



Scottish Government
Riaghaltas na h-Alba
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The Vision for Justice in Scotland



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Ministerial Foreword

Justice is fundamental in ensuring we live in safe, inclusive and thriving communities. It supports the rule of law and our democracy, and is a core part of our public services.

We have a long and proud tradition of effective justice in Scotland and a reputation of which we are justifiably proud. We have worked over many years to strengthen and modernise the justice system, making improvements to ensure we have a system in which individuals and communities have trust.

With a new parliamentary term and against the backdrop of the coronavirus pandemic, our new Vision builds on our 2017 'Justice Vision and Priorities - A just, fair, resilient Scotland'.

While fundamental tenets such as fairness, fulfilment of our civic rights and respect for the rule of law remain an absolute constant, our justice services must transform to meet the needs of people in today's society. This includes ensuring that all parts of the justice system deliver person-centred services and embed trauma-informed practices.

This is especially important when we consider how women and children experience justice. We must recognise how the system, as historically designed by men, for men, can perpetuate societal inequalities for women and children. I am resolute in the duty we have to ensure that women and children are served appropriately and with compassion.

Many people who are in contact with the justice system require a range of supports to help them move forward, not always from justice bodies and agencies. We need to ensure that everyone is treated as individuals first and that the right services are provided to the people who need them at the right time.

To quote Audrey Nicoll, Convener of the Criminal Justice Committee and ex-police officer:

"Policing in Scotland has evolved in recent years. It prioritises keeping people safe, protecting victims' rights and dealing effectively with offenders while upholding the fundamental human rights of everyone who comes into contact with the service. However, the fact remains that there is a population of people who continue to enter custody having committed no crime or offence, frequently experiencing mental health issues and, in essence, being criminalised by a system that exists to protect them."

As Cabinet Secretary for Justice and Veterans, I am determined to ensure we are all supported at the earliest opportunity to improve our life chances and to avoid contact with criminal justice services.

Success in building safer communities and preventing crime requires a partnership approach across justice bodies and the wider public sector. This document aims to set a common vision for how we can move forward with such a joint approach.

This vision has therefore been informed and developed by those who are instrumental in delivering this change including our third sector partners and has been endorsed by the National Justice Board. Discussions over recent months have been wide-ranging, reflective of the breadth and depth of the

issues set out here. I wish to thank all those who continue to contribute to the delivery of the justice system, including the important role our legal profession and third sector partners play. Discussions have shone a bright light on the valuable contribution you play and the need for us all to work together to deliver meaningful change. As Cabinet Secretary, I am fully committed to continuing that partnership approach as we work to deliver this Vision.



Keith Brown
Cabinet Secretary
for Justice and Veterans

Our Vision

Our vision is for a just, safe resilient Scotland.

Issues of Justice affect us all.

Justice is the concept of fairness.

We must be able to exercise our human and civic rights, in order to live in a just and fair society.

It is not only when these rights are threatened that we require robust and fair responses. Effective processes of justice provide us all with a sense of security which is fundamental to our everyday lives. We therefore must have trust and confidence that justice will be delivered in regard to all issues which can impact our lives.

We need to make the law as easy and straightforward as possible to understand and access. Importantly, we must ensure that our processes and laws meet our needs now and in the future.

We will experience a reduction in crime and unintentional harm in our communities, improving all of our life chances by tackling societal issues like poverty, including child poverty, mental ill health, addiction and adverse childhood experiences.

We will have fair access to justice where the rule of law is respected, we are empowered to exercise our rights and we can access justice services with no financial barriers.

We will be treated as a person first and foremost, our voices will be heard and be supported to recover from the trauma we have experienced.

We will be supported in rehabilitation by the most effective means, primarily remaining in our communities with support and opportunities for fair work, employment and housing.

Our Transformation Priorities

Our services, third sector partners and legal profession must be person-centred and trauma-informed.

Person-centred justice services will ensure that a person's needs and values are respected. There will be timely, clear communication ensuring people understand areas of complexity. Individuals and their families will be involved in decisions which affect them, with a recognition that *people are the experts in their own lives*. This means that within the parameters of legal frameworks and justice processes, people will be treated as a person first. People will be treated with empathy and kindness and provided with the support they need to thrive.

Many of the issues that bring people to the justice system are very traumatic. It is our duty to ensure that we minimise further trauma or re-traumatisation to help recovery. Embedding trauma-informed practice will ensure that our justice services recognise the prevalence of trauma and adversity, realise where people are affected by trauma and respond in ways that reduce re-traumatisation.

We must also strive to work across our public services to improve outcomes for individuals, focussing on prevention and early intervention.

We must not criminalise those who are most vulnerable in our society. We have a moral imperative to ensure that prevention and early intervention efforts enable us all to thrive in our communities.

We must therefore reset the social contract with our public services – ensuring we are all supported at the earliest opportunity to improve our life chances and reduce our risk of offending.

We know that to address the causes of crime Scotland's public services together must tackle societal inequalities such as child poverty, mental ill health, addiction and adverse childhood experiences.

We must also ensure that the right services are provided at the right time to the right people and where possible, support people to avoid contact with justice services.

Achieving our vision requires a fundamental change. Iterative reforms and changes to our existing structures and processes will not take us far enough on the journey. We must transform our justice services, ensuring services are designed for and by those who need them.

Our justice services will be for you, with you at heart.



Priority actions:

Women and children in justice

The simple and unpalatable truth at the heart of the abuse and violence that women and girls face is that it continues to be underpinned by inequality, societal attitudes and structural barriers that perpetuate that inequality. This includes the operation of the justice system. The current justice system was historically designed by men, for men, and thus does not meet the needs of over half of our society. We must therefore take urgent action to ensure women and children are better serviced by our approaches to justice.

We remain absolutely committed to making improvements to the justice system which will benefit and empower women, building on the recommendations provided by Lady Dorrian in her report on the Management of Sexual Offences. We are also committed to ensuring children caught up in justice processes for any number of reasons are fully supported. We remain committed to the aims of the Youth Justice approach ensuring families are supported to improve their wellbeing and life chances at an early stage. During the lifespan of this vision we will fulfil our commitment to provide access to a Bairn's Hoose for every child who needs it, ensuring a trauma-informed response to child victims and witnesses of serious and traumatic crimes in a familiar and non-threatening setting.

Hearing victims' voices

We must hear the voices of victims. To support victims in their journey to healing and recovery we must offer approaches to justice which place victims at the heart. This includes progressing forms of justice which allow victims to take a prominent role including greater use of restorative justice routes. We know that delay and uncertainty cause great stress to victims and survivors. COVID-19 has exacerbated the time for cases to progress through the criminal justice processes, with more victims subjected to this additional stress. We must therefore build greater resilience into our critical services using a toolkit of options, supported by digital technologies, which allow justice services to operate efficiently and continue to function in the face of adversity.

Shifting the balance between use of custody and justice in the community

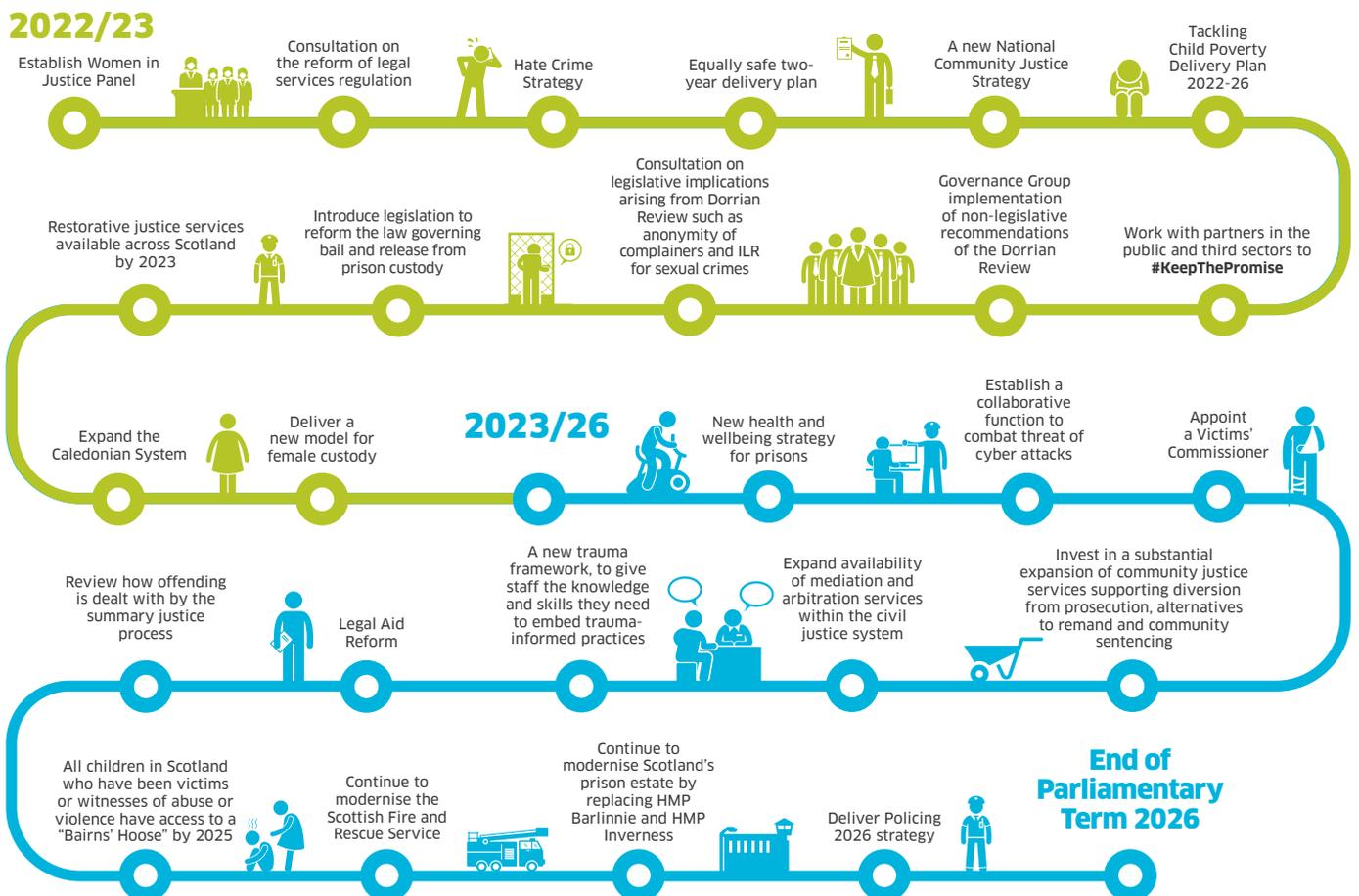
While there will always be a place for prison we must take a person-centred approach to rehabilitation where people are supported in the most appropriate and effective setting. We will shift the balance to ensure the role of custody will be reserved only when no alternative is appropriate, instead seeing a greater availability of justice options within our communities. In doing so we will ensure that public protection remains a priority and that people going through the criminal justice system have access to the support and rehabilitation they need. This will reduce crime and further offending, and make our communities safer, reducing the number of victims who suffer trauma and harm.

The Route to a Transformed Justice System

We must take immediate action to ensure we are delivering a just, safe and resilient Scotland. By taking action now and over the coming years we will ensure that we all live in safer more tolerant and inclusive communities free from inequality and hate. However, some actions may take longer as we look to redesign historic processes and systems whilst also shifting societal and cultural attitudes to better reflect our needs in a modern society.

As a government we are already committed to a number of transformative actions which will help us achieve the outcomes set out below. There will however be more to do and not all actions will be the responsibility of the justice sector alone. As a government we are committed to working across boundaries to improve outcomes for individuals, address causes of crime and reduce offending.

A Year One delivery plan with existing commitments from our justice agencies is provided in Annex B.



Justice in Scotland – for you with you at heart



Justice Portfolio Changes and Challenges



Positive Changes



Recorded crime

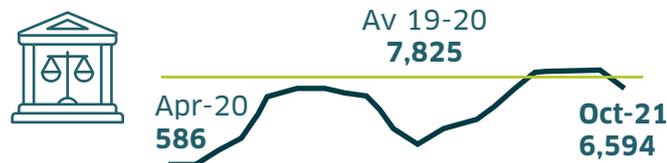
The number of crimes recorded by the police has more than halved since the peak in 1991, although there has been relative stability in recent years.

Challenges



Police-recorded sexual crime has increased by 78% between 2011-12 and 2020-21.

Recorded Crime in Scotland



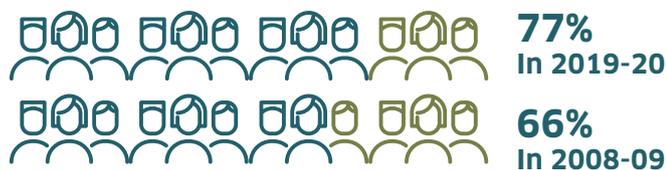
Court backlogs

The number of cases concluded in court have recently returned to pre-pandemic levels.



However, there remains a large backlog of trials outstanding in courts.

Scottish Courts and Tribunal Service Official Statistics



People are more likely to feel safe in their communities than they were a decade ago – the proportion reporting feeling safe when walking alone in their local area at night was higher in 2019/20 (77%) than in 2008/09 (66%).



Differences remain in the population. For example, women, people in the 15% of most deprived areas, those living in urban areas, and victims of crime were less likely to feel safe, more likely to be worried about specific types of crime, and more likely to think they would experience crime in the coming year.

Scottish Crime and Justice Survey



Community sentences

The proportion of community sentences issued as a main penalty for all convictions is the highest it has been for the last ten years.

22% of all convictions were issued a community sentence as a main penalty in 2019-20, up from 19% in 2018-19 and 14% in 2010-11.

Criminal Proceedings in Scotland

There is considerable variation between local authorities ranging from Clackmannanshire (68.7 per 10,000) to East Renfrewshire (15.9 per 10,000) in 2019-20.



Justice Portfolio Changes and Challenges



Positive Changes

Challenges



Imprisoned people

Fewer individuals spent time in prison in 2019-20 than did ten years previously – a fall overall of 18%.

Scottish Prison Population Official Statistics



While the prison population has fallen overall over the pandemic period, the proportion on remand has grown significantly, posing additional challenges for population management.

SPS-JAS Management Information Feed



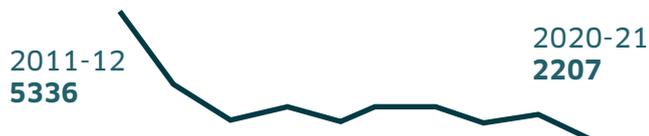
Reconvictions from CPO

The reconviction rate for offenders who received a Community Payback Order (CPO) fell between 2011-12 and 2018-19. Over the same period, the average number of reconvictions per offender for those given a CPO has fallen from 0.69 to 0.51.



The overall reconviction rate increased by 1.9 percentage points over the last year from 26.4% in 2017-18 to 28.3% in 2018-19. The average number of reconvictions per offender increased by 6% in the same period from 0.47 to 0.50.

Reconviction Rates in Scotland



Children's Reporter

Referrals of children to the Scottish Children's Reporter Administration on the grounds of an offence, down by almost 60% over last 10 years.

SCRA Online Statistical Dashboard



Almost half (47%) of adult respondents to the SPS prisoner survey in 2019 reported that they had been physically abused in their home as a child, 58% suffered verbal abuse and 62% reported having been bullied. Nearly a quarter (24%) had a member of their household serve time during their childhood.

Scottish Prison Service Prisoner Survey



Civil justice proceedings

There has been a long-term reduction in the number of initiated civil cases in Scottish Courts.

Civil Justice Statistics in Scotland



Some groups in the population were more likely to experience civil law problems than the general population. For example, an estimated 36% of those who are disabled experienced a civil law problem compared with 26% of those who are not disabled.

Scottish Crime and Justice Survey

We have made some good progress but challenges remain. When we listen to those who have used the justice system, their experiences are mixed.

“ You know, everyone deserves to be safe or feel safe in public and not have to feel that they have to worry about everyone else. And, you know, punishment is not about making other people suffer but it's, you know, rehabilitating of their behaviour and making sure they don't do it again. And, you know, helping them.”

Chad, participant in young people's attitudes to youth sentencing

“ [The police officer] did a really nice thing, that was quite transformative [...] Every single day for ten days she phoned [...] There wasn't actually anything going on, but she just kept phoning, every day, for two minutes, she was like, just to see how you are, are you alright, and it was very strengthening”

Nat, child sexual abuse and rape victim-survivor

“ I think that one of the barriers is that some of the best interventions are too far into the justice system. You've got to ask why people can't get that [support] at an earlier stage.”

Third sector diversion expert

“ You do the time with your family and that's just how it is. It doesn't just affect the person; it affects everybody.”

Jane, visiting her mum in prison

“ Trauma robbed me of my ability to understand acronyms, to remember the names of organisations and individuals ... As a victim the rest was white noise interspersed with being retraumatised by the system.”

Member of a Victim Support Scotland lived experience group

“ It [community service] wis brilliant, I loved it. It was, I was getting something out of it, see efter the programme's done, and we done it I look back, an I wis in the papers and aw that and we done this park fir a nursery, it wis a nursery school, eh, and we ripped the park right back to its four walls an rebuilt it, and see if ye could see this man, it wis beautiful an that, it wis something else, big flowerbeds, everythin, know. We put our heart and soul in it. There wis 20 of us that put our heart and soul into it.”

35-year-old man, imprisoned for 180 days, breach of the peace

Aim

We have a society in which people feel, and are, safer in their communities

Feeling safe is fundamental for individuals and communities to thrive. Communities who feel and demonstrate they are safe, reduce fear of harm and victimisation and are also in a stronger position to support members to re-integrate and recover from offending.

We know that feeling safe is not felt equally across everyone in our communities – different crimes are experienced differently by different groups. For example, women are more likely than men to be concerned about crime and perceive some issues to be more prevalent in their neighbourhood than men. People who have experience of the justice system also feel less safe than the general public.

The need to feel and be safe is not just about being protected from crime and offending. We also should be supported to be as safe from unintentional harm whether that is in our homes or in our communities, either as a result of accidents or emergency events.



As well as police-recorded crime falling, the proportion of adults experiencing crime each year has also fallen over the last decade, from around one-in-five adults to around one in eight. Violent crime has fallen over the long term, and the number of victims of homicide is at a record low. However, the reduction in crime has not been experienced equally across Scottish society, with those living in the most deprived areas in Scotland having a greater likelihood of being a victim of crime and just under 4% of adults experiencing over half of all crime. Therefore, our public services should continue to work together, taking a public health approach in tackling violence to ensure we **experience less crime, especially violent crime.**

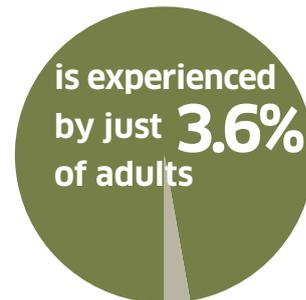
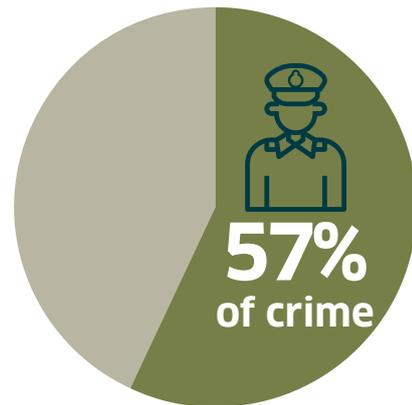
Women are more likely than men to experience partner abuse

The latest Scottish Crime and Justice Survey found that **3.7% of women** had experienced **domestic abuse** incidents in the past year compared to **2.6% of men**. Police-recorded crime showed there had been a **4% increase** in domestic abuse incidents compared to the previous year.

Criminal proceeding data shows that convictions for violent crimes increased by 11% in 2019-20, with more than half of this increase accounted for by new offences under the Domestic Abuse (Scotland) Act 2018.

Our police, fire and other emergency services work in partnership to reduce harm and increase safety including work in relation to terrorism. Relevant authorities have a duty to support the delivery of the PREVENT programme to stop people becoming terrorists or supporting terrorism.

We aim to reduce unintentional harm in our communities in regards to events like fires, flooding and other emergency events which put our communities under strain as well as harm from accidents. We have made real



SCJS 2019-20

progress in this area and the number of fires has fallen by over a third in the last decade. However, we still require greater resilience to limit the impact of these emergency events, using the assets within our communities and support from public services to ensure that as individuals **we suffer less harm including from emergency situations and fires.**

We all should feel and be safe in our communities yet we know we have work to do to achieve this. This is of course particularly relevant in tackling gender based violence. Police-recorded sexual crimes remain at one of their highest levels and there has been an increase in recorded domestic abuse incidents. We must ensure a strong and flourishing Scotland where all individuals are equally safe and respected, and where women and girls live free from all forms of violence and abuse, as well as the attitudes that perpetuate it. As individuals we should not have differing experiences of safety in our communities as a result of societal attitudes such as misogyny, racism, homophobia and sectarianism. We all should **experience equality and mutual respect.**

Scotland's diversity is its strength; all communities are valued and their contribution welcomed. Despite this, our communities are not as strong as they could be and hate crime and sectarian behaviour threaten community cohesion, and have a corrosive effect on communities and society as a whole. There is also evidence, mainly from the US, that experiencing racism can lead to trauma and fear among victims of racial attacks and discrimination. Around three-fifths of hate crimes recorded in 2019-20 included a race aggravator, one in five included a sexual orientation aggravator and around two fifths which had a religious aggravator involved prejudice towards the Catholic community. We need to work to improve community relations and ensure that **we experience less hate crime and sectarian behaviour**.

The threats from different types of crime is changing. Use of digital technology has exposed us to greater risks in regard to cyber-crime. In 2020-21, over 14,000 cyber-crimes were recorded by the police which is almost double from the year before. Cyber-crimes accounted for an estimated one-in-three sexual crimes in 2020-21, and around

one-in-ten crimes of dishonesty. In addition, over a quarter of businesses surveyed in 2021 had experienced a cyber-attack in the last two-to-three years. Over the coming years, as individuals, communities, organisations and businesses we need to **be more resilient to cyber threats and attacks**.

Finally, it is vital that as children we also feel safe in our communities and homes. Supporting our ambition that we Get It Right For Every Child, and that Scotland is the best place in the world to grow up. At least 39% of the sexual crimes recorded by police in 2020-21 related to a victim under the age of 18, with an estimated one-in-six sexual crimes being cyber-crimes with a victim under the age of 16. Many children are also witnesses to partner abuse. The Scottish Crime and Justice survey found that of those who reported children were living in the household at the time they experienced partner abuse, 71% said that the children were in or around the house or close by during the most recent incident of partner abuse. We must **uphold children's rights and protect children from all forms of physical or mental violence, injury or abuse**.

We will have achieved our aim to have a society in which people feel, and are, safer in their communities when:

- we all feel safe in our communities.
- our communities are stronger and more resilient.
- we all live in a tolerant, more inclusive society.



Aim

We work together to address the underlying causes of crime and support everyone to live full and healthy lives

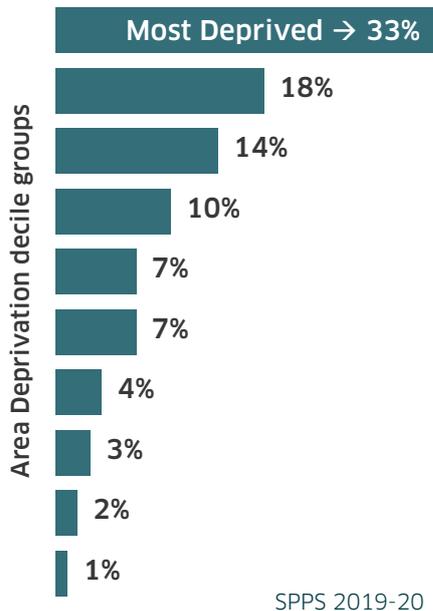
We know that in order to prevent people coming into contact with justice services, we have to tackle long-standing societal issues which exist beyond the boundaries of what we think of as the justice system. The causes of crime are many, varied and complex. Some of the factors that influence whether a person will come into contact with the justice system, such as poverty and inequality, Adverse Childhood Experiences (ACEs), attachment to school, and drug and alcohol use, are often experienced from early life. We also know that for some of those who have offended they have also been victims themselves.

Many of these factors are interlinked and a person can be affected by one or many. We need to address harmful experiences and behaviours at the earliest possible opportunity and take a preventative approach which allows for people to be considered as individuals with complex needs. We should always be treated as a person first and be supported to improve our life chances. Our public services should therefore assess and respond to our needs and any associated risks proportionately.



Arrivals to prison

are disproportionately from the most deprived areas



Crime and victimisation are intrinsically linked to deep-seated issues such as poverty and income and wealth inequality. The evidence shows that increasing income inequality experienced by those in developed countries, like Scotland has been linked to lower health and social outcomes, especially those connected to crime and justice. There is clear evidence of a link between experience of area-level deprivation and crime with those living in the most deprived areas being more likely than the rest of Scotland to experience crime with fewer resources to cover the cost. Compared to mothers in the highest-income households, mothers on the lowest incomes are far more likely to experience domestic abuse. To improve the life chances for all of Scotland's adults and children, is beyond the responsibility of justice alone. We need to **work together to mitigate the impact of poverty and disadvantage and reduce those who have contact with the justice system.**

The population in contact with the criminal justice system is a vulnerable one in health and wellbeing terms, with people experiencing high levels of mental health problems, trauma, learning difficulties (sometimes undiagnosed) and speech, language and communication needs. Justice agencies are commonly dealing with

situations where the main issues are around mental health and distress, where no offence, or only a minor offence, has been committed. Police are dealing with increasing numbers of people in mental health distress and that this is placing significant demand on their services and that of health services. To the benefit of individuals and communities we must work with partners to **improve the mental and physical health and wellbeing** of those who come into contact with the justice system.

Drugs and alcohol

The last Scottish Crime and Justice Survey results found that those who have offended were believed to be under the influence of alcohol and/or drugs in over half of violent incidents and self-reported illicit drug use amongst adults has increased from 7.6% of adults in 2008-09, to 9.7% in 2018-20. Whilst our knowledge is incomplete, we know that there is a relationship between people having a drug-related death and prior contact with the criminal justice system.

Where it is known, 33% of people who had a drug-related death (DRD) in 2015 and 28% of people who had a DRD in 2016 had been in police custody in the six months prior to their death. In addition, slightly over half of the 2016 cohort (53%) had ever been in prison and 12% had spent time in prison in the six months prior to death.

Alcohol and drugs remain a factor in many violent crimes. Evidence suggests that restrictions on the availability of alcohol, including minimum pricing, ensuring a minimum age of purchase is adhered to, reducing the number and density of premises where alcohol is sold, and restricting days and hours of sale, are all associated with a reduction in crime. We must therefore **prevent and experience less harm caused by alcohol and drugs** by ensuring appropriate support and interventions are provided.

We know that those with care experience are over-represented in the criminal justice system in Scotland. Although those who have been in care only make up an estimated 0.5% of the general population, almost half of young people in prison reported that they had experienced care. This pattern continues into adult life with the latest prisoner survey showing that a quarter of prisoners had been in care at some point. There are many reasons why care experienced people face higher rates of criminal convictions. These include: over-involvement with, and a feeling of stigmatisation by the police; increased scrutiny in care placements; participation in difficult formal processes, all of which are rooted in the lived experiences of being in care. As children we have a right to grow up loved, safe and respected. We must **#Keep the Promise** and ensure that children and young people living in care have access to support they need to thrive.



2 in 5
of those arrested
by Police Scotland have a
mental health issue
(estimated)

We know that those who experience multiple Adverse Childhood Experiences (ACEs) are more likely than those who do not, to come into contact with the criminal justice system as victims, witnesses or perpetrators of crime. For example, the Welsh study of ACEs showed that comparing to those with no ACEs, those with 4 or more ACEs were 15 times more likely to be a perpetrator of violence in the last 12 months. However, we also know that strong positive family environments can be a large protective factor from damaging experiences, helping young people to avoid offending. The youth justice whole-system approach to preventing offending highlights this important role, taking early action at the first signs of any difficulty to **create positive family environments and social networks**.

The importance of the school environment is crucial in addressing the causes of offending and in ensuring a range of positive outcomes for young people. Our evidence tells us that early exclusion from school predicts later engagement in crime and offending, both in terms of “general” offending and “serious” offending. School-based interventions have been found to be effective in reducing the risk of offending, especially those that encourage positive behaviour by clearly enforcing the boundaries around acceptable and unacceptable behaviours. To provide the best chances for their future we should **nurture children to fulfil their potential including through education**.

We will have achieved our aim to work together to address the underlying causes of crime and support everyone to live full and healthy lives when:

- children, young people and families avoid the damaging impacts of poverty.
 - we all participate in healthier and more respectful relationships.
 - we require less support from emergency justice service responses due to mental ill health.
 - children experience fewer adverse childhood experiences.
 - we are all supported at the earliest possible stage to avoid high-risk behaviours.
 - young people are less likely to offend and the whole-system approach to preventing offending has been extended.
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Aim

We have effective, modern person-centred and trauma-informed approaches to justice in which everyone can have trust, including as victims, those accused of crimes and as individuals in civil disputes

Trust in our process of justice is fundamental in ensuring the rule of law is respected in our society. For justice to be achieved, each of us needs to feel able to take action when we are at our most vulnerable. For that to happen, we need to feel that the services are designed to support and help us, and those who work in them listen to and respect our needs.

Our experience of justice can include contact with the police or with a solicitor, being a victim or witness, or a complainant or a party in a civil dispute. We could be an accused person or a family member. Evidence shows that how we are treated affects our feelings about and confidence in justice processes. These experiences are often as important as the conclusion of a case or dispute. We know that the issues which lead to the justice journey are very often traumatic and it is important that the processes within the system minimise further trauma or re-traumatisation and help us recover.

Resolution in court is not always the best outcome or process. Dealing with issues before they reach court – where appropriate – both within the civil and the criminal justice systems, can lead to better long-term outcomes. So we should continue to research and expand our approaches to ensure we are taking the most effective approaches, and at the right time, to ensure public safety and confidence.



Generally, people hold favourable views of the justice system. For example, around three-quarters of adults are confident that the system allows all those accused of crimes to get a fair trial and that everyone is able to access the justice system if required. This confidence in our systems of justice is not felt equally – the experiences of victims and witnesses has frequently been characterised by a lack of support, poor communication and a sense of powerlessness. Older adults, women, and those living in the most deprived areas of Scotland are also generally less confident in the justice system, we must **therefore increase everyone's confidence in our justice services.**

A key element of justice is ensuring our rights are upheld. Evidence from the UK suggests that people with greater legal knowledge of their rights and responsibilities and greater understanding of legal issues are more likely to get professional help. On the other hand, people with less understanding of legal issues find it much harder to access the services and information they need to resolve their issues. A lack of legal understanding affects a significant proportion of the population and extends beyond vulnerable groups – even a significant number of people with high incomes and education levels can exhibit low legal understanding. There is also evidence of significant differences between population groups; those who say their lives are limited greatly by disability are particularly vulnerable. We must **have fairer access to justice**, whereby we are able to be supported by legal professionals and income or wealth is not a prohibitive factor in ensuring high-quality legal (and advice) services in both criminal and civil law settings. An effective and efficient legal aid system is vital to ensuring access to justice. Reforms of legal aid will ensure a person-centred approach can be facilitated.



Justice access

84% of those aged 16 to 24 were confident that the system makes sure everyone has access to the justice system if they need it, in comparison to 70% of those aged 60 or over.

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Data on the make-up of our justice services is not always complete both in terms of covering the whole workforce or all of the protected characteristics. We do know however that many of our justice organisations have a far lower proportion of employees from a minority ethnic background than in the population as a whole. Across the organisations that make up Scotland's justice system, women are not always equally represented in the workforce, especially when looking at more senior roles. Inclusive and representative services are those which reflect the populations which they serve in order that they understand the lives of the people they interact with and which are affected by these interactions. Conversely, an unrepresentative system can undermine trust in justice. Therefore, we need to have **more inclusive justice services and organisations which reflect our diverse communities** and which ensure recruitment, development and retention to support improved representation of diversity across all workforces.

Civil disputes are damaging, expensive, and time-consuming. They affect individuals, communities, organisations, government, and the economy. Preventing disputes, and resolving them earlier and more effectively, benefits us all. This includes being able to access alternative dispute resolution or mediation forums for civil justice issues.

Diversion from prosecution prevents an individual entering the wider criminal justice system by addressing the underlying causes of offending, and helps to ensure people get access to the drug, alcohol and mental health services they need. It is especially effective when the diversionary intervention is complemented by work designed to address the underlying issues which contributed to the offending behaviour. Evidence has shown that this lowered contact, particularly for young people, reduces their likelihood of further involvement in offending.

Fiscal work orders allow Procurators Fiscal to offer unpaid work orders as an alternative to prosecution. People given fiscal work orders also tend to be younger than those given community payback orders and substantially more tend to be employed.

Different approaches to justice, working alongside or within the criminal justice system should also encompass accessing comprehensive restorative justice services and independent legal representation where appropriate, allowing for victim's voices to take a central role in justice processes.

Choice and joint decision making are a central component of a person-centred approach, we must therefore **have access to different forms of justice including non-legal solutions.**

What are other countries' experiences of problem-solving courts?

As we consider other approaches to delivering justice, we can look to what other jurisdictions have done.

Extensive international evidence suggests that, when delivered appropriately to the right population, problem-solving courts which bring together the authority of the court and the services necessary to reduce reoffending and improve outcomes can reduce reoffending, improve compliance with court orders and generate savings for the state.

This is thought to be due to the perception of fair treatment which increases compliance and also the effective monitoring of cases by the judges. The strongest evidence is for adult drug courts which are effective at reducing substance use and reoffending especially for those who present a higher risk of reoffending. Other countries have found good evidence for alcohol and family courts in tackling parental substance use and reducing the number of children permanently removed from their families. Mental health courts have also been found to likely to reduce reoffending, although they may not directly impact the mental health of those who have offended, and evidence on the impact of problem-solving domestic violence courts on outcomes for victims, such as victim safety and satisfaction, is promising as they can reduce the frequency and seriousness of a perpetrator reoffending.

For those of us that do come into contact with the justice system – as victims, witnesses, those accused of crime or members of society for civil and tribunal cases – we must be seen as a person first. The experience of justice is as important as the need for a substantive outcome. Both feedback we have received and international evidence shows the importance of timely and accurate information and effective methods of communication with victims, both in delivering information and listening to their needs. The basic provision of timely information can assist victims in coping with the impact of victimisation. A lack of information can only act to aggravate these symptoms and in many cases can result in victims disengaging with the criminal process and withdrawing their co-operation. We also have extensive feedback on the impact that the lack of joined up services have on individuals both in terms of making it much more difficult to navigate the justice process and also being required to retell stories causing further trauma. Individuals are all experts in their own lives but are not all experts in the justice system. People in contact with the justice system must therefore be supported to understand the processes of justice, **be treated as a person first, experience joined-up services and timely communication**. This includes supporting victims in their recovery.

We know that uncertainty and delay cause great anxiety for all those in the justice system and the duration of the legal process was an issue prior to the COVID-19 pandemic. We know that the amount of time that users of courts have to wait to resolve their cases is one of the key drivers

of satisfaction. There has been consistent feedback from victims' groups that the delays are having a profound effect on individuals as they feel like they are unable to move forward with their lives until the trial date, and are often re-traumatised by holding onto their experiences to ensure it is fresh in their minds for giving evidence. We must therefore ensure across criminal and civil jurisdictions that we **experience fewer delays in the justice system**.

It is always deeply regrettable when a child comes into contact with the criminal justice system as a victim of crime or as a witness, therefore we must ensure we take approaches that do not further exacerbate trauma. Research indicates immediate access to trauma-focussed health services may be one of the key factors for recovery. Extended periods of the investigative and judicial process conjoined with lack of access to health services may increase children's risk of further trauma and more serious long term consequences. Research also shows that child abuse cases undertaken by multidisciplinary teams were more strongly associated with higher conviction rates and increased receipt of health and support services compared to more traditional services. Children and their families report that a positive aspect of court proceedings is when children are engaged as active participants rather than passive recipients of the process. A Barnahus model seeks to provide a trauma-informed response to child victims and witnesses of serious and traumatic crimes in a familiar and non-threatening setting. We must ensure children's rights providing access to **trauma-informed recovery, support and justice**.

We will have achieved our aim of delivering effective, modern, person-centred and trauma-informed approaches to justice in which everyone can have trust, including as victims and those accused of crimes and as individuals in civil disputes when:

- we all have confidence in reporting crimes.
- everyone's rights are upheld.
- services are joined up and everyone is kept informed.
- we all can access the appropriate support needed to participate in justice processes.
- we all can access a fair, modern, affordable civil justice system.
- children are treated with love and support and their voices are heard effectively.
- everyone is supported to recover from the harm and trauma and possible re-traumatisation they have experienced.



Aim

We support rehabilitation, use custody only where there is no alternative and work to reduce reoffending and revictimisation

Scotland's prison population is among the highest per capita in Western Europe despite the fact that over the last 30 years or so recorded crime in Scotland has decreased. Much of this is due to the fact that we are increasingly bringing the perpetrators of certain crimes to justice as well as the fact that prosecutors and courts are dealing with more complex and serious crimes. For example, the number of people in prison for sexual offences has doubled over the last decade as these types of crimes have tended to result in custodial sentences. The proportion of the prison population who are held on remand also increased substantially, especially during the time of the COVID-19 pandemic and has risen to a high of 30%.

Whilst there will always be a need for prison, we know that the effect of imprisonment can be negative and profound both for the individual and for their families. Many of those who offend have experienced poverty, disadvantage and ACEs, trauma and often have substance use or health problems and require support. In addition, whilst reconviction rates have been falling over the last 20 years, two-thirds of convictions are second, third and fourth convictions, suggesting that our societal systems are failing to tackle reoffending and to break the cycle of crime. Therefore, due to the known damaging impact of prison and the changing nature of crime trends we must look to redefine the role of custody in the context of needing to better support individual's rehabilitation, by taking a trauma-informed and person-centred approach whilst also ensuring public safety.



Community interventions are more effective than short prison sentences at addressing offending behaviour and breaking the cycle of reoffending. Prison can by its very nature disrupt factors that can help prevent offending, including family relationships, housing, employment and access to healthcare and support. At the same time as the prison population has been increasing, the use of community sentences has increased to over 20%, in 2019-20. More however needs to be done to ensure that consistent and effective interventions are available across all of Scotland to assist in creating positive futures for those who have offended.

For many crimes that are committed there are victims who have suffered and continue to do so. As we work to ensure effective rehabilitation and recovery for those who have offended this must be balanced with victim's safety in their own recovery from harm and trauma.

There will always be a need for prison where a risk of serious harm is posed and custody can provide an important opportunity for rehabilitation. However, the international evidence shows that imprisonment can have damaging effects, through weakening social ties, creating stigma, adversely impacting on employability and housing stability, and ultimately increasing the likelihood of reoffending. We know that imprisonment for short periods is counterproductive and our evidence consistently shows that those serving short term sentences reoffend more often although it should be noted that those who receive community sentences have often committed less serious crimes. The long-term aim is that people should **only be held in custody where they present a risk of serious harm.**



Custodial disposal rate



of as a proportion of all criminal proceedings has remained relatively static.

Crim. Proc. 2019-20

Prisons and sentences

Fewer people are being sent to prison each year with the number of individuals spending time in custody having fallen by around 15% over the last decade, but those who are sent, are sent for longer.

The Presumption Against Short Sentences (PASS) was increased to apply to sentences of 12 months or less in 2019 and early indications suggest the number of people sent to prison by Scottish Courts each year has fallen.

Adults surveyed in the Scottish Crime and Justice Survey are generally supportive of community sentences with the vast majority of adults believing that people serving community sentences should be given support to reduce the likelihood of them committing more crime in the future, and most believing that people helping their community as part of a community sentence is an appropriate response for a minor offence, rather than a short prison sentence.

Justice in the community is principally about organisations working together to help people who have offended pay back to the community and address the reasons why they commit crime. At present many of those convicted of crimes receive fines or community-based sentences, such as unpaid work or restriction of liberty orders - which are electronically monitored. We will seek to widen the use of electronic monitoring to allow it to be used more routinely as part of the management of relevant individuals in the community and introduce additional capabilities to enable this to take place. Research conducted by the Scottish Sentencing Council revealed that community sentences are commonly viewed by the judiciary as providing a greater chance of rehabilitation and, in general terms, as a more cost-effective alternative to imprisonment. We also recognise that robust arrangements, such as the Multi Agency Public Protection Arrangements (MAPPA) require to be in place for managing the risks posed by those that have committed the most serious offences. We must therefore **have access to a range of consistent, effective interventions in our communities.**

We know that sentences served in the community are more effective at reducing reoffending than short-term custodial sentences. This is particularly the case for those who are held on remand; international evidence suggests that remand is associated with negative effects that may hinder longer-term desistance from crime including an increased risk of suicide and mental distress, disintegration of social supports and family ties and disruption to employment that increase the likelihood of reoffending upon release. We must therefore be supported to **remain in our communities, minimising stigma and prejudice.**



16710

Community Payback Orders imposed in 2019-20



1%

increase on 2018-19



70%

had an unpaid work or other activity requirement



62%

had an offender supervision requirement

Where custody is appropriate, we must also ensure that people are supported when they leave. The reality is that for those who are released from prison, rebuilding their life can be difficult. Lack of employment is known to increase the likelihood of reoffending, and those without a job are more likely to re-offend. However, the pathway to sustainable employment for people with convictions can have many complex obstacles which are similar to desistance and recovery journeys. Finding suitable accommodation can also be a huge challenge for those leaving prison. The 2019 Prisoner Survey found that just over half of prisoners reported losing their accommodation whilst in prison. Furthermore, the Hard Edges study in 2019 found that many people were released straight into homelessness. Housing has also been identified as one of the main challenges encountered by those with drug problems on release, and the lack of stable housing also made it more likely that they would resume drug use. To ensure greater success in reducing reoffending we must be supported to **integrate into our communities, including having a safe place to live and options for employment.**

Having a family member in prison has a negative effect on all concerned. There are an estimated 20,000 children who are affected by parental imprisonment in Scotland, a recognised Adverse Childhood Experience (ACE), and young people who experience family imprisonment in Scotland find it difficult to maintain familial relationships. The evidence suggests that the most important protective factors for children of prisoners are continuing relationships with a parent or carer, and children being given enough information to understand what was happening to them. Early and good-quality contact with their imprisoned parent is also crucial for children, reassuring them about their parent's wellbeing. In addition, evidence at a UK level showed that the families of those imprisoned relatives saw their debts increase during the period of incarceration, exacerbating the impacts of poverty. Family and strong societal relationships are also a known protective factor against reoffending we must be supported to **maintain and enhance social networks and links with families**.

Those who experience imprisonment in Scotland have poorer health mentally, and physically. In the 2019 Prisoners Survey, one in five reported that drinking affected their ability to hold down a job and nearly a fifth reported being worried that alcohol would be a problem for them when they get out. The same survey found that around one quarter reported using illegal drugs in prison in the month prior to the survey. Whilst there are no robust figures for the prevalence of mental health problems in Scottish prisoners, prescribing indicators suggest a considerable burden, in particular for depression and psychosis. On a range of other health measures, the prison population show poorer health than the general population. That is, in part, due to the ageing profile of the prison population in Scotland, where the proportion of those aged over 50 years is growing. All of this leads to poor health outcomes, including lower life expectancy for those in prison, we must therefore be supported to **improve our health and wellbeing as part of rehabilitation and recovery**.

A child in conflict with the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial that takes account of their age. Research by the Children's and Young People's Centre for Justice suggests that the majority of young people who are involved in serious offending are often facing many difficulties themselves including trauma, abuse, neglect, bereavement, loss and being victimised themselves. Many struggle to understand the system they are involved in as it is an adult system that does not take age into account. Some research suggests that young people do not fully develop in terms of maturation until their mid-20s so many older young people not have the ability to fully understand information, systems and processes that are designed for adults. We must therefore **ensure children and young people are supported, and maturity and stage are considered, as they transition to adult services**.

We will have achieved our aim to support rehabilitation, use custody only where there is no alternative and work to reduce reoffending and re-victimisation when:

- we experience less crime and reduced harm from re-offending in our communities.
- people who have offended are supported to maintain and enhance their social networks and links with their families.
- people who have offended, who are in prison are supported to live healthier, more productive lives.
- those with a family member in prison are protected from the negative impacts.
- children and young people who have committed crimes are not held in young offenders institutions.
- children and young people have the appropriate support as they transition to adult services.
- those who have offended have access to housing which meets their needs.
- those who have offended have positive employment prospects and fair work.



Aim

We address the on-going impact of the COVID-19 pandemic and continue to renew and transform justice

COVID-19 exacerbated and created new challenges for the operation of the justice sector. Exceptional measures have been required to maintain public health. In parallel, an unprecedented response has been necessary across Scotland's justice system to maintain the most essential services that support justice. It is widely acknowledged that restoring the capacity of the courts and community sentencing to their pre-pandemic levels will not by itself address the growing backlog of delayed activity. Prior to the pandemic there was work being progressed which recognised the need for

wider transformational change to respond to changing demands and the needs of those who rely on Scotland's justice system. It is with renewed vigour that we undertake this system wide transformation to improve the experiences and outcomes for those we serve.

To enable transformative action to be taken forward in alignment with the preceding aims and outcomes we must continue to focus on recovery of the justice system. Recovered services will be in a better position to take forward transformation.



One of the most serious impacts of the closure of Scotland's courts and tribunals at the start of lockdown was a substantial increase in the backlog of civil and particularly criminal cases which has resulted in delays. As the country re-opened, some court and tribunal business got underway either in virtual, online form or through a limited number of cases where participants (judges, lawyers, witnesses, the accused, media and the public) attended in a socially distanced manner, and remote jury centres were set up. Although measures have been undertaken to mitigate the impact of the delays on the public, the impact of the pandemic has been especially hard on witnesses and victims of crime due to delays. For those accused held on remand, delays have meant extended periods in prison and extra strains on an already stretched prison service. For those in prison, pressures have affected the delivery of programmes, interventions and other services while the day to day effects of the restrictions required to control the spread of the virus have also been considerable. A full public consultation on a Covid Recovery Bill – aiming to support Scotland's recovery from COVID-19 – invited views on 30 specific legislative proposals that have the potential to support COVID-19 recovery. We must **learn from the response to COVID-19 and keep appropriate legislative and operational measures.**

The Recover, Renew, Transform (RRT) programme set up in 2020 in response to the pandemic, focusing on returning court capacity to pre-pandemic capacity and reducing historical backlogs, creating new ways of working and resolving cases at the earliest possible opportunity. Greater use of technology and more digital practices have a potential to lower, if not eliminate,

some of the usual barriers to accessing justice such as financial cost, time and the complexity of justice systems. However, there are some risks, barriers and challenges when considering current justice innovations through a person-centred approach. This includes, ensuring accessibility for vulnerable and marginalised groups, who may be affected by lack of connectivity, skills or worsening economic situations; and to ensure their rights are upheld. We must continue to **respond to the immediate challenges while informing the delivery of transformation across the sector.**

In order to support the recovery of justice services action should be explored to reduce the need for traditional justice processes, in keeping with the wider ambitions of the Justice Vision. The programmes and approaches set up in the midst of the crisis have been successful in ensuring the operation (in new ways) of the justice system, and have tried to limit negative impacts. Prior to and throughout lockdown, domestic abuse cases have been prioritised. We anticipate the waiting period for domestic abuse cases will further reduce with the additional court capacity. However, it is anticipated that it will take several years to manage the backlog and return to waiting times of 10 weeks for domestic abuse cases. Work to ensure that we reduce the immediate backlogs and delays and negative impacts on service users should be taken forward in full consultation and collaboration with interested parties, reflecting the pace and stage at which we are now at in the pandemic. We must **use a full range of solutions to reduce the need for and pressure on, justice services while negative impact on users is reduced.**

We will have achieved our aim of addressing the on-going impact of the COVID-19 pandemic and continue to renew and transform justice when:

- people experience less delays and upheaval as a consequence of COVID-19.
 - the impact of COVID-19 is planned for and mitigated across all parts of the system.
 - we learn the lessons of the pandemic to ensure a more resilient justice system.
 - we continue to renew and transform, drawing on the experience of what worked during the pandemic to improve efficiency and deliver better outcomes for individuals.
-

Principles

Work to deliver our vision will be underpinned by four core principles:

<p>Founded in equality and human rights</p> <p>Justice services eliminate discrimination, advance equality, and foster good relations while taking a right's-based approach, ensuring those most vulnerable and facing the biggest barriers are able to understand and realise their rights.</p>	<p>Evidence-based</p> <p>Justice services will implement transformative actions which are informed, funded and prioritised by recognised, credible and robust evidence, and are routinely monitored, evaluated and reviewed.</p>
<p>Embed person-centred and trauma-informed practices</p> <p>Justice services ensure that a person's needs and views are respected, provide clear communication and ensure understanding in areas of complexity. Individuals and their families are involved in taking decisions which affect them, with a recognition that <i>people are the experts in their own lives</i>.</p> <p>Embedding trauma-informed practice will ensure that our justice services recognise the prevalence of trauma and adversity, realise where people are affected by trauma and respond in ways that reduce re-traumatising. Relationship-based practice that respects resilience, prevents further harm and supports recovery is intrinsic to trauma-informed practice.</p>	<p>This is achieved when organisations:</p> <ul style="list-style-type: none"> • have commitment from leaders to organisational change and ensure a specific focus on trauma-informed leadership. • focus on workforce training, development and wellbeing. • share power with those with lived experience of trauma, including service co-design and active participation and collaboration. • ensure policies, procedures, systems and environments are informed by an understanding of trauma and its impacts. • implement specific practice changes and service approaches, in response to understanding of the impacts of trauma. • monitor and review trauma focused data and associated outcomes.
<p>Collaboration and partnership</p> <p>Justice services work together to ensure joined-up services and ensure person-centred outcomes, building partnerships and ensuring the system wide impact of our actions are factored into our decision making. Our workforces are supported to see their part in the bigger picture and be supported in their wellbeing.</p>	

The principles will guide all of us responsible for delivering justice services including our third sector partners and the legal profession, to do so in line with the new vision enabling greater consistency and approach across the sector. These principles speak to *how* we do things not just what we do. As a workforce we must *be the difference* in ensuring that those who require and use our justice services have the best possible experience.

By putting people at the heart of services, we'll give them a better, more human experience. We'll also empower them to take part in the justice system and let them know there are people who care, and who are there to support them.

As a justice sector workforce we must also be supported in our own wellbeing to ensure we can provide empathetic interactions and be supported in our daily challenges.

These are not new concepts or ideas; we are instead providing a re-invigorated focus and commitment in ensuring these principles are recognised, reflected in our ways of working and permeate the decisions we take collaboratively as a system and for the individuals we serve.

We expect that these principles will see a change in our ways of working ensuring we design services with all users, especially those with lived experience; we set up feedback loops, utilise technology and share data to drive continuous improvement; work and take decisions together using the principles as a way to assess options, ensuring best outcomes for individuals not organisations and; provide collective leadership and support through the National Justice Board to the justice workforce with a focus on wellbeing, thus facilitating a cultural shift to person-centred, trauma-informed services.



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