

ANNEX A – Information released

20 Nov: Mail on Sunday report that new HMP Highland is now five years late and three times over budget – despite record overcrowding in prisons. Edward Mountain accuses SG of “short-changing our justice system”.

ADDRESSING OVERCROWDING & PRISON POPULATION

We recognise that the imprisonment rate in Scotland is too high and rising and are taking action to address that.

We have provided an extra £29m this year to support the Scottish Prison Service to deliver a stable and secure prison system, on top of the £97m in capital funding that we are giving to continue the modernisation of the prison estate to better meet the needs of staff and prisoners.

We have established a Prison Population Leadership Group, including partners such as SPS, Scottish Courts and Tribunal Service, Crown Office and Procurator Fiscal Service, Police Scotland, Community Justice Scotland and the Parole Board for Scotland to consider the challenges and mitigations associated with the rising prison population.

We are developing options for using GPS with electronic monitoring, and encouraging more widespread use of community-based interventions which we know are more effective than short custodial sentences at reducing reoffending.

We are working with justice partners to address the issue, including making the best use of the current prison estate and sourcing additional prisoner places to ensure the safety and wellbeing of people living and working in prisons.

The prison population has been growing consistently since the start of the year and we recognise that the impact of this is felt across the justice system.

This is due to multiple factors including reducing the backlog of cases in our justice system by over a third; an increase in average sentences imposed for certain offences; and the increase in the number of serious sexual offence cases prosecuted in the courts.

This shows the success of other areas of our justice system in policing and convictions, improvements in clear-up rates, and increased reporting and investigation of crimes such as sexual offending.

03 October: UK Justice Secretary Alex Chalk announced that UKG would explore renting prison spaces abroad to tackle overcrowding.

15 Oct: Sunday Post report on letters, read out at HMIPS conference, in which prisoners plea for better conditions, citing issues of overcrowding and lack of access to rehabilitation and health services.

GMS Interviewed Phil Fairlie, Chairperson of the Prison Officers Association; raised issues faced by prison staff including turnover, pressure of organised crime gangs, need for greater use of technology to tackle the drugs problem and risks and pressure on staff due to overcrowding.

15 Oct: Sunday Post report on letters, read out at HMIPS conference, in which prisoners plea for better conditions, citing issues of overcrowding and lack of access to rehabilitation and health services.

ADDRESSING OVERCROWDING & PRISON POPULATION

We recognise that the imprisonment rate in Scotland is too high and rising and are taking action to address that.

This includes developing options for using GPS with electronic monitoring, and encouraging more widespread use of community-based interventions which we know are more effective than short custodial sentences at reducing reoffending.

We will continue to support the prison service to deliver a stable and secure prison system.

OVERCROWDING & PRISON POPULATION

We recognise that the imprisonment rate in Scotland is too high and rising and are taking action to address that. Actions already taken include-

Extending the presumption against short sentences from 3 to 12 months in 2019;

Introducing electronic monitoring on bail;

Passing the Bail and Release from Custody (Scotland) Act 2023 to refocus how remand is used so that it is reserved for those who pose a risk to public and victim safety; and

Investing in community justice which we know is more effective at reducing reoffending than short-term imprisonment by providing a total of £134m to support community justice services in 2023-24.

20 Nov: Mail on Sunday report that new HMP Highland is now five years late and three times over budget – despite record overcrowding in prisons. Tory MSP Edward Mountain accuses Scottish Government of “short-changing our justice system”.

[Redacted – Section 25(1)]

[Redacted – Section 25(1)]

[Redacted – Section 25(1)]

Increased use of cell sharing, overcrowding and mixing different types of prisoners can also lead to increased tensions and increased likelihood of disorder.

The custodial estate has a design capacity of 7905 – this is the population level at which prisons are not overcrowded, in that cells are occupied by the number of people intended in their design.

Since the start of the year, there has been a sustained increase in the prison population; it has risen from around 7,300 at the start of the year to 7,959 as of Monday 27 November. This is the highest the prison population has been since COVID. Of more significant concern is the steady upward trajectory throughout the year, with no indication from justice partners that this is likely to slow in the immediate term. The 9% increase in the prison population since January 2023 is having a significant impact on SPS staff and those in their care, including increased cell sharing and overcrowding, with inevitable impact on wellbeing of individuals, increased likelihood of disorder and increased pressure on staff.

[Redacted - section 30(b)(i)]

Design Capacity – The population level at which prisons are not overcrowded, in that cells are occupied by the number of people intended in their design.	7905	Full regime of Purposeful Activity
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[Redacted - section 30(b)(i)]

[Redacted – Out of Scope]

From: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@bbc.co.uk>
Sent: Monday, December 4, 2023 2:51 PM
To: Central Enquiry Unit <CEU@gov.scot>
Subject: FREEDOM OF INFORMATION REQUEST

Hi there,

I would like to request the following information under the Freedom of Information Act.

- 1) All written and/or electronic correspondence and/or minutes between the Minister for Justice (including any Scottish Government officials) and the Scottish Prison Service pertaining to overcrowding in the past two years.
- 2) All written and/or electronic correspondence and/or minutes between the Minister for Justice (including any Scottish Government officials) and the Scottish Prison Service pertaining to levels of remand in the past two years.
- 3) The Scottish Government's latest modelling for the prison population.

I would like to receive this information electronically.

I would remind you under the FOI Act of your duty to assist. In light of this please could you get back to me straight away if you feel my wording is not sufficiently accurate or not in line with your own.

Many thanks, [Redacted – section 38(1)(b)]

[Redacted – section 38(1)(b)]
Producer/Director
Disclosure
BBC Scotland
[Redacted – section 38(1)(b)]

From: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@prisons.gov.scot>
Sent: Monday, December 4, 2023 5:31 PM
To: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@prisons.gov.scot>; HQ CE Executive Secretariat <HQCEExecutiveSecretariat@prisons.gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Cc: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Subject: RE: FOI - TRIAGE - Scottish Prison Service pertaining to overcrowding in the past two years - MiCase -202300387760 [SEC=OFFICIAL]

OFFICIAL

Hi all,

Previous FOIs for correspondence between SG and SPS have been led by SG, with SPS also checking from our end to assure.

I wonder though if the first two questions would breach the cost exemption, given the length of time involved, and the number of people.

Bringing [Redacted – section 38(1)(b)] into this conversation, as I'd previously flagged to him that BBC is coming into HMP Perth for a programme looking at the impact of population pressures, but also the good work SPS staff continue to do, in terms of innovative programmes. [Redacted – section 38(1)(b)] is on the BBC team planning for that.

Kind regards

[Redacted – section 38(1)(b)]

Head of Communications

Office of the Chief Executive

+: Scottish Prison Service, One Lochside, 1 Lochside Avenue, Edinburgh, EH12 9DJ

(: [Redacted – section 38(1)(b)]

:: [Redacted – section 38(1)(b)]@prisons.gov.scot

OFFICIAL

[Redacted – duplicate]

The 8% increase in the prison population since January 2023 is having a significant impact on SPS staff and those in their care, including increased cell sharing and overcrowding, increased likelihood of disorder and increased pressure on staff. This is a critical situation and the projections demonstrate unprecedented levels by early 2024.

From: [Redacted – section 38(1)(b)]

Sent: Thursday, December 14, 2023 10:23 AM

To: HQ CE Executive Secretariat <HQCEExecutiveSecretariat@prisons.gov.scot>

Cc: Communications Justice and Home Affairs

<CommunicationsJusticeAndHomeAffairs@gov.scot>; [Redacted – section 38(1)(b)]

<[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)]

<[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)]

<[Redacted – section 38(1)(b)]@gov.scot>; Quentin Fisher

<Quentin.Fisher@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section

38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section

38(1)(b)]@gov.scot>

Subject: RE: Media query: STV - HMYOI Polmont considering admitting adult prisoners

Hi SPS colleagues

Apologies for another request – I know you are thin on the ground today.

See below query below from STV who have interviewed Gerry Michie, governor of Polmont. He has suggested to them that the SPS is considering using part of

Polmont to house adult prisoners to relieve overcrowding pressures elsewhere in the estate.

Could you please send me your lines on what we are saying about Polmont?
Comms are looking for this asap – sorry about short time-scales.

Thanks a lot

[Redacted – section 38(1)(b)]

[Redacted – Out of Scope]

From: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Sent: Wednesday, December 13, 2023 9:14 PM
To: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>;
Quentin Fisher <Quentin.Fisher@gov.scot>; [Redacted – section 38(1)(b)]
<[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)]
<[Redacted – section 38(1)(b)]@gov.scot>
Cc: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>;
[Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>;
Communications Justice and Home Affairs
<CommunicationsJusticeAndHomeAffairs@gov.scot>
Subject: Media query: STV - HMYOI Polmont considering admitting adult prisoners

Hello,

I'm looking to respond to the query below from STV who have interviewed Gerry
Michie, governor of Polmont.

He has suggested to them that the SPS is considering using part of Polmont to
house adult prisoners to relieve overcrowding pressures elsewhere in the estate.

STV is asking us for an SG response to the interview.

I've suggested possible lines below, however I am not close to this issue and would
welcome further input from policy colleagues,

Regards,

[Redacted – section 38(1)(b)]

A Scottish Government spokesperson said:

“The way Scotland’s prisoner population and the prison estate are managed is an
operational matter for the Scottish Prison Service.

“However, while prison is needed for those who pose a risk to public safety, we
recognise that the imprisonment rate in Scotland is high and we are taking action to
address that.

"That includes a focus on encouraging more widespread use of community-based interventions which we know are more effective than short-term imprisonment at reducing reoffending and assisting with rehabilitation.

"The recent Bail and Release from Custody Act seeks to refocus how remand is used so that it is reserved for those who pose a risk to public and victim safety. It also improves support for people leaving prison, helping them to successfully resettle in their communities and not reoffend."

ENDS

From: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@stv.tv>
Sent: Wednesday, December 13, 2023 7:22 PM
To: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Subject: Comment for Polmont

Hi [Redacted – section 38(1)(b)]

Thank you for this. Here are some of the quotes from [Redacted – section 38(1)(b)]'s interview. Again, I do apologise for this late request, this was only communicated with me at the end of my shift.

thank you

[Redacted – section 38(1)(b)]

HMPYOI governor Gerry Michie told STV News: "The Scottish Prison Service are facing significant challenges in terms of the ultimate population.

"There are a number of prisons in Scotland at this moment in time that are overcapacity. And there are a small number of prisons, including myself, that are under capacity.

"[Polmont] does have the capacity to take a new population. And there are a number of different population options being considered by the chief executive and senior leaders in the organisation. And I am a part of that.

"If it's adult males, that is the end result, then then that's a new population for us.

"But I think that our philosophy, how we treat people is exactly the same whether you're a child, a young person, a female or an adult male. We will try to treat them in a particular way.

"Design capacity means that we've got lots and lots of space with a very well resourced prison. And we particularly focus for young people and women at this moment in time, on education, a life skills and vocational training.

"So there's lots of opportunities here for a new population to get involved in that."

[Redacted - section 30(b)(i)]

The continual problem of overcrowding (meaning there is always a percentage of cells used as double cells) exacerbates all issues.

[Redacted - section 30(b)(i)]

[Redacted - section 30(b)(i)]

Some of the wellbeing issues in Barlinnie are addressed and monetised as the cost to SPS of increasing capacity or resources to deal with overcrowding, inadequate regime, cell size and engagement time.

[Redacted - section 30(b)(i)]

Not met. 1340 only achieved through overcrowding

[Redacted - section 30(b)(i)]

The replacement of HMP Barlinnie will mitigate a significant strategic risk for SPS, avoiding the risk of infrastructure failure (post Glasgow opening) at HMP Barlinnie and the consequent disruption, difficulty, and cost of relocating the Barlinnie population and creating overcrowding elsewhere. The costs and risks of such a relocation would be significant.

While a rationalisation may be possible with HMP Barlinnie still in place it would not generate a significant level of saving as, all things being equal, the population reduction would be focussed on HMP Barlinnie itself to reduce the risks posed by overcrowding there.

[Redacted - section 30(b)(i)]

[Redacted - section 30(b)(i)]

HMP Highland provides the SPS with an additional operational capacity of 107 spaces, and all 200 being fit for purpose. Given that these spaces will hold more people in their locality, and they are not displaced, it supports SPS to make population decisions elsewhere within the SPS and releases space in the estate, reducing overcrowding.

[Redacted - section 30(b)(i)]

From: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Sent: Sunday, December 17, 2023 9:07 PM
To: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@prisons.gov.scot>
Cc: HQ CE Executive Secretariat <HQCEExecutiveSecretariat@prisons.gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@prisons.gov.scot>; Quentin Fisher <Quentin.Fisher@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>; [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@gov.scot>
Subject: Prison Population - possible further approach to prison release for consideration

Hi [Redacted – section 38(1)(b)] ,

[Redacted – Out of scope]

As you'll be aware, Ministry of Justice have created a process that enables HMPPS (in co-ordination with MoJ) to permit the release of groups of prisoners from those selected prisons which are unable to maintain acceptable conditions due to overcrowding (or will soon reach that point unless action is taken), through the selective application of their Ministerial power to release for compassionate reasons [Redacted - section 30(b)(i)]

UK Minsters have stated that this power is being used selectively, and only for limited periods, in order to prevent conditions in selected prisons reaching a level that might contravene their rights. [Redacted - section 30(b)(i)] Individuals are being released a maximum of 18 days from their scheduled release date, and eligibility is limited to those on short determinate sentences. The use of this power seems to have been devolved to Governors who can apply it in their prisons – and this is kept under review during regular discussions between MoJ and HMPPS.

[Redacted - section 30(b)(i)]

[Redacted – Out of Scope]

There is no agenda as such but POA(S) have suggested they want to discuss overcrowding

[Redacted – Out of Scope]

OVERCROWDING

SPS is managing a rapidly rising and increasingly complex prison population, and many of their establishments are full beyond their design capacity as well as extended capacities.

[Redacted - section 30(b)(i)]

Prison officers are at the very front line of dealing with the rising prison population and the challenges that it brings.

We are grateful for their hard work, knowledge and commitment in dealing with this challenge.

We recognise that the imprisonment rate in Scotland is too high and rising and are taking action to address that.

The prison population has been growing consistently since the start of the year and we recognise that the impact of this is felt across the justice system. This is due to multiple factors including reducing the backlog of cases in our justice system by over a third; an increase in average sentences imposed for certain offences; and the increase in the number of serious sexual offence cases prosecuted in the courts.

This shows the success of other areas of our justice system in policing and convictions, improvements in clear-up rates, and increased reporting and investigation of crimes such as sexual offending.

We are not changing our position on the use of prisons. They are necessary in society to punish, to protect, and to rehabilitate and reducing reoffending. The removal of an offender's liberty must always be available for our independent courts. We are working with justice partners to address the issue, including making the best use of the current prison estate and sourcing additional prisoner places to ensure the safety and wellbeing of people living and working in prisons.

22We also recognise that imprisonment damages the connections that prevent people from offending or reoffending, such as family relationships, accommodation, and employment.

To reduce reoffending we will continue to invest in our prisons as well as justice in the community, ultimately shifting the balance between custody and community

[Redacted – Section 25(1)]

[Redacted – Section 25(1)]

[Redacted – Section 25(1)]

[Redacted – Section 25(1)]

[Redacted – Out of Scope]

OFFICIAL

From: [Redacted – section 38(1)(b)]@gov.scot <[Redacted – section 38(1)(b)]@gov.scot>
Sent: Wednesday, November 8, 2023 12:29 PM
To: [Redacted – section 38(1)(b)] <[Redacted – section 38(1)(b)]@prisons.gov.scot>; [Redacted – section 38(1)(b)]@gov.scot
Cc: SPS News <SPSNews@prisons.gov.scot>; [Redacted – section 38(1)(b)]@gov.scot
Subject: RE: New Glasgow jail [SEC=OFFICIAL]

[Redacted – out of scope]

In August this year, Barlinnie governor Michael Stoney said the prison was at risk of “catastrophic failure”, with figures suggesting it was running at 140% capacity in July. Scottish Conservative justice spokesman Russell Findlay said: “The SNP Government previously stated that HMP Glasgow would be built by 2026 – but now seem to suggest that work might not even begin until then.

HMP Barlinnie is a Victorian-era prison which was running at 140% capacity in July. PA Media

HMP Barlinnie is a Victorian-era prison which was running at 140% capacity in July. “This follows the recent warning from HMP Barlinnie’s governor about imminent catastrophe due to highly dangerous conditions.

“Yet again, ministers have abjectly failed to manage a critical infrastructure project and must now come clean on when the new prison will open and how much it is going to cost.”

Scottish Labour justice spokeswoman Pauline McNeill – a Glasgow MSP – accused ministers of attempting to “blur the lines on a deadline that has already been pushed back time and time again”.

She added: “Scotland’s prisons are already at their breaking point, and further delays to Barlinnie’s replacement will only make things worse.

“It would be an absolute disgrace for a prison serving Scotland’s biggest city and the west of Scotland to be further delayed.

“We need urgent clarity from the Scottish Government on when they expect HMP Glasgow to be finished and what is being done in the meantime to tackle the rampant overcrowding in our prisons at present.”

A Scottish Government spokesperson said: “HMP Glasgow is being designed to deliver safe and secure accommodation.

“Estimated costs and timescales will be set out once a final design is available and will deliver a real and lasting benefit, both in the city and surrounding area.”