts women and girls.⁸⁹

53. In partial recognition of the inappropriateness of custody for vulnerable defendants, the Mental Health Bill (2025) includes provisions which, if passed, will prevent courts from remanding defendants for their own protection where the sole concern is the defendant's mental health. JUSTICE is supportive of this change. We agree with the Justice Committee that "*prisons should not be regarded as a solution to the failings of care and protection in the community.*"⁹⁰ However, this is true not just for those suffering from mental ill-health but all circumstances in which a defendant might be remanded for their own protection. Removing this power would reduce the use of custodial remand in circumstances where it is unnecessary and counterproductive, freeing up prison spaces and redirecting focus toward effective, community-based interventions, which enable vulnerable people to stabilise their lives.

Recommendations

54. We strongly urge the removal of the courts' ability to remand individuals for their own protection or, in the case of children, welfare.

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⁸⁷ Justice Committee, Seventh Report of Session 2022-23, [The role of adult custodial remand in the criminal justice system](#), HC 264 (2023) paras 53 – 61; Justice Committee, Fifth Report of Session 2021-22, [Mental Health in Prison](#), HC 72 (2021), paras 99-104.

⁸⁸ Catch 22, Life Skills Programme: Impact Report HMP Wandsworth (2024); 'Meeting diverse learner needs in a remand prison' (2024), Gateway qualifications; Justice Committee, Seventh Report of Session 2022-23, [The role of adult custodial remand in the criminal justice system](#), HC 264 (2023); Catch 22, 'The unique needs of a rising remand population' (2023).

⁸⁹ Susannah Hancock, [Delivering The Best for Girls in Custody](#) (2025), *Ministry of Justice*, p.9; Justice Committee, Seventh Report of Session 2022-23, [The role of adult custodial remand in the criminal justice system](#), HC 264 (2023), para 56; Justice Committee, First Report of Session 2022-23, [Women in Prison](#), HC 265 (2022), paras 129-130; All Party Parliamentary Group on Women in the Penal System, [Prison for their own protection: The case for repeal](#) (2020).

⁹⁰ Justice Committee, [Draft Mental Health Bill call for evidence](#) (2022).