

# Justice overview report 2018-2021

December 2021

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## Introduction

The Care Inspectorate is the independent scrutiny and improvement body responsible for regulation, inspection and improvement of social care and social work, including justice social work. The Scottish Government tasked the Care Inspectorate to lead on scrutiny and assurance to support the implementation of the community justice model and provide up-to-date scrutiny and assurance of justice social work.

We created a new strategic scrutiny justice team to develop and deliver robust, dynamic approaches to scrutiny activity that provides assurance on performance and progress in justice services. This report provides an overview of the scrutiny and assurance work undertaken by the team from its formation in 2018, up to 2021.

Following consultation with a high-level advisory group of justice sector stakeholders, two distinct scrutiny and assurance approaches were agreed. The initial scrutiny focus of the justice team was on community justice social work. This reflected the fact there had been no formal inspection of justice social work services in over a decade, during which time there had been significant legislative and practice changes. The initial emphasis of our scrutiny activity was on community payback orders. Activities also took account of preparations for, and the impact of, the extension to the [presumption against short sentences](#).

For the second approach, the justice team was tasked with providing scrutiny and assurance on the implementation of community justice in Scotland. Given the newness of community justice arrangements, we adopted a model of supported and validated self-evaluation. The aim was to build capacity among community justice partnerships to quality assure their own work and use the insights gained to plan and implement improvements.

In addition to these programmes of work, in 2021 our justice team also conducted a review of throughcare focussing on the community justice social work role in relation to breach and recall to prison.

This first overview report considers each approach separately, outlines key messages and highlights consistent themes that may have relevance to other local authority and partnership areas. As part of the conclusion, the report also summarises our other areas of work and future intentions.

### Impact of Covid-19

The Covid-19 pandemic resulted in a suspension in March 2020 of the scheduled scrutiny and assurance activities for 2020/2021. In August 2020, we resumed community justice social work inspection activity that had been started in one partnership. The pandemic caused significant disruption to the entire criminal justice system, including the delivery of community justice social work and the work of community justice partnerships. Mindful of the recovery status and capacity of the sector and in consultation with key partners, our justice team adapted and developed new approaches to scrutiny and assurance. This included the facility to work remotely, which enabled us to progress scrutiny and assurance activity during the ongoing pandemic.

## Key messages

These key messages have been drawn from across our scrutiny and assurance activity 2018-2021. They will not reflect the experience of all individuals and performance may have improved or declined since the work was carried out.

- People who are subject to statutory social work requirements benefit from consistent, respectful relationships with compassionate, trauma-informed staff. These relationships are often experienced as transformative.
- In collaboration with community partners, community justice social work services make a significant effort to overcome the systemic barriers people face when returning to the community upon release from prison. This is particularly evident in relation to securing suitable accommodation on release.
- The overall standard of reports prepared by community justice social workers for court and parole purposes is a strength.
- Risk management is an overall strength, characterised by robust partnership working and strong commitment to public protection. Although few in number, risk management plans are noted as being of a high quality. When risk can no longer be managed safely in the community, breach procedures are robust. When recall is deemed appropriate, people are swiftly returned to custody.
- Coherent governance structures and oversight from effective leaders at all levels are crucial to achieving positive performance and supporting a culture of continuous improvement.
- Where a comprehensive, strategic needs assessment is available, it usefully supports services and partnerships to direct resources to where they will have the greatest impact.
- The [National Outcomes and Standards](#) and related guidance continue to play an important role in underpinning best community justice social work practice.
- To ensure a competent, confident and well-trained workforce, a clear learning and development pathway for community justice social work is required, supported by a coherent strategy that provides clarity on what can be expected, when and from which agency.
- While inspection reports note positive examples of the impact of community justice social work, services themselves are less able to confidently report on the difference community payback orders make to people's lives. Sources of meaningful, qualitative data or information on individual progress is limited.
- Greater consistency is required in community justice social work practice in relation to the frequency and focus of reviews and home visits.
- Community justice partnerships are at different stages of development. Not all statutory or third sector partners are routinely involved in, or make a meaningful contribution, to achieving national priorities.

## Community justice social work<sup>1</sup>: inspection of community payback orders

Between September 2018 and November 2020, five [inspections of justice social work services](#) with a particular focus on community payback orders were completed in the following areas:

- Scottish Borders
- West Dunbartonshire
- Inverclyde
- Dumfries and Galloway
- Aberdeen City.

The inspection methodology involved:

- submission of a self-evaluation by each local authority area
- review of a representative sample of relevant records of people who were or had been subject to a community payback order
- interviews with people currently subject to a community payback order
- focus groups and interviews with members of staff, partner agencies and stakeholders, and senior managers, chief officers, elected members with responsibility for community justice social work
- verbal feedback to the local authority on findings based on the analysis and evaluation of all aspects of the inspection
- publication of an inspection report that included evidence-based evaluations of key quality indicators using a six-point scale.

The key findings presented here are aggregated across all five inspections undertaken to date. They do not, therefore, reflect the experiences of all people subject to community payback orders across all local authority areas. It is also important to bear in mind that performance may have improved or declined since the original inspection was carried out.

### Findings

**Achieving Outcomes:** we considered the extent to which the community justice social work service demonstrated improving trends against clear performance measures and showed tangible results in improving the life chances and outcomes for people subject to community payback orders.

### Measuring performance

Community justice social work services gathered data and reported on an extensive range of, largely quantitative, process-driven performance measures. This included the number of community payback orders, types of requirements imposed, timeliness of first contacts, commencement of unpaid work and time taken to complete an order. While there were geographical variations in the use of community payback orders, the nationally reported statistical data helped services identify performance trends, benchmark against comparator areas and inform improvement targets. We considered

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<sup>1</sup> This term is used to reflect current language in the sector and the statutory role within community justice partnerships. It is also used to differentiate between community and prison based social work.

this information alongside evidence provided by each area in support of their self-evaluation for this particular quality indicator.

Where services had a robust and coherent performance management framework, it supported the monitoring, reviewing and reporting of performance. Frameworks, alongside routine and regular quality assurance, helped leaders at all levels to recognise where improvement was required and direct resources accordingly. While there were examples of services making efficient use of data to drive continuous improvement, in general there was no consistency in the format of performance frameworks, the type of measures or frequency of reporting. Some services had yet to clearly define a range of strategic priorities for the justice service or fully embed approaches to measuring performance. Accessing timely and reliable data to aid analysis of performance was often challenging as information management systems could be difficult to interrogate.

All services recognised the importance of timeliness, particularly in relation to the commencement of unpaid work requirements. Delays or interruption to the delivery of unpaid work resulted in people remaining within the criminal justice system for longer than the court intended. We noted examples of creativity and innovation in providing unpaid work opportunities, many of which involved other community partners. These not only enabled people to fulfil their obligations to the court and give back to the community, but often offered opportunities to develop life and work skills to help reduce offending. Services faced a number of consistent challenges. These related to sustaining sufficient staffing levels to meet demand. There were also pressures to ensure consistent, flexible, access to a range of appropriate unpaid work opportunities to meet a variety of often complex, individual needs.

## **Outcomes for people**

The [guide to inspection](#) recognised that performance in relation to person-centred outcomes was a developing area of practice within the justice sector. In general, services were limited in their ability to confidently report on the impact of community payback orders on the life circumstances of people who were subject to them.

Most areas had yet to agree a set of identified, person-centric outcomes against which progress or change could be demonstrated. This was exacerbated when there was an absence of consistent data or standardised mechanisms to capture the necessary information. Services were not consistently gathering feedback from people using their service or stakeholders. There was no standardised process to assess the needs and risks of people with a standalone unpaid work requirement at the start of their community payback order. This made it difficult to capture any positive impact a person may have derived. There was an over-reliance on exit questionnaires, the use and return of which was often minimal. As questionnaires were completed at the end of a community payback order, they did not capture the reasons why a person did not engage or successfully complete their community payback order. This limited the use of these questionnaires in informing service delivery improvements.

Encouragingly, community justice social work leaders, through Social Work Scotland and in partnership with justice stakeholders are working to identify and adopt meaningful, and measurable, person-centred indicators. This will help services to demonstrate the difference they are making to the lives of individuals, victims and communities affected by offending. Consistency in terms of sources of data, collection

methods, analysis and reporting will be crucial to evidencing the impact of services and demonstrating the effectiveness of community payback orders.

As the national scrutiny body for social care and social work, we recognise that ‘not everything that can be counted counts, and not everything that counts can be counted<sup>2</sup>’. Through reading individual records in detail, we identified a range of positive personal developments for people during the course of their community payback orders and highlighted these by theme within inspection reports. Quality, analytical recording of person-centred goals, and progress towards achieving them, plays an important role in capturing individual progress, outcomes and impact for the person. For people with a supervision requirement, the progress record on the level of service/case management inventory (LS/CMI) system offered opportunities to capture progress over time. However, this function was not fully utilised.

**Impact and experience of community payback orders:** we focussed on the impact that community justice social work services (including commissioned services and those received as a result of being on a community payback order) had on the lives of people who were, or had been, subject to a community payback order. This included considering people’s views about how their life chances had improved as result of the services provided to them and the quality of relationships with staff.

Listening to the perspectives of people on community payback orders was an important part of the inspection methodology. They were best placed to identify what had made a difference in their lives in terms of encouraging change and supporting desistance from offending.

Of the 210 people we met during inspections, the majority reported positively on the quality of relationships with staff across community justice social work services. They talked about being treated with respect, which encouraged them to engage with the requirements of their community payback order and attend regularly. A number recounted examples of relationships with compassionate and trauma-informed staff that had had a transformative impact on their lives. Such relationships were characterised by continuity and consistency of contact, individualised support and relationship-based interventions which encouraged and supported positive change.

We routinely heard about staff going above and beyond what was expected to support people to overcome barriers and achieve intended outcomes. People also welcomed opportunities to engage with third sector agencies such as Turning Point Scotland, Venture Trust and Shine mentoring services. They felt these supports promoted wellbeing.

Engaging and constructive unpaid work opportunities were highly valued, particularly when people could see the difference their efforts made to others or their community as a whole. Social isolation was a significant issue for many. The structure of a community payback order, particularly where there was an unpaid work requirement, enabled people to use their time constructively. Creative use of the ‘other activity’ component of unpaid work supported people to learn new skills, which supported employability.

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<sup>2</sup> A quote attributed to William Bruce Cameron ‘Informal Sociology: A Casual Introduction to Sociological Thinking’ (1963) (Also attributed to Einstein)

In all areas, women had access to women-only unpaid work options. In several areas, women had access to specific group programmes and spaces they viewed as welcoming and safe. Specific women's centres or hubs offered support during a community payback order and beyond when required. These resources helped build community connections and encouraged engagement with mainstream services.

People with convictions for domestic abuse were able to access the Caledonian programme in several areas. Where the programme was not available, services were delivering local, bespoke programmes. While structured, group-work interventions were viewed as challenging, people welcomed the opportunity to consider and change the attitudes and behaviours that had contributed to their offending.

**Delivery of services:** we considered the extent to which the community justice social work services recognised the need for help and support and provided this at the earliest opportunity. We also considered the quality of assessment and planning, and the range and quality of different types of intervention. We also explored how people were involved in key processes.

### **Providing help and support**

Community justice social work services made clear efforts to identify services and sources of support to meet individual needs. Services were appropriately flexible in accommodating and responding to personal commitments, as well as any travel constraints and caring responsibilities. In general, referrals to support agencies were timely and made at the earliest opportunity. There was a range of national and third sector agencies providing support. However, some staff expressed concern about diminishing local services and there was sometimes a lack of clarity on what was being provided by which agency. This had the potential for duplication of service provision and confusion in service delivery and access.

Generally, collaboration between community justice social work and service providers was positive. This helped to improve access to support services and contributed to greater diversity in the availability and type of unpaid work opportunities. A number of services had enhanced the level of support available to people with standalone unpaid work requirements. Introducing case managers or social work assistant roles meant that people with identified needs benefitted from the type of support and guidance ordinarily only available to those with a supervision requirement. These roles increased capacity within the service to build relationships and remove barriers to engagement, particularly for people with complex needs. This helped to reduce the need for community payback orders to be returned to court due to non-compliance. People welcomed these additional arrangements and made effective use of the supports available to attend appointments, address housing and benefits issues and improve their general life circumstances and sense of wellbeing.

### **Assessing risk and need**

The quality of criminal justice social work reports submitted to court was a clear and consistent strength. In total, we considered 390 reports. We evaluated most as good or better, with fewer than five rated as weak. Sheriffs viewed reports as helpfully informing decisions on the suitability or otherwise of community disposals.

A comprehensive level of service/case management inventory (LS/CMI) assessment had been completed for most people with a supervision requirement. We evaluated the

overall quality of these as good or better. Of the 213 completed assessments we evaluated, fewer than 10 were rated as weak. Assessments of risk and need informed supervising social workers in drafting case management plans to best meet individual need and reduce the risk of reoffending.

Deviation from the timescales for completing the LS/CMI assessment set out in national standards was an area for improvement across several areas. There were examples of the timescale for completion being extended, sometimes significantly, beyond the expected 20-days with a view to allowing staff more time to undertake assessments, often in relation to complex needs. Allowing additional time did not necessarily result in greater quality. For example, a higher proportion of assessments we rated as very good or excellent had been completed in accordance with the 20-day threshold than those we rated adequate or weak, where almost half were outwith the 20-day timescale.

We inspect against national standards and we therefore expect that assessments are completed in accordance with guidance. Best practice in assessment of risk and need supports early recognition of, and response to, identified issues to reduce the likelihood or imminence of further offending. When the community justice social work service deems more time is required, this should be for the shortest period possible. Additionally, this should be agreed on a case-by-case basis with ratification from a manager noted within records as opposed to a blanket service-wide approach. We noted that decisions to not adhere to standards needed to be reflected in local policies and clearly communicated to staff. Robust quality assurance and oversight was needed to ensure safeguards were sufficient and for leaders to be assured that the intended benefits were achieved.

The Risk Matrix 2000 and Stable and Acute 2007 specialist tools were universally used to inform assessments of sexually motivated offending. Several areas had trained staff and made appropriate use of the most up-to-date version of the Spousal Abuse Risk Assessment to inform domestic abuse assessments. In all areas, there were examples of age-appropriate tools being used to holistically assess a young person's needs and risks.

The number of people subject to community payback order supervision requirements who were deemed to require an assessment of risk of serious harm (RoSH) was very small. Inspection findings in relation to the assessment of risk of serious harm were mixed. There were staff who had benefitted from national assessment training and undertook assessments to a high standard. There were also examples where a risk of serious harm had not been undertaken where we judged one was merited.

Approaches to the identification and assessment of risk and need for people subject to standalone unpaid work community payback order requirements varied. Generally, there was no specific process for this. Unpaid work staff played an important role in identifying, communicating and escalating concerns regarding risk and need where appropriate. In areas where local processes had been established, the service more consistently identified and recorded responses to relevant risk and need.

### **Planning and providing effective interventions**

Community justice social work services and staff understood their roles and responsibilities in relation to national outcomes and standards and the national guidance for community payback orders. Nevertheless, there was often significant drift

in completing tasks in accordance with expected timescales for case management plans, statutory social work reviews and home visits. There was a need for improvement in the frequency, focus and recording of statutory social work reviews for people subject to a supervision requirement. Standard review templates were often available but not always used. Opportunities to note a person's progress, recognise success or record required actions were therefore missed. Consistent use of standardised templates has potential to support quality assurance. It also provides information on the extent to which individual, person-centric goals are being achieved as a result of the services and supports provided. Similarly, in most areas there was scope to strengthen and improve practice in relation to home visits. This included clearly recording the rationale for when home visits were not deemed appropriate due to risk to staff.

The importance of consistent and meaningful relationships with staff was a key finding from inspections. Purposeful supervisory relationships ensured people were clear about plans and provided opportunity for constructive challenge to the attitudes and behaviours which contributed to offending. Unpaid work staff were viewed as approachable and supportive and supervisors often played an important role in assisting individuals to build confidence in their abilities and to develop their skills. Such relationships encouraged change and supported desistance from offending. They were also important in recognising progress or when more needed to be done to fulfil the various requirements of the community payback order.

There was a high degree of correlation between an individual's identified risks and needs and the intensity of supervision. Staff management of non-compliance and the use of discretion was an overall strength. Although there were variations in the quality of case management plans, the general standard was good. Notably, the inspections where the highest number of case management plans were rated as good or better, also had the highest percentage of plans completed to timescales and recorded within the LS/CMI system.

Generally, people had access to the required interventions during their community payback order. There was a commitment to providing person-centred responses and recognising the uniqueness of a person's specific circumstances. Offence-focussed work was particularly evident where services had invested in, or ensured access to, a range of structured interventions and resources. High-quality case recording was important for evidencing the range, focus and impact of social work interventions within supervision sessions.

We noted that effective collaborative working, reflected in the quality of case management planning, was a particular strength in several areas. This was important in ensuring people accessed specialist substance use and mental health support. Partnership working was also crucial to the effectiveness of public protection arrangements and related information sharing processes.

Where a person did not have access to a service, the cause was primarily due to their failure to engage with the service. There were also instances where this was due to delays within services or the need for the service not being identified by staff.

### **Involving people in key processes**

Overall, there were opportunities for people to have their voices heard and become involved in key processes. This was particularly evident in services with a clearly

articulated commitment to person-centred practice, with staff actively consulting people and considering their views at key stages of their community payback order. As a result, people felt listened to and informed about the expectations of them during their order.

Meaningful consultation with people contributed to new initiatives and improvements in service delivery, including examples where there had been upgrades to the décor and functionality of justice social work environments. The enduring impact of poverty presented challenges for services and people subject to the various requirements of a community payback order. As a result, all services had introduced initiatives to mitigate or remove potential barriers to engagement. These included supporting travel, providing food, or enabling flexible and personalised engagement methods.

**Leadership:** we examined the effectiveness of leaders responsible for delivery, development, quality and oversight of the community justice social work service. We focussed on governance, oversight and how leaders used performance management to drive service improvement, innovation and change. We also considered the extent to which leaders involved staff and partners and learned from others to develop services.

Governance arrangements for community justice social work vary nationally. To date, three of the services we inspected were led by integration joint boards as part of health and social care partnerships and the other two areas remained within local authority structures. There were variations in evaluated performance across both governance systems. As each area was unique in terms of how justice services were configured and delivered, it was not possible to reach conclusions on whether one arrangement was more efficient and effective than the other.

We noted that leadership was particularly effective when there was explicit ownership of, and responsibility for, the justice social work service. A clear vision and aspiration for the service was important. Consistent oversight of performance supported innovation and helped leaders direct investment to where it was most needed and had the greatest impact. For example, realignment towards early intervention and prevention in collaboration with community justice partners to achieve strategic priorities. A culture of continuous improvement was characterised by being outward looking and open to learning from others. Robust and committed leadership at all levels was crucial. Where it was not evident at a strategic level, inspectors noted strong operational management going some way to mitigating for deficiencies in the short term.

## Community justice partnerships: supported and validated self-evaluation

The Scottish Government 2016 [National Strategy for Community Justice](#) included a commitment to achieving a decisive shift from custody to community, through increased use of effective, evidence-based community interventions.

During the overview period, we worked in partnership with Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) to support the implementation of the new community justice model through a [validated self-evaluation](#) approach. We carried out assurance activities across the following five community justice partnerships, one of which incorporated three local authority areas:

- North Lanarkshire (did not involve HMICS)
- Clackmannanshire
- Ayrshire (North, South and East)
- Shetland
- East Lothian.

The supported and validated self-evaluation methodology included:

- support and guidance from a strategic inspector for partnership areas to undertake self-evaluation.
- submission of a self-evaluation by the partnership
- analysis of the submitted documents by the Care Inspectorate/HMICS team
- follow-up activities with the partnership to explore any areas of uncertainty (these included visits, interviews and focus groups)
- verbal feedback on the findings to each partnership based on the analysis of all the evidence gathered.
- publication of the validation letter.

### Findings

#### Partnership approach to self-evaluation

Community justice partnerships were at different stages of development with varying experience of undertaking joint self-evaluation. There was positive engagement from all areas and strong representation and engagement from most statutory and non-statutory partners. Development sessions were generally well attended and provided partnerships with an opportunity to gain a better understanding of the quality indicators to make a meaningful contribution to the self-evaluation process. The sessions were collaborative and reflected a clear desire to gather a range of views and evidence to support findings in relation to each quality indicator.

In all areas, there was shared ownership of the submitted self-evaluations, which were accompanied by the available supporting evidence. In this way, partnerships were enabled to reach coherent, evidence-based conclusions on the extent to which they were making progress against national priorities. The process also highlighted where evidence was less robust and further action was required.

**Planning and delivering services in a collaborative way:** This quality indicator focussed on the effectiveness of collaboration by all statutory partners; the extent to which high quality community justice outcome improvement plans were in place and

## the effectiveness of collaborative working with the third sector and non-statutory partners.

In all partnership areas, there was a strong commitment to collaboration. The effectiveness of arrangements was often underpinned by established, long-term relationships between partners, many of whom were used to working together in other strategic groups. Where a comprehensive strategic needs assessment had been undertaken, partners were able to use the information to inform strategic plans and direct services accordingly to meet identified need. All areas had produced community justice outcome improvement plans in accordance with legislation and had received feedback on their quality from Community Justice Scotland. This feedback had informed self-evaluations and was being used to support improvement.

The extent to which all statutory partners were meaningfully represented within the partnership was mixed. In general, the Crown Office and Procurator Fiscal Service was not routinely involved in attending community justice partnership meetings. Instead, they operated a sheriffdom model that supported local engagement. Overall, representation and contribution from the Scottish Courts and Tribunal Service was underdeveloped.

The extent to which third sector or new statutory partners were involved varied. The contribution made by the third sector was highly valued with examples of representatives holding leadership roles and using their knowledge and skills effectively to the benefit of the partnership. Local events were helping to build the visibility of the partnership as well as raise community awareness of, and involvement in, the services being delivered. A number of areas had introduced thematic working groups to progress and deliver on shared and cross-cutting strategic priorities. The extent to which non-statutory partners such as local businesses were involved in planning and delivering services was limited, reflecting the newness of arrangements at that time.

**Effective use and management of resources:** The themes for this quality indicator considered how well partnerships were leveraging resources, the effectiveness of joint deployment and expenditure of resources and the extent to which best value was being achieved.

All partnerships were committed to making best use of the resources available to them. With no specific allocation of ring-fenced funding allocated to community justice partnerships, a key challenge for partners was in identifying the resources that were within their control. There were specific considerations for rural authorities distanced from potential sources of support or access to available specialist resources. Mapping of services and identifying the totality of the various collective resources and personnel at their disposal was a useful approach.

There were numerous examples of partnerships supporting innovative local projects and leveraging funding/resources to deliver on community justice outcomes. This required partners to analyse and identify what was working well and where change or improvement was required. Undertaking small tests of change was helpful in this regard. While partners were in the very early stages of considering joint budgeting there was a commitment to avoiding duplication and achieving best value within a challenging financial climate.

**Leadership of strategy and direction:** This quality indicator focussed on the effectiveness of collaborative leadership in enabling partners to fulfil their respective roles and responsibilities. It considered the extent to which national and local strategic intentions were prioritised and the extent to which leaders were building a sustainable model to develop and deliver positive outcomes.

Strong and stable leadership helped to secure buy-in and support high levels of attendance at meetings as well as meaningful contributions from partners. Robust governance and accountability arrangements were central to ensuring continuity and connectivity across strategic groups and cross-cutting priorities. For example, identifying and directing resources towards early intervention and prevention.

Partnerships were often navigating significant political, structural and organisational changes alongside turnover in representation. Such factors impacted on the pace of implementation and progress in delivering on priorities. A pan-partnership model across several areas supported partners to secure buy-in from organisations that covered the same areas and to achieve economies of scale.

Overall, there were difficulties in defining and achieving shared priorities when there were challenges in identifying the most appropriate representation from within large organisations such as the health board and the health and social care partnership.

## Community justice social work: throughcare review

In 2020, the Scottish Government established the national criminal justice programme Recover, Renew, Transform (RRT) in response to the ongoing impact of Covid-19 on the justice system in Scotland. The Recovery of Community Justice and Prevention of Offending subgroup was tasked with exploring breach of licence and recall to prison. This was with a view to furthering understanding of recall and related processes to reduce the number of people being recalled to custody, where appropriate.

In March 2021, we were asked to undertake a review of throughcare with a particular focus on breach of licence and recall to custody. We developed a methodology and supporting tools to conduct a thematic review of practice across four local authority areas. Our review sought to identify potential barriers to reintegration and provide assurance that community justice social work contributions to breach and recall processes were operating as they should. We published [our report](#) in September 2021.

The methodology included:

- a position statement prepared by each area
- distribution of a staff survey
- review of a representative sample of individual records from each area
- focus groups with staff to address any areas of uncertainty
- in-person interviews with individuals who had been recalled to prison
- distribution of a survey across the prison estate to individuals with experience of recall.

### Findings

#### Strengths

Community justice social work throughcare services were robust and credible. There was a coherent and consistent understanding of statutory duties under the full range of national guidance and relevant legislation pertaining to the various throughcare release licences and orders.

The evidence gathered from the relevant activities described above confirmed the commitment and efforts of staff to protect the public. Staff also used their experience, knowledge, skills and social work values effectively to support people to make changes in their lives that improved their wellbeing and encouraged desistance from offending.

Although not specifically linked to the areas that contributed to our review of practice, people with lived experience of recall to custody also contributed to the review with individual in-person interviews or a survey. There was clear alignment between the views they expressed, the findings from the review of records and what practitioners had told us.

The importance of trusting, transparent and consistent relationships was seen as key to making a successful return to the community and avoiding a return to prison. Access to sustainable accommodation was crucial to gaining stability as was timely access to specialist substance use and mental health supports.

There was good awareness of the barriers people faced when returning to the community. Staff made significant efforts to ensure a person's fundamental basic

needs were met on release. This included accessing food, money and working in partnership with housing colleagues to secure somewhere suitable to live.

Where required, people were generally directed to specialist support agencies to meet substance use or mental health needs. This emphasised the importance of efficient and effective pre-release planning in supporting a successful transition from custody to community.

We rated the majority of home background reports as good or better in terms of quality. However, a significant proportion (just over one-quarter) were of an adequate standard. This indicated scope for further improvement and greater consistency. The quality of LS/CMI assessments of risk and need and the resulting case management plans were variable. Just under half were rated good or better, again indicating capacity for practice to be strengthened. Timely completion was often affected by delays in sharing assessments from prison to the community.

As was found in respect of community payback orders, practice in relation to statutory social work reviews was variable and there was scope to improve scheduling, focus and recording. Useful standardised templates were often available but not consistently used.

There were notable strengths in practice related to the robustness of supervision, and response to non-compliance. The management of risk was a significant strength characterised by effective collaborative working and risk management plans that were of a high standard. It was clear that when it was deemed that the risk posed by an individual could no longer be safely managed in the community, the use of breach and recall processes was rigorous.

## **Challenges**

An important and consistent challenge for services related to parole oral hearings, which were viewed as impacting negatively upon service delivery and staff morale. Some social workers experienced hearings as adversarial and perceived a disregard for their role and expertise. Workers recognised the need to be held accountable for their practice and decisions but felt professionally undermined when what they viewed as excessive criticism of their assessments and professional judgement took place, particularly in front of individuals they were supervising. Concerns were exacerbated by a reported lack of access to specific throughcare training and up to date guidance.

Some challenges were beyond the control of community justice social work alone. People often required significant support to meet basic needs with some crucial services inaccessible until the day of release. A consistent barrier was noted in relation to timely access to mental health support. In such instances, people either did not meet the criteria to receive a service or experienced lengthy delays in accessing support. There was clear recognition from both staff and people who contributed to the review that using time productively was essential to supporting desistance and reducing the risk of breach and recall. Nevertheless, access to employability services or opportunities to use time constructively was often noted as a gap.

Ultimately, we were assured that community justice social work contributions to breach and recall processes were operating as they should. Inevitably, there were instances where people may have benefitted from more intensive supervision or earlier

intervention to meet presenting needs. In most instances, we concluded there was little that services could have done differently to reduce the likelihood of breach.

We made several recommendations for actions that will be progressed by national justice partners to further improve practice. Identified actions related to the need for a clear learning and development pathway for community justice social work staff working in throughcare; improvements to key processes supporting the effective delivery and consistent application of the LS/CMI method and maximising opportunities to remove systemic barriers to successful reintegration.

## Conclusions

The Scottish Government long-term investment in supporting scrutiny and assurance of justice has been widely welcomed. The creation of a strategic justice team within the Care Inspectorate has enabled long overdue attention to be paid to justice social work. An initial self-evaluation approach supported early reflection by a number of community justice partnerships on what needed to improve or be done differently. There was strong support for external scrutiny and we received extensive co-operation from areas being inspected, partnerships undertaking the supported self-evaluations and services that contributed to the throughcare review.

Justice leaders at all levels across social work services and community justice partnerships are making significant efforts to deliver on national priorities and make a positive difference to the lives of individuals, victims and communities affected by offending. Independent scrutiny plays an important role in assuring the public on the extent to which these intentions are being achieved. Scrutiny highlights and confirms strengths in practice and performance and shines a light on barriers to progress or where improvement is required.

Of the first three years of justice scrutiny and assurance, almost two have been during the Covid-19 pandemic. The impact of the pandemic on how we could work meant we had to develop new ways of undertaking scrutiny that continued to support meaningful engagement and enabled our inspectors to reach evidence-based conclusions on the efficiency and effectiveness of services. The experiences and learning we gained during this time, alongside the feedback we received will help shape and inform future scrutiny and assurance approaches.

### Future intentions

A number of substantial changes are planned across the justice landscape, which include a review of the Scottish Government's national justice strategy and a renewed [Outcomes Performance and Improvement Framework](#) (OPIF). Consideration is also being given to including justice social work within a national care service or national social work agency. We have contributed to the various consultations. During 2021/2022, we will continue to engage with stakeholders and partners to inform scrutiny plans. Any activities will inevitably include consideration of how any learning from the pandemic has informed service delivery as well as any related impact for services, individuals, victims and communities.

### Collaboration with scrutiny partners

We have a long-standing commitment to contributing to inspections of prisons and other institutions led by Her Majesty's Inspectorate of Prisons in Scotland (HMIPS). Over the past three years, our contribution has been led by the strategic justice team with support from other strategic colleagues as appropriate. Throughout 2020/2021, we contributed to HMIPS Covid-19 liaison activities through on-site visits and remote contact with community agencies.

Throughout 2021/2022, we will continue to work with scrutiny and justice partners in contributing to the ongoing thematic review of progression in prison. A separate piece of collaborative work will focus on the extent to which community justice partners are delivering on national priorities in relation to early intervention and prevention. The final scope of this work has yet to be confirmed.

## **Serious incident reviews**

Our strategic justice team leads on quality assuring all serious incident reviews (SIRs) submitted to the Care Inspectorate in accordance with the agreed criteria. The national guidance is currently being updated. New templates to identify learning and support continuous improvement are being piloted across several local authority areas. Feedback from the pilot will further inform development of the guidance before we publish it in 2022.

We will also publish a specific SIR overview report in early 2022.

## **People with lived experience**

We are committed to meaningfully involving people with lived experience of the justice system in our scrutiny, assurance and improvement activities. We want to develop an ethical, person-centred approach that promotes best practice. A pilot approach was developed in partnership with a national third sector agency. However, intended activities were disrupted by Covid-19. We hope to be able to progress this work in 2022.

## Appendix 1: Feedback

We value feedback from stakeholders as the views expressed help us to monitor, review and improve scrutiny and assurance approaches. Following publication of a final report or validation letter, we use a standard questionnaire to gather feedback from local authorities and partnerships about the inspection process. In relation to all our activities over the last three years, ratings from respondents were in the upper range indicating a high degree of satisfaction with the organisation of our scrutiny and assurance activities and the performance of our teams.

The quality indicator model was described as “a good framework and helped shape the self-evaluation”, but more specific quality indicator illustrations were needed to help with benchmarking. Local co-ordinators play a crucial role in delivering efficient scrutiny and assurance. With no scrutiny of justice social work services in many years, the help we provided in finalising timetables and organising activities was appreciated by local authorities and partnerships.

Care Inspectorate staff “were always available, approachable and supportive”.

This contributed to “strong, positive collaborations throughout the inspection”.

Professional discussions take place throughout the inspection process.

Respondents found this approach supported “open, transparent and professionally respectful dialogue”.

Engaging with, and hearing the views of, service users, staff and partners is central to our scrutiny and assurance approach.

Respondents “found inspectors to be very enabling, that appropriate questions were asked and that most enjoyed the opportunity”.

“This (community justice social work: throughcare) review was planned and delivered at breath taking speed. Despite that, even because of that, it focussed minds and has been a fruitful and productive exercise. It has been received positively and the smaller scale and quicker outcome reduces the natural anxiety when any inspection body examines services. It also causes less disruption with less impact on resources to plan and participate. Being conducted alongside three other justice social work services is helpful and allows instant benchmarking and a body of evidence emerges both nationally and locally.”

To further inform our future scrutiny and assurance approaches and considerations, please take a moment to complete [this survey](#).

## Appendix 2: Justice quality indicator model

What key outcomes have we achieved?	How well do we jointly meet the needs of our stakeholders?	How good is our delivery of services for those involved in community justice?	How good is our operational management?	How good is our leadership?
<b>1. Key performance outcomes</b>	<b>2. Impact on people who have committed offences, their families and victims</b>	<b>5. Delivery of key processes</b>	<b>6. Policy, service development and planning</b>	<b>9. Leadership and direction</b>
1.1 Improving the life chances and outcomes of those with lived experience of community justice	2.1 Impact on people who have committed offences 2.2 Impact on victims 2.3 Impact on families	5.1 Providing help and support when it is needed 5.2 Assessing and responding to risk and need 5.3 Planning and providing effective intervention 5.4 Involving people who have committed offences and their families	6.1 Policies, procedures and legal measures 6.2 Planning and delivering services in a collaborative way 6.3 Participation of those who have committed offences, their families, victims and other stakeholders 6.4 Performance management and quality assurance	9.1 Vision, values and aims 9.2 Leadership of strategy and direction 9.3 Leadership of people 9.4 Leadership of improvement and change
	<b>3. Impact on staff</b>		<b>7. Management and support of staff</b>	
	3.1 Impact on staff		7.1 Staff training and development, and joint working	
	<b>4. Impact on the communities</b>		<b>8. Partnership working</b>	
	4.1 Impact on the community		8.1 Effective use and management of resources 8.2 Commissioning arrangements 8.3 Securing improvement through self-evaluation	
<b>10. What is our capacity for improvement?</b>				
Overall judgement based on an evaluation of the framework of quality indicators				

In 2016, the Scottish Government commissioned the Care Inspectorate to develop a guide to self-evaluation that could be used by partners to help in their efforts to strive for continuous improvement and excellence in services. The guide provides a range of quality indicators to support self-evaluation. Using the quality indicators reinforces the partnership between internal and external evaluation of services.

All of our scrutiny and assurance activities in this review period draw on the quality indicator model shown above.

Our community justice social work inspections of community payback orders reported on nine quality indicators (1.1, 2.1, 5.1, 5.2, 5.3, 5.4, 6.1, 6.4, 9.4.) but evaluate only five (1.1, 2.1, 5.2, 5.3, 9.4).

Our supported and validated self-evaluation activity focussed on three of the quality indicators (6.2, 8.1, 9.2).

Our review of community justice social work throughcare considered (2.1, 3.1, 5.1, 5.2, 5.3, 6.1, 7.1). As this was a thematic review, we did not evaluate the quality indicators.

## Appendix 3: Terms we use in this report

**Breach** is where a person has failed to comply with any conditions imposed as part of their throughcare licence.

**Caledonian System** is an integrated approach to addressing domestic abuse that combines a court-ordered programme for men, aimed at changing their behaviour, with support services for women and children who have been victims of abuse.

**Case management plan** should be developed in collaboration with the person and should seek to address the identified risks and needs and promote the strengths identified by the assessment process.

**Case management planning** means the actions and collaborative work that support the implementation of the plan.

**Community justice outcome improvement plan** - the Community Justice (Scotland) Act 2016 places a duty on community justice statutory partners to produce this plan, which outlines local needs and priorities and the actions to address these.

**Community justice partnership** - introduced across Scotland as a result of the Community Justice (Scotland) Act 2016. This was a new model for partnership and collaborative working to deliver community-based solutions to improve outcomes for community justice, reduce reoffending and support desistance.

**Community Justice Scotland** is a national organisation responsible for promoting the highest standards of practice across community justice, including the delivery of national training to justice social work services.

**Desistance** in the field of criminology is the term used to describe the process of cessation of offending or other anti-social behaviour. Achieving a better understanding of how and why people stop offending provides an opportunity to develop better criminal justice policy, processes and practice.

**Guide to self-evaluation of community justice** - the Scottish Government commissioned the Care Inspectorate to develop a guide to self-evaluation for community justice in Scotland. The guide is part of the approach to promote continuous improvement and excellence in community justice.

**Intensity** the level of contact noted in the case management plan required to effectively manage any identified risk and need. Intensity may be very high, high, medium, or low.

**Level of service/ case management inventory (LS/CMI)** is a method for planning risk and need assessment and management for general offending. In Scotland, the LS/CMI approach has been developed to combine an actuarial approach with an evaluation of the pattern, nature, seriousness and likelihood of offending.

**Licence** - certain people are released from prison into the community under specific conditions. Being on licence means they are still serving their sentence in the community and are subject to social work supervision.

**Other activity requirement** can be undertaken as part of an unpaid work requirement and provide an opportunity for people to undertake other rehabilitative activities that promote desistance from offending, for example alcohol or drug education,

employability training, problem solving, interpersonal skills training and so on. Other activity must not exceed 30% of hours, to a maximum of 30 hours.

**Parole Board** - the Parole Board for Scotland is a tribunal non-departmental public body, the members of which are appointed by Scottish Ministers. The Parole Board operates independently from the Scottish Government.

**People** – in this report and in future reports we will use this term instead of individual as it better reflects our corporate style and commitment to people who receive a social care or social work service being at the heart of what we do.

**Presumption against short-term sentences (PASS)** - the Criminal Justice and Licensing (Scotland) Act 2010 introduced a presumption against sentences of less than three months, requiring the court to (i) only pass a sentence of three months or less if no other appropriate disposal is available and (ii) record the reasons for this. Legislation extended the timescales to 12 months for offences committed on or after 4 July 2019.

**Reintegration** - upon release from custody, a person enhances social inclusion through maintaining supportive relationships and access to the opportunities and resources they need to maintain desistance. As a result, they are no longer a significant risk to others. A reduced risk of reoffending enables them to focus on developing a law-abiding lifestyle.

**Risk of serious harm** - the Framework for Risk Assessment, Management and Evaluation (RMA, 2011) defines risk of serious harm as “a likelihood of harmful behaviour, of a violent or sexual nature, which is life threatening and/or traumatic and from which recovery, whether physical or psychological, may reasonably be expected to be difficult or impossible”.

**RM2000** - Risk Matrix 2000 is an actuarial risk assessment tool applied to men aged 18 years and over convicted of sexual offences and is used by trained professionals to assess the risk of reconviction.

**SA07** - Stable and Acute 2007 is a dynamic risk assessment tool which provides a structured method for identifying and measuring dynamic risk factors that are predictive of sexual offence recidivism.

**SHINE** is a national service providing mentoring and support to women serving a custodial sentence, on remand or subject to a community payback order – aimed at reducing offending and supporting desistance.

**SPS** - The Scottish Prison Service is an agency of the Scottish Government and is legally required to deliver custodial and rehabilitation services for those sent to prison by the courts.

**Statutory social work reviews** - the National Outcomes and Standards indicate that case management plans should be reviewed and, where necessary, revised at regular intervals during the course of a community payback order.

**Supervision requirement** is one of nine provisions available to the court that can be imposed as part of a community payback order. With the exception of unpaid work for people aged 18 and over, none of the community payback order requirements can be imposed without the addition of a supervision requirement. Supervision requires the

person to attend appointments with a justice social worker for a specified period. The aim of supervision is to encourage compliance and reduce reoffending by engaging the person in a process of change.

**Trauma-informed practice** is grounded in understanding and responding to the impact of trauma. It emphasises physical, psychological and emotional safety and creates opportunities for survivors to rebuild a sense of control and empowerment.

**Turning Point Scotland** is a national agency working with people facing diverse and complex challenges and experiencing marginalisation.

**Unpaid work** is intended as an alternative to imprisonment, this takes place in local communities and is for the benefit of the community. Unpaid work can be imposed as a standalone requirement by means of a Level 1 or Level 2 order or can be imposed in conjunction with a range of other requirements, including supervision.

**Venture Trust (Scotland)** is a national charity providing intensive personal development programmes and outdoor activities to help reduce offending and support desistance.

## Appendix 4: The approaches used

### Community justice social work: inspections of community payback orders

From May 2018 to November 2020, we inspected justice social work services in five local authority areas. We considered how well the National Outcomes and Standards were being applied and what difference community payback orders were making to the lives of people who were, or had been, subject to them.

Our inspection methodology involved the following.

- Preparation of a self-evaluation report and submission of supporting evidence by each local authority area. These were then analysed by our team.
- Review of a representative sample of the records of people who were or had been subject to a community payback order during the previous two-year period. In total this correlated to 489 records from a population of 3,419 individuals.
- Interviews with people currently subject to a community payback order, including those with a supervision requirement or an unpaid work requirement. In total our inspection team met with 210 people.
- Focus groups and interviews with members of staff, partner agencies, stakeholders and senior managers or chief officers with responsibility for community justice social work (conducted remotely during Covid-19).
- Publication of a final report following our analysis and evaluation of all aspects of the inspection. This includes evidence-based evaluations of key quality indicators using a six-point scale.
- An improvement plan produced by each area in response to any recommendations or areas for improvement we have identified. Our [link inspector](#) for the relevant local authority area regularly reviews the progress of the plan until we are confident all elements have been addressed.

Inspection activities were supported by professional associate assessors. Associates are senior managers from a different local authority area (or other professionals with justice expertise) who bring valuable knowledge and insight to the scrutiny process. Experienced justice social work staff in each area also made an important contribution to each inspection by reviewing practice alongside the inspection team through the reading of records of individuals on community payback orders. Such an approach builds familiarity with the inspection process and supports capacity for continuous improvement.

### Community justice partnerships: supported and validated self-evaluation

In 2018, our newly established justice team was tasked with supporting the implementation of community justice in Scotland by providing scrutiny and assurance. Given the community justice model had only recently been introduced, we adopted a capacity-building approach to scrutiny through the use of supported and validated self-evaluation. We delivered this in partnership with Her Majesty's Inspectorate of Constabulary in Scotland (HMICS). This included building familiarity with, and supporting the use of our 2016 publication [A guide to self-evaluation for community justice in Scotland](#).

We worked in partnership with HMICS to help partnerships develop confidence and skills to assess the quality and impact of their work. Together, we offered advice and guidance as well as constructive challenge to ensure the process was robust and that the evidence gathered supported the conclusions reached. We validated the self-evaluation only when we were satisfied that the process had been appropriately robust and the conclusions reached were sound.

We asked partnerships that volunteered to undertake a supported and validated self-evaluation to focus on three quality indicators: 6.2 Planning and delivering services in a collaborative way; 8.1 Effective use and management of resources; and 9.2 Leadership of strategy and direction. In relation to these indicators and with reference to illustrations from within the self-evaluation guide, we asked them to consider and answer three key questions.

How good are we now?	Identify strengths and areas for improvement.
How do we know?	Evidence available to support evaluation
How good can we be?	What needs to be done to deliver improvement

The supported and validated self-evaluation methodology included the following.

- Support and guidance from a strategic inspector to build capacity for partnership areas to undertake self-evaluation dependent on needs and approach of each partnership area.
- Submission of a self-evaluation by the local authority, supported by sources of evidence.
- Analysis of the submitted documents by the Care Inspectorate team.
- Follow-up activities in the partnership area to explore any areas of uncertainty. This differed in each area but included visits, interviews and focus groups.
- Analysis of the evidence gathered and evaluation against the relevant quality indicators, followed by verbal feedback on findings to the partnership.
- Publication of the validation letter.

### **Community justice social work: throughcare review**

The Scottish Government established the national criminal justice programme Recover, Renew, Transform (RRT) in response to the ongoing impact of Covid-19 on the justice system in Scotland. The Recovery of Community Justice and Prevention of Offending subgroup was tasked with exploring breach of licence and recall to prison. This was with a view to furthering understanding of recall and related processes to reduce the number of people being recalled to custody, where appropriate.

To further inform the work of the subgroup, we were asked in March 2021 to undertake a review of throughcare with a particular focus on breach of licence and recall to custody. We developed a methodology and supporting tools that supported our thematic review of practice across four local authority areas. We undertook all activities remotely and published the [Community Justice Social Work Throughcare Review in September 2021](#).

Our review sought to identify potential barriers to reintegration and provide assurance that community justice social work contributions to breach and recall processes were operating as they should. Using the existing justice quality indicator framework alongside specially developed illustrations for throughcare, we considered the efficiency and effectiveness of community justice social work throughcare practice.

Our review focussed on the delivery of throughcare practice by community-based justice social work staff. Experienced justice social work staff in each area supported the reading of records of people subject to statutory throughcare supervision.

Our methodology included:

- a position statement prepared by each area
- distribution of a staff survey
- remote review of a representative sample of individual records from each area
- virtual follow-up focus groups with staff to address any areas of uncertainty
- in-person interviews with people who had been recalled to prison (originating area not necessarily related to the areas contributing to the review)
- distribution of a survey across the prison estate to people with experience of recall
- verbal feedback to each area supported by file reading analysis report and staff survey summary
- published report
- verbal feedback to the Community Justice and Prevention of Offending subgroup of the Criminal Justice Recover, Renew, Transform (RRT) programme
- follow-up meeting to inform improvement planning.

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