POLICY NOTE

THE HOME DETENTION CURFEW LICENCE (AMENDMENT) (SCOTLAND) ORDER 2016

SSI 2016/xx

1. This instrument will, if approved, be made by the Scottish Ministers in exercise of the power conferred by section 3AA(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. This instrument is subject to affirmative procedure.

Policy objectives

2. The Scottish Ministers established an Electronic Monitoring in Scotland Expert Working Group in October 2014 to consider the effectiveness and possible uses of different forms of Electronic Monitoring. The final report contains eight recommendations. These recommendations have been informed by international evidence, partner and stakeholder engagement at a national and local level and the knowledge and expertise of the Group members.

3. The SSI has been drafted in response to one of these recommendations. The recommendation in question was to amend section 3AA(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") by removing paragraphs (f) and (g) which create statutory exclusions from Home Detention Curfew (HDC) for those prisoners who have been recalled or convicted while serving a sentence in the community. Currently, prisoners who are released on licence and recalled for non-compliance with their licence conditions (section 17) or for committing a new crime while serving a sentence of imprisonment in the community (section 16) are permanently excluded from applying for HDC again in the future. The Working Group concluded that permanently excluding prisoners from applying in the future does not recognise an individual's progress over time in terms of rehabilitation and improvements in compliance and motivation to desist.

4. These regulations amend Section 3AA(5) by repealing paragraphs (f) and (g) so as to remove those prohibitions from obtaining HDC. The Scottish Ministers will have discretion to release those prisoners from prison on home detention curfew.

Consultation

5. A consultation was held in 2013 and sought views on the operation of the current electronic monitoring service and examined whether anything could be done to improve the existing service. Following this consultation the Expert Working Group was established. In addition to the work of the Working Group, partner and stakeholder engagement has been, and will continue to be, an important strand of this work. While we have already benefited greatly from having key partners and stakeholders represented on the Working Group, a number of other engagement activities have also been undertaken as part of the Group's research.

6. A national conference was held in August 2015 and was attended by around 150 justice partners. The conference was the beginning of a deeper stakeholder engagement

process, which continued with 12 local events and 2 GPS technology test events (attended by around 300 stakeholders). These events were held between January and June 2016 and provided an opportunity for practitioners, including the judiciary, criminal justice social work, third sector and others to engage in dialogue, share ideas and issues around the current service and identify opportunities for improving the end-to-end process for those involved in the management of those with convictions.

Impact Assessments and Financial Effects

7. This is a technical instrument and as such has no significant financial, equality or privacy effects on the Scottish Government, local authorities or on business.

Community Justice Operational Unit
October 2016