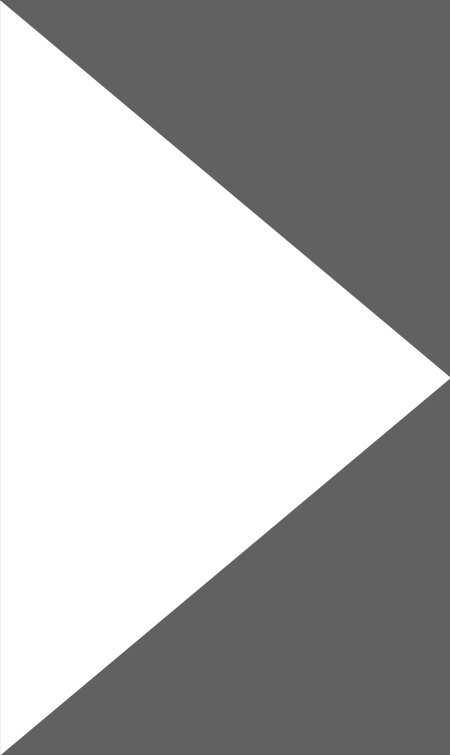




Rehabilitation of offenders

Spokespeople's consultation paper



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Background

This consultation paper is presented as the first stage in the development of new Liberal Democrat policy in relation to the rehabilitation of offenders. It does not represent agreed party policy. It is designed to stimulate debate and discussion within the party and outside. Based on the response generated and the deliberations of the spokespeople, a full policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by Jonathan Marks, Liberal Democrat Lords Spokesperson for Justice, and Mike German, Spokesperson for Rehabilitation and Probation. They are both prepared to speak on the paper to outside bodies and to discussion meetings organised within the party.

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Comments should reach us as soon as possible and no later than Friday 3rd May 2019.

Further copies of this paper can be found online at
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1. Introduction

1.1 The primary purpose of the penal system should be to prevent crime by successfully rehabilitating offenders, so they do not go on to commit further crimes in the future. Prisons are necessary to protect the public from serious and dangerous offenders, but the main focus of the criminal justice system must be on stopping re-offending.

1.2 That objective requires offenders to be given appropriate sentences; prisons to provide for rehabilitation, recovery, learning and work, with suitable treatment, education and work available to all prisoners; and services in both prison and the community to help turn people away from crime, including housing, education and training, healthcare and treatment for addiction.

1.3 Britain's current penal system falls far short of that standard. Prisons are overcrowded and understaffed; prisoners spend too much time locked in their cells, unable to engage in productive activity or receive rehabilitative services; and rates of violence, drug use, self-harm and suicide are far too high and rising.

1.4 'Through the Gate' resettlement services and supervision of offenders are failing badly. In particular, the Community Rehabilitation Companies responsible for low- and medium-risk offenders have failed to achieve reductions in re-offending rates, largely because the Government has underfunded and mismanaged the 'payment-by-results' contracts. The Ministry of Justice has been forced to end these contracts early.

1.5 The provision of services in the community is also inadequate. Many former offenders are not able to find work, and the financial support they receive is often not enough to cover even basic necessities. Far too many prisoners become homeless upon release from prison. Physical and mental health care and addiction treatment are often inconsistent and insufficient.

1.6 As a result, re-offending rates remain far too high. 30% of offenders are convicted of committing at least one new offence within a year of leaving custody or receiving a non-custodial sentence, a

reprimand or a warning.¹ For under-18s, the rate is even higher, at 40%. These rates have remained essentially unchanged for more than a decade.

1.7 The Liberal Democrats believe that we must significantly reduce the prison population, which is the largest in Western Europe, including by making greater use of tough, effective community sentences – especially in place of short prison sentences, which have proved particularly ineffective – and ending the imprisonment of people for drug possession for personal use.

1.8 We must also radically transform prisons themselves: building rehabilitation and recovery into their design, dramatically improving conditions and ensuring more time is spent in purposeful activity. That includes meaningful work, education and training, and access to good leisure and sports facilities. Prisoners should have access to IT and digital skills training.

1.9 However, tackling re-offending requires a more radical approach to penal reform. At the heart of the problem is a lack of co-ordination and continuity of services. We therefore propose a radically new, holistic approach to rehabilitation, spanning sentencing, prisons and community supervision and including a full range of rehabilitative services.

1.10 We would give responsibility to local co-ordinating bodies to ensure the proper supervision of each offender and ex-offender in their area. These bodies would commission the services they need for rehabilitation, both in prison and in the community.

1.11 The Government must also think differently about the costs and benefits of rehabilitation. Improving staffing and conditions in prisons, the quality of supervision in the community and the provision of services will all require significant investment. However, against this must be set against the huge societal and financial benefits of reducing reoffending – including less crime and therefore fewer victims of crime, fewer people in prison, and more people in work. The current

¹ Ministry of Justice, [Proven reoffending statistics: January to March 2017](#)

budgetary process does not account for these savings to the public purse.

1.12 In this paper, we set out our proposal for a new system of coordinating the work of all bodies in the public, private and voluntary sectors which have either a responsibility for rehabilitating offenders or simply a willingness to help former offenders turn their lives around. We also detail the myriad of problems that blight our prison and probation services and set out a number of further proposals to address them. We will consult on these proposals with both party members and external stakeholders before presenting a final policy paper to Conference.

2. A new holistic approach

2.1 The core of our proposal is a new model centred on individual offenders and their rehabilitative needs.

2.2 Local public bodies would be given responsibility for co-ordinating all services for an offender, from the point of sentencing all the way through prison or any community sentence and post-sentence supervision.

2.3 These new co-ordinating bodies would be funded directly by the Ministry of Justice and charged with commissioning services from a range of providers depending on the needs of the offender.

2.4 But central direction from the Ministry of Justice cannot possibly deal with the many different essential services needed for individual offenders. Services have to be provided locally and they should therefore be co-ordinated by a local body which can build strong relationships with providers in their area.

2.5 In order to prevent a postcode lottery from developing, the Ministry of Justice would set a national policy framework and local bodies would be accountable to it.

2.6 Each co-ordinating body would have a mandate to ensure that courts, prison governors, probation services, police forces, local authorities, housing associations, the Department for Work & Pensions, the National Health Service, providers of treatment for addiction and third-sector providers all work closely together to co-ordinate and provide all the services an individual offender might need to rebuild a life free from crime.

2.7 This would enable the third sector to strengthen its role in supporting the work of rehabilitation – one of the aims of *Transforming Rehabilitation*, the Coalition Government's 2013 white paper. There are many good examples of successful third-sector organisations who are making a real difference in offenders' lives. Our proposal would provide sufficient funding for these organisations to scale up their services.

2.8 We would also want to see private sector employers willing to provide training and employment to former offenders in close contact with the co-ordinating bodies. There are increasing numbers of employers who are dedicated to giving former offenders training and employment and their role in rehabilitation is extremely important.

2.9 These co-ordinating bodies should be low-cost operations, based in the offices of other services with relatively small staffs, diverted from other parts of the justice system if possible.

2.10 There are a number of forms that these new bodies could take. They could be run directly by the Ministry of Justice, by local authorities or as independent organisations. They could include representatives of local service providers or be completely independent.

2.11 There is also the related question of what geographical area each body should serve. One option would be for each upper- or single-tier local authority to have one, but 174 of these bodies seems excessive. Other options include one for each of the 43 police force areas; one for each of the 21 Community Rehabilitation Companies; or one for each of the 11 proposed probation regions.

Question 1: Do you support our proposal of establishing new local bodies to co-ordinate rehabilitative services for offenders?

Question 2: Should these local bodies be accountable to the Ministry of Justice?

Question 3: What form should these new bodies take, and by whom should they be run?

3. Sentencing

3.1 Too many people are currently being sent to prison who shouldn't be there. A third of all offenders convicted of indictable or triable-either-way offences are sentenced to prison – most of them for non-violent offences.²

3.2 The majority of people sentenced to prison are given sentences of less than a year. However, the Ministry of Justice's own analysis shows that these sentences are "consistently associated with higher rates of proven re-offending than community orders and suspended sentence orders".³

3.3 The use of short prison sentences has decreased in recent years – by 21% between 2010 and 2018 for sentences of less than a year – but use of the more effective community-based sentences (whether community orders or suspended sentences) has declined even more steeply: by 43% in the same period.⁴

3.4 Current Liberal Democrat policy is to:

"Introduce a presumption against short prison sentences and increase the use of tough, non-custodial punishments including weekend and evening custody, curfews, community service and GPS tagging."⁵

3.5 Current party policy defines short sentences as those of less than six months.⁶ The Scottish Liberal Democrats have successfully campaigned for a presumption against sentences of less than 12 months in Scotland and, based on the evidence of their effects on re-offending rates, we believe that the same policy should be introduced in England and Wales.

² Ministry of Justice, [Criminal Justice System statistics quarterly: September 2018](#), Table Q5.1b

³ Ministry of Justice, [The impact of short custodial sentences, Community Orders and Suspended Sentence Orders on reoffending](#)

⁴ Ministry of Justice, [Criminal Justice System statistics quarterly: September 2018](#), Tables Q5.1b & Q5.4

⁵ [2017 Manifesto](#)

⁶ Spring Conference 2017, [F5: Tackling Overcrowding in the Prison System](#)

3.6 Existing policy is to “stop imprisoning people for the possession of drugs for personal use”⁷ and establish “a framework for the legal regulation of cannabis in the UK”.⁸ As well as reducing the harms caused by drugs, both of these policies would significantly reduce the number of people needlessly sentenced to prison.

3.7 We also support greater use of restorative justice, both in place of and alongside other sentences, which has been demonstrated both to reduce reoffending and to help victims come to terms with the offences committed against them and their perpetrators. Existing policy is “to give victims the right to request restorative justice rather than a prison sentence” as part of a Victims’ Bill of Rights, and to:

“Promote community justice panels and restorative justice that brings victims and wrongdoers together to resolve conflict, reduce harm and encourage rehabilitation.”⁹

3.8 Criminalising and imprisoning young people is particularly damaging, acting as a barrier to the education, jobs, housing and relationships required to prevent re-offending. Article 37 of the United Nations Convention on the Rights of the Child states that children must only be arrested or imprisoned “as a measure of last resort”, and we believe that more children should be diverted away from the criminal justice system entirely. A working group on crime and policing is currently developing policy in relation to this.

3.9 In recent years there has been an increase in the use of mandatory short prison sentences for non-violent offences. Section 28 of the Criminal Justice and Courts Act 2015 – which the Liberal Democrats opposed – introduced mandatory sentences for anyone convicted of a second offence of carrying a knife: at least four months for 16-to-17-year-olds, and at least six months for those aged 18 or over. This has clearly failed to tackle knife crime, which has increased by 64% since 2015.¹⁰

⁷ Policy Paper 118: [Doing What Works to Cut Crime](#)

⁸ Spring Conference 2016, [F7: Regulatory Framework for Cannabis](#)

⁹ [2017 Manifesto](#)

¹⁰ Office for National Statistics, [Crime in England and Wales: year ending September 2018](#)

3.10 In the Offensive Weapons Bill currently before Parliament, the Government is now seeking to replicate these mandatory sentences for a second conviction for the new offence of possession of a corrosive substance in a public place. The Liberal Democrats are opposing this as well.

3.11 Sentence inflation has also exacerbated the problem of prison overcrowding. A desire to appear tough on crime has led successive governments to legislate for and encourage longer and longer custodial sentences, without any evidence that they deter people from committing crimes or help to improve public safety. This must stop.

3.12 Existing party policy calls for a full review of criminal sentencing, to be conducted by either the Law Commission or a Royal Commission.¹¹ We believe the case for such a review is as strong as ever.

Question 4: Do you support a presumption against short prison sentences of less than 12 months?

Question 5: Should we commit to abolishing the mandatory sentences for a second offence possession of a knife and – if the new law passes – possession of a corrosive substance?

Question 6: Are there other sentencing reforms that would promote rehabilitation and relieve prison overcrowding?

Question 7: What should be the aims and terms of reference for a review of sentencing?

¹¹ [Policy Paper 118: Doing What Works to Cut Crime](#)

4. Prisons

4.1 Our prisons are in crisis. They are grossly overcrowded and badly understaffed. Many are badly maintained and in terrible condition. Riots, drug use, suicide and extreme violence – including homicides and serious assaults by prisoners on staff and other prisoners – have all become far too common.

4.2 The prison population almost doubled between 1993 and 2010. It peaked at 88,000 in 2011, although it has fallen by 6% since then, to 83,000¹² – thanks partly to the abolition of indefinite 'Imprisonment for Public Protection' (IPP) sentences by the Liberal Democrats in government.

4.3 Nevertheless, the UK still imprisons more people – both in absolute terms and as a proportion of the total population – than any other country in Western Europe.¹³ The Ministry of Justice projects that the prison population will grow steadily over the coming years, rising to 86,000 by the end of 2022.¹⁴

4.4 Black, Asian and minority ethnic (BAME) people are over-represented throughout the criminal justice system. For example, a black person convicted of a crime is more likely to be sentenced to prison than a white person of the same age.¹⁵ As a result, black people make up 13% of the prison population,¹⁶ despite being less than 4% of the general population.¹⁷

4.5 If all ethnic groups had the same imprisonment rates as white people, the prison population would be 15% smaller, equating to 12,000 fewer prisoners. The Ministry of Justice has estimated that the

¹² House of Commons Library, [UK Prison Population Statistics](#) & Ministry of Justice, [Population and Capacity Briefing for Friday 22nd February 2019](#)

¹³ Institute for Criminal Policy Research, [World Prison Population List: 12th edition](#)

¹⁴ Ministry of Justice, [Prison Population Projections 2018 to 2023](#)

¹⁵ GOV.UK Ethnicity facts and figures, [Sentences and custody](#)

¹⁶ Ministry of Justice, [Offender management statistics quarterly: July to September 2018](#), Prison Population 31 December 2018 Table 1.4

¹⁷ Office for National Statistics, [Ethnicity and National Identity in England and Wales: 2011](#)

over-representation of BAME people in prisons costs the economy £234 million a year.¹⁸

4.6 Liberal Democrat policy is to “Reduce the overrepresentation of individuals from a BAME background at every stage of the criminal justice system”.¹⁹ A working group on race equality has proposed a number of policies to help achieve this in a policy paper to be debated at Spring Conference.²⁰

4.7 Women make up less than 5% of the prison population, but they are more likely than male prisoners to be serving short sentences for non-violent offences.²¹ The majority experienced childhood abuse²² and many are victims of domestic abuse.²³ They are more likely than male prisoners to report poor mental health²⁴ and problems with alcohol and drugs.²⁵

4.8 Two thirds of female prisoners are mothers of dependent children, and at least a third of these are single parents. Around 17,000 children are separated from their mothers by imprisonment each year and the vast majority of them are moved out of their homes as a result.²⁶ This has a strong detrimental effect on their development and wellbeing and a harsh impact on the welfare of their mothers, going far beyond the impact of the imprisonment itself.

4.9 Existing Liberal Democrat policy on female offenders includes establishing a Woman’s Justice Board to replicate the success of the Youth Justice Board and legislating for the best interests of dependent children to be considered at sentencing.²⁷

¹⁸ Ministry of Justice, [An exploratory estimate of the economic cost of Black, Asian and Minority Ethnic net overrepresentation in the Criminal Justice System in 2015](#)

¹⁹ [2017 Manifesto](#)

²⁰ Policy Paper 135: [Eradicating Race Inequality](#)

²¹ Ministry of Justice, [Offender management statistics quarterly: July to September 2018](#), Prison Population 31 December 2018 Tables 1.1 & 1.2b

²² Ministry of Justice, [Prisoners' childhood and family backgrounds](#)

²³ Prison Reform Trust, [“There’s a reason we’re in trouble”: Domestic abuse as a driver to women’s offending](#)

²⁴ HM Chief Inspector of Prisons for England and Wales, [Annual Report 2016–17](#)

²⁵ HM Chief Inspector of Prisons for England and Wales, [Annual Report 2017–18](#)

²⁶ Howard League for Penal Reform, [Mothers in prison: The sentencing of mothers and the rights of the child](#)

²⁷ [Policy Paper 118: Doing What Works to Cut Crime](#)

4.10 As of January 2019, 59% of all prisons in England and Wales were overcrowded, including five that were over capacity by more than 50%.²⁸ This means that many prisoners are forced to share cells only big enough for one.

4.11 The number of prison officers, supervising officers and custodial managers fell by a quarter between 2010 and 2014, from 24,830 to 18,251. The number of prison officers has partially recovered in recent months, with a net increase of 4,320 between March 2017 and December 2018.²⁹

4.12 However, operational staff numbers are still well below what they were in 2010 and the number of officers leaving the service increased by 23% in 2018, meaning that the remaining workforce is increasingly inexperienced.³⁰ Current party policy is to:

“increase prison officer levels and other staff beyond the additional resource promised by the current Government to reach a safe prisoner-to-officer ratio and to increase the quality and effectiveness of work done with the inmates of the prisons.”³¹

4.13 In 2018 alone, HM Chief Inspector of Prisons issued Urgent Notification letters setting out significant concerns about four local prisons: Nottingham, Exeter, Birmingham and Bedford. Many others have also received very critical inspection reports. The situation at HMP Birmingham deteriorated so badly – leading, among other things, to a 14-hour riot in December 2016 – that the Ministry of Justice was forced to step in and take over running the prison from G4S.

4.14 Deaths, assaults and self-harm incidents in prisons have all risen to shockingly high numbers.³² In particular:

- There were 325 deaths in custody in 2018, a 26% increase on the 257 deaths in 2015. The past three years have seen

²⁸ Ministry of Justice, [Population bulletin: monthly January 2019](#) (Capacity = Certified Normal Accommodation)

²⁹ Ministry of Justice, [HMPPS workforce statistics bulletin: December 2018](#), Table 3

³⁰ Ministry of Justice, [HMPPS workforce statistics bulletin: December 2018](#), Tables 4 & 8c

³¹ Spring Conference 2017, [F5: Tackling Overcrowding in the Prison System](#)

³² Ministry of Justice, [Safety in Custody quarterly: update to September 2018](#)

the highest rates of prison deaths since records began in 1978. Those 325 deaths include 92 suicides.

- 52,814 incidents of self-harm were recorded in the 12 months to September 2018, the largest 12-month total on record and a 63% increase since 2015.
- 33,803 assaults were recorded in the 12 months to September 2018 – a record high and 65% more than in 2015. That includes 3,949 serious assaults and 10,085 assaults on prison staff – in both cases also the largest 12-month totals on record.

4.15 Extensive drug abuse is endemic in prisons. A fifth of all random mandatory drug tests are positive.³³ Psychoactive Substances such as Spice and Black Mamba are now the most common drugs in prisons, although use of cannabis and opiates has also increased. Excluding Psychoactive Substances (for which tests have only been carried out since September 2016), 10.6% of drug tests were positive in 2017-18 – up from 6.9% in 2014-15 and the highest rate since 2004-05.

4.16 As these appalling trends make clear, prison conditions are well below what is acceptable. HM Chief Inspector of Prisons has described them as:

“some of the most disturbing prison conditions we have ever seen – conditions which have no place in an advanced nation in the 21st century.”³⁴

4.17 Understaffing and overcrowding causes prisoners to spend far too much time locked in their cells and far too little in purposeful activities such as work, education and training.

4.18 A fifth of prisoners spend more than 22 hours a day locked in their cells, and only 16% are out of their cells for more than 10 hours a

³³ Ministry of Justice, [HMPPS Annual Digest 2017/18](#)

³⁴ HM Chief Inspector of Prisons for England and Wales, [Annual Report 2017-18](#)

day. As a result, 57% of prisons were graded “poor” or “not sufficiently good” for purposeful activity in 2017-18, up from 49% in 2016-17.³⁵

4.19 Overcrowding also means that prisons often have no capacity to take in new prisoners, so that many are moved between prisons for reasons that have nothing to do with their risk or rehabilitation but are driven by the need to use all available space across the prison estate. These disruptive transfers set back prisoners’ rehabilitation and make continuity of services – particularly education, training and treatment for mental ill health and addiction – far more difficult.

4.20 As a result, 48% of adults leaving prison are convicted of committing at least one new offence within a year.³⁶

4.21 Too many prisoners are held for too long in solitary confinement – whether in a segregation unit or a close supervision centre. In the first quarter of 2014, almost 10% of the prison population spent at least one night in segregation, with 9% of them held in solitary confinement for more than 12 weeks. The number of prisoners in closed supervision centres averaged 50, and the average length of stay was 40 months.³⁷

4.22 Prolonged periods of solitary confinement are very damaging to mental health and in 2015 the Supreme Court ruled that, under the Prison Rules, the Secretary of State was required to approve any period of segregation longer than three days.³⁸ However, the Government responded by amending the rules to allow prison governors to authorise segregation for up to 42 days without the Secretary of State’s approval. We believe the maximum period of segregation without external review should be reduced.

4.23 There has been a dramatic increase in the imposition of additional days of imprisonment as punishments for prisoners. The number of additional days imposed more than doubled between 2014

³⁵ *Ibid.*

³⁶ Ministry of Justice, [Proven reoffending statistics: January to March 2017](#)

³⁷ Prison Reform Trust, [Deep Custody: Segregation Units and Close Supervision Centres in England and Wales](#)

³⁸ *R (on the application of Bourgass and another) v Secretary of State for Justice* [2015] UKSC 54

to 2017, from 159,497 to 359,081 – 983 years of additional prison time.³⁹

4.24 The Scottish Prison Service has abolished the use of additional days of imprisonment, because it found no evidence that it improved prisoner behaviour. This change has not led to an increase in violence or a deterioration of behaviour.⁴⁰

4.25 The Howard League for Penal Reform argues that England and Wales should also abolish additional days. We believe that, at the very least, the number imposed should be dramatically reduced and they should only ever be imposed as a last resort.

4.26 Suitable prisoners can be released early on Home Detention Curfews (HDCs), with electronic tagging. Early release is an important aid to rehabilitation and reduces prison overcrowding. In early 2018, the Government ordered prison governors to review cases of prisoners refused HDCs, leading to a large increase in their use. 3,590 prisoners were released on HDCs between July and September 2018, up 60% on the same period in 2017.⁴¹ We support greater use of HDCs.

4.27 Release from prison is a process, not an event. We therefore support greater use of release on temporary licence (ROTL) where appropriate, particularly for prisoners nearing the end of their sentence. ROTL is explored in greater detail in Section 5.

4.28 Although the Coalition Government abolished new IPP sentences of in 2012, it did not abolish them for those offenders already serving them. As of the end of 2018, there were 2,489 prisoners serving IPP sentences, 91% of whom have been kept in prison beyond their tariff expiry date.⁴² Current party policy calls for “the conditional release of all prisoners on indeterminate sentences who have served their minimum term.”⁴³

³⁹ Howard League for Penal Reform, [The rising tide: Additional days for rule-breaking in prison](#)

⁴⁰ Howard League for Penal Reform, [Out of control: Punishment in prison](#)

⁴¹ Ministry of Justice, [Offender management statistics quarterly: July to September 2018](#), Prison releases Table 3.4i

⁴² Ministry of Justice, [Offender management statistics quarterly: July to September 2018](#), Prison Population 31 December 2018 Table 1.9a

⁴³ Spring Conference 2017, [F5: Tackling Overcrowding in the Prison System](#)

4.29 We believe that, as far as possible, prisoners should be located in prisons near their homes. Not only does this allow the prisoners to maintain strong family relationships, it is also important for continuity of rehabilitative services in prison and in the community post-release.

4.30 Richard Steer has proposed a number of recommendations on how to “build in’ opportunities for rehabilitation and reform” when constructing new prisons.⁴⁴ This includes Nordic-style ‘normalised’ housing, better use of natural light and good lines of sight. We support these principles for new prisons and, as far as possible, for the renovation of existing prisons.

Question 8: Do you support reducing the use of solitary confinement and the maximum period of segregation without external review?

Question 9: Do you support the reduction or abolition of additional days of imprisonment as a punishment?

Question 10: Do you support greater use of Home Detention Curfews with electronic tagging?

Question 11: Do you support the conditional release of all prisoners on sentences of Imprisonment for Public Protection once their tariff has expired?

Question 12: What other steps should be taken to relieve overcrowding and improve conditions in prisons?

⁴⁴ Richard Steer, [Rehabilitation by Design](#)

5. Probation

5.1 Under Section 2 of the Offender Rehabilitation Act 2014, anyone leaving prison after a sentence of more than a day but less than two years is subject to a mandatory supervision period of at least 12 months. The Act specifies that “The purpose of the supervision period is the rehabilitation of the offender.”

5.2 We support the mandatory supervision of offenders after their release from prison. As set out in Section 3, we also believe that greater use should be made of tough community-based sentences involving supervision, as an alternative to prison. But they must be made to work effectively – and that means the deployment of additional resources.

5.3 Since 2015, probation provision has been split between the National Probation Service (NPS), which is responsible for supervising ‘high-risk’ offenders, and 21 Community Rehabilitation Companies (CRCs), which have responsibility for ‘low- and medium-risk’ offenders.

5.4 The NPS is generally performing reasonably well, although staff shortages mean that probation officers often have to contend with very high workloads and are therefore not able to give offenders the attention they need. Officers are subjected to considerable stress, which has markedly sapped morale in the service.

5.5 The CRCs, on the other hand, are failing badly and have come nowhere near meeting their objectives. Inspections have revealed a range of problems, including:

- “Insufficient contact, a lack of meaningful contact and poor continuity of contact with those under probation supervision”, with many CRCs supervising individuals by telephone only. This can make it impossible for CRCs to enforce probation requirements properly.
- “Insufficient purposeful activity”, with more than one in ten offenders receiving no purposeful activity at all.

- “Very poor Through the Gate services,” with one in ten people released from prison without a roof over their heads.
- A lack of services to meet individuals’ needs, with people sometimes left waiting many months for services or not receiving them at all.⁴⁵

5.6 Based on these inspections, HM Inspectorate of Probation has concluded that:

“there has been little innovative work to reduce reoffending, voluntary sector involvement in probation services is ever diminishing and resettlement services provided to prisoners before release are poor.”⁴⁶

5.7 Trade unions warn that morale of probation officers, in both the NPS and CRCs, is at an “all-time low”.⁴⁷ We believe that probation officers perform an important public duty and must be properly recognised and supported in their work. We are concerned that low morale will make it harder both to retain experienced officers and to recruit new ones.

5.8 In 2018, the House of Commons Public Accounts Committee found that “the extent of involvement of the third sector in delivering probations services has been woeful” – partly because of the underfunding of CRC contracts, and partly because “many third-sector organisations are withdrawing from probation services because the support they provided is now part of government probation supervision”.⁴⁸

5.9 The Justice Select Committee found that “CRC performance in reducing reoffending, particularly the number of times an offender reoffends, has been disappointing” and concluded that “we do not think

⁴⁵ House of Commons Justice Committee, [Written evidence from HM Inspectorate of Probation](#)

⁴⁶ *Ibid.*

⁴⁷ House of Commons Justice Committee, [Transforming Rehabilitation](#)

⁴⁸ House of Commons Public Accounts Committee, [Government contracts for Community Rehabilitation Companies](#)

that the payment by results mechanism provides sufficient incentives to providers to reduce reoffending”.⁴⁹

5.10 The Committee also highlighted problems resulting from the split of probationers between the NPS and CRCs based on risk, including “co-ordination challenges” and the fact that “the risk of harm an individual poses can change over time”.⁵⁰ The Howard League for Penal Reform argues that the “two-tier system” created by this split “is the central flaw corrupting the whole edifice” and that it should be reintegrated into a single service.⁵¹

5.11 In July to September 2018, the Ministry of Justice consulted on proposals to end the current CRC contracts early (in 2020 rather than 2022); replace the current system of 21 CRCs and seven NPS districts with 11 probation regions; and introduce a requirement that offenders are seen face-to-face at least once a month during the first year of supervision.⁵² The Government has not yet announced the outcome of this consultation.

5.12 Reforms to the current system of CRCs – including ending the existing contracts early and putting new contracts in place on better terms – are clearly necessary. However, we do not believe these will go nearly far enough to address the major problems in probation.

5.13 Our proposal of local bodies with responsibility for all of an offender’s probation and rehabilitative services would solve the “co-ordination challenges” identified by the Justice Select Committee. Local commissioning would enable a proper multi-agency approach, including public, private and third-sector providers.

5.14 The imposition and enforcement of supervision requirements plays an important role in rehabilitation. However, relatively minor breaches of licence requirements too often result in offenders being

⁴⁹ House of Commons Justice Committee, [Transforming Rehabilitation](#)

⁵⁰ *Ibid.*

⁵¹ Frances Crook, ‘[One last restructuring that probation staff would welcome](#)’

⁵² Ministry of Justice, [Strengthening probation, building confidence](#)

returned to prison, damaging their prospects for rehabilitation and contributing to the problems of prison overcrowding.

5.15 The number of people recalled to custody has increased in recent years. 22,542 people were returned to custody after licence recall in 2018, compared to 19,662 in 2015.⁵³ At the end of 2018, there were 6,965 people in prison on recall – an 18% increase since May 2015.⁵⁴ The majority of these are recalled for licence breaches alone, not for having committed new offences.

5.16 The improvements to rehabilitation services we are proposing will help to reduce the number of people facing recall. However, we also believe that probation services and the courts should be encouraged or required to take a more graduated approach to sanctioning people for breaching their licence conditions, returning them to prison only as a last resort.

Question 13: What period of mandatory supervision is appropriate after an offender leaves prison? Do you support a one-size-fits-all approach or should the length of supervision be tailored to the offender?

Question 14: What structural reforms, if any, are necessary to address the problems in probation?

Question 15: Do you agree that the use of recall should be restricted to a response of last resort?

⁵³ Ministry of Justice, [Offender management statistics quarterly: July to September 2015](#) & [July to September 2018](#), Licence recalls Table 5.1

⁵⁴ Ministry of Justice, [Offender management statistics quarterly: October to December 2015](#) & [July to September 2018](#), Prison Population Table 1.1

6. Children in the youth justice system

6.1 The reduction in the number of children in custody has been one of the few successes in the penal system over the last ten years, with 839 under-18s in custody at the end of 2018, down by 69% from 2,715 at the end of 2008.⁵⁵

6.2 In 2015-16, Charlie Taylor conducted a review of the youth justice system for the Government. In his final report, he unequivocally recommended that education should be at the core of our youth justice system and that 'Secure Schools' should replace Young Offender Institutions.⁵⁶ We agree. More and better education and training, as individually focused as is needed, is essential to enable children to escape the cycle of criminality that threatens so many.

6.3 However, Charlie Taylor also pointed out that we need to ensure that a broad spread of caring services is available to address the particular issues of young people within the youth justice system. Too often mental ill health and drug abuse go unaddressed. He wrote:

"Almost all of the causes of childhood offending lie beyond the reach of the youth justice system. It is vital that health, education, social care and other services form part of an integrated, multi-agency response to a child's offending, but it is more desirable that these same services intervene with at-risk children and families before their problems manifest themselves in offending. I believe this is best achieved by devolving greater freedoms and responsibility for the youth justice system to local authorities who otherwise hold the statutory accountability for educating and protecting children."⁵⁷

6.4 Apart from his proposal to hand responsibility for children in the criminal justice system to local authorities, Charlie Taylor's approach is very similar to ours. However, we presently see no reason why the new co-ordinating bodies we propose should not be

⁵⁵ Youth Custody Service, [Monthly Youth Custody Report – December 2018](#), Table 2.1

⁵⁶ Charlie Taylor, [Review of the Youth Justice System in England and Wales](#)

⁵⁷ *Ibid.*

responsible for commissioning education, training and other specialist services for the children in their areas as well as for adults. Local authorities would play a significant role in the arrangements we propose as well.

Question 16: Do you agree that Secure Schools should replace Young Offender Institutions?

Question 17: Should the new co-ordinating bodies we propose commission services for children who offend as well as for adults?

7. Rehabilitative services

7.1 Suitable housing, stable employment and strong family relationships all help to reduce the risk of reoffending, while drug and alcohol misuse, financial problems and homelessness all increase it. The prison and probation services should therefore be focused on ensuring that individual offenders receive services that help them achieve the former and avoid the latter.

7.2 Existing Liberal Democrat policy is to:

“ensure that the last few months of a custodial sentence are devoted to job-seeking, the securing of accommodation and the creation of the foundations for a law-abiding life post-release. It is unacceptable for ex-prisoners ever to be released with no accommodation or support. We will promote the practice of rehabilitation workers meeting released people at the prison gate where appropriate.”⁵⁸

Housing

7.3 HM Inspectorate of Probation has said that, for many prisoners, “finding somewhere to live on release was their greatest worry”:

“About one in seven short-term prisoners and one in ten longer-term prisoners walked out of the prison gate not knowing where they were going to sleep that night, and only a small number found suitable accommodation on the day of release.”⁵⁹

7.4 Nacro has warned that some local authorities classify ex-offenders as ‘intentionally homeless’ and therefore do not accept their duty to provide them with social housing. Some even operate a policy of refusing to accept homelessness applications from prison leavers.⁶⁰

⁵⁸ [Policy Paper 118: Doing What Works to Cut Crime](#)

⁵⁹ HM Inspectorate of Probation, [Annual Report 2017](#)

⁶⁰ House of Commons Justice Committee, [Written evidence from Nacro](#)

7.5 Our proposed co-ordinating bodies will be responsible for ensuring that prisoners have suitable housing immediately upon release and throughout their supervision period. This will involve them working closely with both local authorities and housing associations to identify for offenders, well before their release dates, suitable accommodation that they can afford.

Education, training and employment

7.6 In 2015-16, Dame Sally Coates conducted a review of prison education for the Government. She found that:

“Recognition of the importance of education in prisons appears to have been lost. There are pockets of good practice, with examples of ‘Outstanding’ education provision, but these are isolated. There does not appear to be any systematic way for prisons and Governors to learn from one another.”⁶¹

7.7 Only a quarter of prisoners enter employment upon release. In 2016, the Work and Pensions Select Committee concluded that:

“The problem of employment support in prison is partly one of coordination. Over the course of a prisoner’s sentence, various agencies and individuals are responsible for helping them to find work on release. Difficulties occur where responsibility changes or overlaps and there is no continuity... Currently, there is no clear strategy for how different agencies, in different prisons, should work together to achieve the common goal of getting ex-offenders into work. This is partly due to the absence of a single point of responsibility.”⁶²

7.8 There is a significant need for more and better training programmes for prisoners while in prison. Importantly, these should include training in using IT. Greater co-ordination is needed between prisons as to the courses they provide. Moves between prisons, for

⁶¹ Dame Sally Coates, [Unlocking potential: a review of education in prison](#)

⁶² House of Commons Work and Pensions Committee, [Support for ex-offenders](#)

whatever reason, should not lead to prisoners having to give up courses they have started. This means that the courses offered to offenders in custody require a measure of standardisation.

7.9 ROTL is a good way for prisoners to get back into work with local employers before the end of their prison sentence – as well as to rebuild and maintain important but often fractured family ties. Offending, breaching licence conditions or failing to return while on ROTL is incredibly rare: failures occur in less than 0.1% of cases.⁶³ Meanwhile, Ministry of Justice analysis shows that ROTL does reduce the risk of reoffending after release.⁶⁴

7.10 However, eligibility for ROTL has been restricted and its use has fallen dramatically in recent years: by 30% since 2013.⁶⁵ We believe that eligibility for ROTL should be expanded and local employers should be encouraged to recruit eligible prisoners.

7.11 As well as a lack of training and support in and out of prison, employer attitudes are a significant barrier to offenders finding work. 50% of employers say they would definitely or probably not consider employing offenders and ex-offenders.⁶⁶ For many employers, this is because of fears that to do so would damage the public image of their business.

7.12 There is, however, a significant number of high-profile companies offering employment to large numbers of prisoners, with very successful results. They should be encouraged.

7.13 Business in the Community's 'Ban the Box' campaign encourages employers to remove questions about criminal convictions from job application forms. This does not preclude employers from requiring applicants to disclose any criminal records later in the process, but it gives ex-offenders the opportunity to get further into the process before they have to do so, increasing their chances of success.

⁶³ Ministry of Justice, [Offender management statistics quarterly: July to September 2018](#), Prison releases Table 3.5

⁶⁴ Ministry of Justice, [The reoffending impact of increased release of prisoners on Temporary Licence](#)

⁶⁵ Ministry of Justice, [Offender management statistics quarterly: January to March 2014 & July to September 2018](#), Prison releases Table 3.5

⁶⁶ [YouGov / DWP survey](#), 26th June – 14th December 2015

7.14 The Government has 'banned the box' for most civil service jobs. We believe the ban should be extended to all public sector jobs, except those where there are clear security reasons for asking about criminal convictions in the initial application.

Relationships, health and addiction

7.15 Family visits and home leave both help prisoners to maintain good family relationships, and there is evidence that they reduce the risk of re-offending.⁶⁷

7.16 It is essential that high-quality mental health care is provided to all those who need it, whether in prison or under supervision in the community. Individuals in prison or on probation are more likely to have mental ill health than the general population – although the Government does not collect reliable data about this. We believe the collection of anonymised data about offenders' mental health should be substantially improved so that agencies can identify and meet their treatment needs.

7.17 The National Audit Office has found that "Prisoners do not routinely receive continuity of care on release, making successful rehabilitation more challenging."⁶⁸

7.18 There is good evidence that drug treatment and testing requirements help to reduce both an individual's drug misuse and the likelihood that they will reoffend. While prison-based interventions such as cognitive behavioural therapy do reduce reoffending, they are most effective if followed up with community-based interventions after release.⁶⁹

Personal finances

7.19 Financial support for people leaving prison is currently very limited. They receive a £46 discharge grant upon release – an amount that has not been increased since 1995.⁷⁰ This is clearly not enough to

⁶⁷ Ministry of Justice, [Transforming Rehabilitation: a summary of evidence on reducing reoffending](#)

⁶⁸ National Audit Office, [Mental health in prisons](#)

⁶⁹ Ministry of Justice, [Transforming Rehabilitation: a summary of evidence on reducing reoffending](#)

⁷⁰ House of Commons Work and Pensions Committee, [Support for ex-offenders](#)

live on, and it is therefore vital that prison leavers receive the benefits they are entitled to from the day they are released.

7.20 However, the Prison Reform Trust has warned that:

“The delays and lengthy waits for initial benefit payments can have serious consequences for ex-offenders. No money for basic necessities can quickly cause desperation. This might result in informal borrowing and increases the risk of reoffending.”⁷¹

7.21 Applications for Universal Credit (UC) must be made online, which is not an option for most people in prison. The Government has said that it eventually intends to support prisoners with UC claims prior to release, but its current solution is to help them apply as soon as they leave prison.

7.22 Those in “urgent financial need” are able to apply for a Benefit Advance payment worth up to 50% of the first month’s UC payment, but this is a loan that is repaid through deductions from future UC payments.

7.23 We believe prisoners must be able to apply for UC so that they start receiving their full entitlement immediately upon release. This would be just one of many benefits of providing access to IT in prisons and helping prisoners to develop their digital skills.

7.24 Under our proposals, every offender’s local co-ordinating body would have a clear responsibility for ensuring that they receive the rehabilitative services they need. That would begin at sentencing by assessing not only the offender’s risk of reoffending but also the needs that drive their offending. The co-ordinating body’s role would include, for example:

- Working with local authorities and housing associations well before release to put in place suitable, stable accommodation for prison leavers from day one.

⁷¹ House of Commons Work and Pensions Committee, [Written evidence from the Prison Reform Trust](#)

- Working with prison governors, local employers and third-sector organisations to help prisoners into work, both in prison and on ROTL.
- Working with the Department for Work & Pensions to ensure that offenders receive the benefits they are entitled to.
- Working with the National Health Service and third-sector providers to ensure offenders with mental ill health receive high-quality treatment.

7.25 A crucial part of the co-ordinating body's mandate would be to ensure continuity of services for offenders sentenced to prison when they are released under supervision.

7.26 Although both the requirements on ex-offenders and the co-ordinating bodies' responsibility for them would end at the end of the supervision period, individuals should be encouraged and supported to continue to make use of these rehabilitative services for as long as they benefit from them.

Question 18: Are there any other services not mentioned above that are particularly important for the rehabilitation of offenders?

Question 19: Do you support greater use of release on temporary licence?

Question 20: Are there any other reforms needed to bring more third-sector organisations into the provision of these services?

Question 21: Do you support 'banning the box' for all public sector jobs, and should all employers be required to 'ban the box' too?

Question 22: What else should the Government do to encourage private sector employers to provide training and employment to former offenders?

Question 23: What level of financial support should prison leavers receive, and how should it be delivered?

8. Spending to save

8.1 The Government currently spends £4 billion a year on the prison estate and probation services: £3.2 billion on prisons and £800 million on probation.⁷²

8.2 Recruiting more prison and probation officers, improving prison conditions and providing more and better rehabilitative services will all require substantial extra investment. However, against this must be set the benefits of reducing reoffending.

8.3 In the United States, many states have pioneered what they call 'justice reinvestment': funding programmes to prevent crime from the savings made by reducing the prison population. We are proposing a similar philosophy here.

8.4 In 2017-18, the average cost of keeping someone in prison was £37,543,⁷³ equivalent to £103 per day. Preventing reoffending would not only reduce those costs, but also avoid other costs in the criminal justice system. If rehabilitated offenders are gainfully employed, that also means more tax revenue for the Exchequer.

8.5 A conservative estimate puts the cost of reoffending to society at between £7.4 billion and £10.7 billion a year.⁷⁴ Quite apart from the direct costs of the criminal justice system, costs to victims, insurers, local authorities and other agencies handling the problems that imprisonment brings for offenders' families all need to be brought into account. The case for greater spending to reduce reoffending is therefore unanswerable.

8.6 Our new local co-ordinating bodies must be properly resourced to commission a wide range of services. In some cases they will fund providers directly; in others pump-prime; and in others support the funding of other statutory services. Without sufficient core funding, our proposals would be unlikely to succeed.

⁷² House of Commons Library, [Estimates day: Ministry of Justice spending](#)

⁷³ Ministry of Justice, [Costs per prison place and cost per prisoner 2017 to 2018](#)

⁷⁴ National Audit Office, [Transforming Rehabilitation](#)

8.7 We believe that the Ministry of Justice and the Treasury should work together to develop a more comprehensive method of assessing the costs and benefits of improving prison and probation and providing rehabilitative services. This is an area where the Government must spend to save.

Question 24: Are there good models of 'spending to save' that the Government should use to guide investment in rehabilitation?

Question 25: What other benefits of rehabilitation should be considered when deciding whether to invest?