**Electronic Monitoring in Scotland: A Consultation on Proposals for Legislation – March 2017**

We welcome this opportunity to comment on the Scottish Government’s proposals on the future use of electronic monitoring in Scotland.

Scotland has one of the highest imprisonment rates in western Europe and too many people leaving prison go on to reoffend, particularly those on short term sentences. We recognise that electronic monitoring has the potential to add an element of control into community supervision that other measures do not have, and this may help to avoid the disruptive effects of a custodial sentence, such as loss of housing, employment and erosion of family relationships.

There is very little evidence to support the use of electronic monitoring as a stand-alone measure. We are therefore of the view that its use must be integrated with other forms of support and that it must not become a substitute for social support. It must not become a ‘technical fix’ that displaces ‘human’ solutions. Nor must it have the effect of eroding the ethic of care and compassion amongst criminal justice social workers and others who work with those caught up in the criminal justice system. Rather, electronic monitoring itself must be subordinated to that ethic of care.

With that in mind, we should proceed cautiously in expanding the use of electronic monitoring in Scotland.

Currently the average caseload for electronic monitoring in Scotland is around 1,000 (figures quoted in the consultation document and relating to 2016/17) and the annual cost was £2.6m in 2015/16.

Should all the proposals contained in the consultation document be advanced, we will likely to see a considerable expansion in the application of electronic monitoring in Scotland. Indeed, the language used in the consultation document frequently refers to ‘extension’ and ‘expansion’.

*“The Working Group’s report shows that far more could be achieved if we were to* ***extend the usage of electronic monitoring to a broader range of situations****, introduce a range of person-centred supportive measures and to introduce new technologies. Moving from viewing electronic monitoring as purely a form of punishment or control to one which is individually tailored to reflect the needs, risks and circumstances of the individual in order to secure longer term desistance.”*

*“We believe that electronic monitoring has a role to play in supporting this vision. From continuing to offer a method of control over an individual’s movements and* ***expanding this offer****, to implementing new uses to support both reintegration and rehabilitation to prevent and reduce further offending.”*

*“The Working Group concluded that they wished to see a* ***more extensive****, more consistent and more strategic use of electronic monitoring in Scotland.”*

We are concerned about the potential pressures that may motivate increased use of electronic monitoring. Whilst we do not doubt the good intentions of the Electronic Monitoring Expert Working Group to consider carefully the challenges of expanding the use of electronic monitoring in Scotland, their membership included two directors from G4S Monitoring Technologies and Services. G4S currently has the contract for delivering electronic monitoring services in Scotland and is likely to be a key beneficiary in the expansion of its use.

The big ‘win’ is clearly in the potential for a reduction in the use of imprisonment. Although that may not come about if the effect of these proposals is drawing more individuals into the criminal justice system through net-widening effects or through uptariffing, both of which are real hazards that must be grappled with. Nor is it clear that cost savings will be achieved in the short term, particularly when much of what is proposed would see electronic monitoring provided as an additional element of existing disposals and orders.

We emphasise again that there must always be a clear penal rationale for the use of electronic monitoring and clear legal parameters must be established for its use.

There are some inherent contradictions in the consultation document. For example, the document notes that there is *“no meaningful sense in which fines can be used to change a person’s attitudes and behaviour”.* However, in replacing fines with electronic monitoring, it goes on to note that *“there would be no expectation of criminal justice social work support for electronic monitoring in this context any more than there routinely is for fines”*, conceding that *“this would remain a purely punitive use of electronic monitoring”.*

Nor is it entirely clear *how* the addition of electronic monitoring to a structured deferred sentence would in and of itself provide more structure to the intensive supervision which is already a part of this type of disposal.

The document also proposes greater use of electronic monitoring for those on remand, whether as a stand-alone measure or as part of supervised bail. The use of supervised bail is highly variable throughout Scotland. In 2013/14, just eight individuals were given supervised bail in the whole of Glasgow and no-one at all in North Strathclyde. Before we consider adding electronic monitoring into the mix, we would like the Scottish Government to first consider why supervised bail is not more widely used and take steps to expand and extend its use in Scotland.

At present all electronic monitoring of offenders in Scotland is carried out using radio frequency technology. The consultation document asks whether the Scottish Government should legislate to introduce GPS-enabled electronic monitoring. This form of technology is becoming cheaper and more ‘normalised’ in wider society. Whilst it offers the potential to track individuals 24/7 in ‘real time’, again we must ask ourselves how compliance will be managed, what the response to breach will be and what social support will exist for those subject to electronic monitoring.

All of these elements have clear financial implications and yet this detail is lacking in the consultation document.

Recent evidence presented to a meeting of the Scottish Parliament’s Cross Party Group on Families Affected By Imprisonment demonstrated that the use of electronic monitoring also has an impact on family members and that they too often feel ‘punished’ by its use. We hope the Scottish Government will take this into account when advancing proposals in this area.

It is understandable that we might regard the increased use of electronic monitoring as part of the solution to Scotland’s high imprisonment rate. However, as with so many rapidly evolving forms of technology, the question is not: can we use it, but should we use it, and if so, in what settings and with what safeguards?

Howard League Scotland

May 2017