

Do It Justice and Crest Advisory

Guernsey Justice Review Final report

February 2020



Guernsey Justice Review

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Introduction to the Justice Review

Phase one of the Justice Review, the objective of which was to identify the potential scope of a review of Bailiwick justice policy and the resources and governance structure needed to support it, took place in 2018. This identified that further work should be undertaken to support the development of justice policy for the Bailiwick which maintains a community that is safe and secure, inclusive and committed to social justice. It recommended that the next phase of the Justice Review focus on the core criminal justice institutions and their functions, before broadening out to consider the justice system more widely, its statutory framework, and its relationship with social justice and related policies.

The purpose and methodology of the Review

Phase two of the Review commenced in March 2019, commissioned from UK consultancies Do It Justice and Crest Advisory by the Committee for Home Affairs (“CfHA”).

About Do It Justice

We provide policy, research and advocacy consultancy services to the justice sector.

About Crest Advisory

We are crime and justice specialists – equal parts research, strategy and communication. From police forces to public inquiries, from tech companies to devolved authorities, we believe all these organisations (and more) have their own part to play in building a safer, more secure society. As the UK’s only consultancy with this focus, we are as much of a blend as the crime and justice sector itself.

The purpose of this phase has been to establish what people in the Bailiwick understand “justice” to encompass, identify the current situation in regard to approaches to justice and social justice (both within and outside the justice system), examine where the Bailiwick would like to be in the future, and create a framework for achieving that. The Review team, comprised of Gemma Buckland from Do It Justice and Sophie du Mont from Crest Advisory, conducted the Review as proposed in the first phase.

This report details our findings and makes recommendations for the shape of future justice policy, including how this could be aligned with the commitment social justice. A detailed methodology is included in Appendix 1. We have focused on three overarching questions:

1. **Where are we now and how did we get here?** i.e. examining progress in implementing the current justice strategy.
2. **Where do we want to get to?** i.e. examining aspirations for the future justice policy and potential challenges which may be encountered in achieving them.
3. **How shall we get there?** i.e. examining options for the future justice framework to deliver these aspirations.

To answer these questions, we have engaged with representatives of the core justice agencies and institutions, sought to collate available data held within the justice system, engaged with representatives of other States agencies in relevant social policy areas, held workshops on adult

and youth criminal justice, conducted focus groups with service users, and conducted a public survey.¹ It was not within the scope of the review to analyse systematically learning from other jurisdictions which could potentially be applied in the Bailiwick in future justice policy. Where examples are included these have been highlighted to provide an illustration of how similar challenges have been addressed elsewhere. It may be of benefit for a broader literature review to be commissioned during the next phase of development of future justice policy.

In relation to data held within the justice system, we worked with Law Enforcement and Probation to conduct a bespoke extraction from the respective agency's information systems to gather information on those individuals who were convicted of an offence in 2017. These individuals are collectively known as the "2017 cohort."

We also conducted a public survey, run over a five-week period in September and October 2019. 739 responses were received, largely from the general public. Approximately 10% of respondents had some direct experience of either the criminal or family justice systems, either professionally or personally. The survey report will be published separately, at the same time as this report. The timescale for the survey, which was reduced due to other States' priorities, limited the sample size of respondents and the capacity to conduct a full analysis of the results. We did not collect socio-demographic indicators which would facilitate an assessment how representative the sample was in relation to the population of the Bailiwick. We advise therefore that responses are viewed as indicative of perspectives held by those citizens who participated rather than definitive evidence of widely held views. In order to get a conclusive picture, it would be necessary to conduct a household survey like the Crime Survey for England and Wales, for example. Throughout the report, where we refer to 'respondents to the survey', we are referring to the respondents to the particular question concerned.

Where possible we have sought to verify what we were told using data and the qualitative observations of a range of parties concerned. Nevertheless, it has not proven possible with the data available to us, with the other priorities of the agencies concerned, and within the time allocated, to triangulate sources as fully as we would hope. Further research and consultation will be required to build upon the information gathered so far during the next phase of the review.

We would like to express our gratitude to all those who have shared with us their views to inform the review and to the Committee *for* Home Affairs secretariat for their administrative and other practical support.

The Committee *for* Home Affairs' next step will be to publish a green paper for consideration by the States as part of further consultation on the review. The Committee acknowledges that this is a long-term piece of work, fundamental to the Islands' aspirations to maintain a community that is safe and secure, inclusive and committed to social justice.²

¹ This was an anonymous online survey hosted on the States of Guernsey and targeted at all members of the community. It was open for any individual to respond. It was publicised in local media and on social media and hard copies were made available at key States' agencies. 98% of respondents identified as currently living in Guernsey.

² Committee for Home Affairs [Delivery Plan 2019-2022](#)

Chapter 1: Where are we now and how did we get here?

This chapter sets out the context of the Review, examining the current intended strategic approach to justice in the Bailiwick, how this is working, and its relationship to wider public policy reforms, with the primary focus on Guernsey.

1.1 The current justice strategy

The role of the Committee in relation to justice is to advise the States and to develop and implement policies on matters relating to its purpose. The Committee's purpose is "to support a high standard of living and quality of life by maintaining and promoting a safe, stable and equitable society which values public protection and justice and respects the rights, responsibilities and potential of every person". Particular mandated responsibilities include: crime prevention; law enforcement (including policing and customs); justice policy; the association between justice and social policy (for example, domestic abuse and the misuse of drugs and alcohol); and imprisonment, parole, probation and rehabilitation. The Committee is also responsible for other areas where there are potential links with crime, including the population management regime; the immigration regime; and lotteries and gambling.

The Committee states in its previous business plan that the independence of some elements of the criminal justice system means that there can be no central "ownership" of the system.

1.1.1 Criminal Justice Strategy 2013–2020

The Criminal Justice Strategy 2013–2020 was a delivery programme within the then States Strategic Plan covering youth and adult crime. The intention was for the Strategy to underpin fully coordinated and effective service delivery within the justice system, to ensure the safety and security of people in the Bailiwick. Key aspects of the strategy's action plan are discussed later in this chapter.

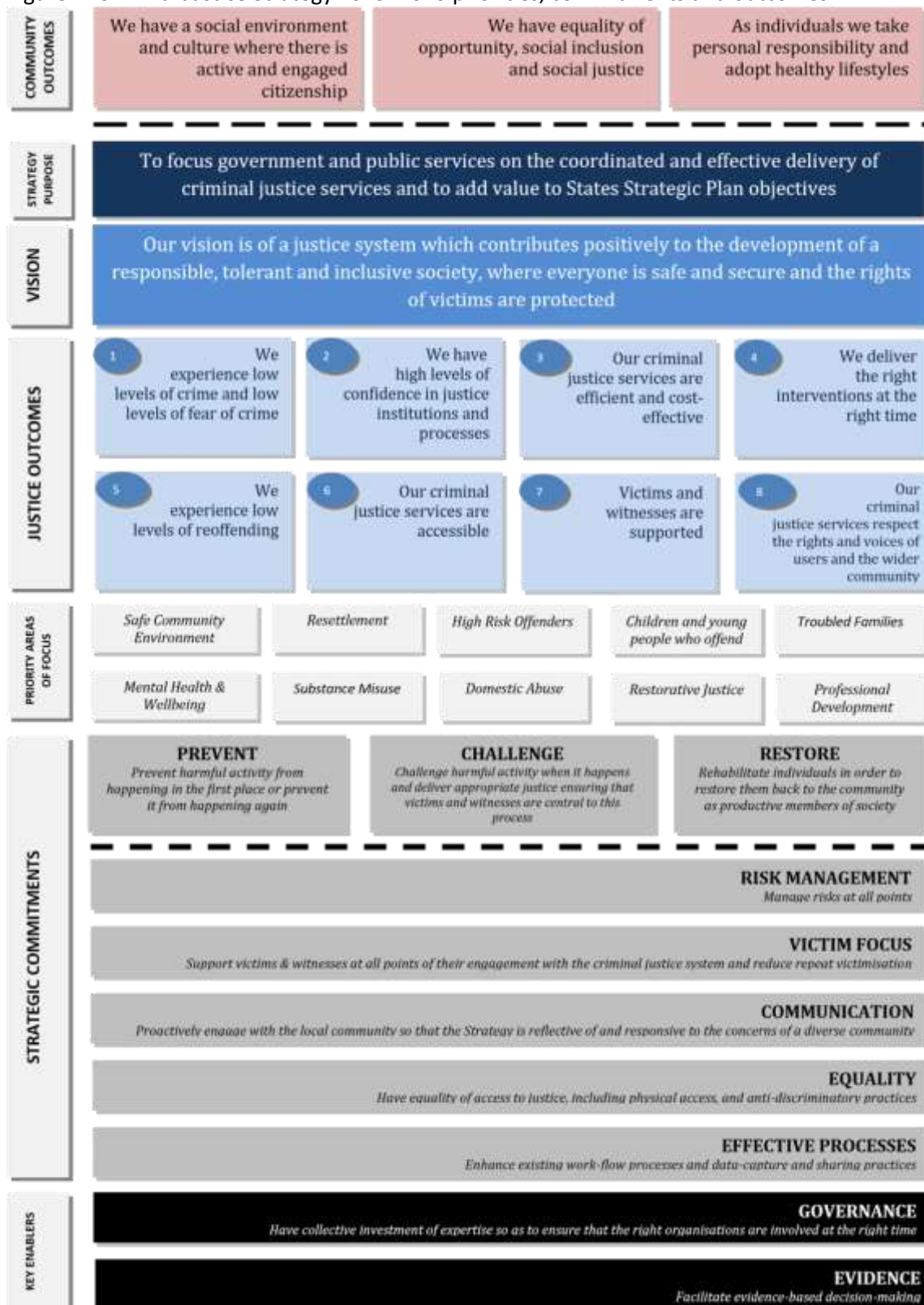
The Strategy was sponsored by the Home Department, which was also responsible for resourcing it and supporting its development and ongoing maintenance. Beneath the Strategy sat specific sub-strategies on drugs and alcohol, domestic abuse, offender management, restorative justice and financial crime.

The Strategy set out:

- a) priority areas of focus devised on the basis of relevant evidence and professional judgement;
- b) strategic commitments developed on the basis of consultation with a broad range of professional stakeholders; and
- c) a plan of action with short- (two-year), medium- (four-year) and long-term (seven-year) objectives, coupled with key performance indicators (KPIs) to assess outcomes.

The Strategy included a summary of its priorities, commitments and desired outcomes alongside an ambitious Vision. These are set out in Figure 1.

Figure 1: Criminal Justice Strategy 2013–2020 priorities, commitments and outcomes



A Criminal Justice Working Group made recommendations about the strategic direction and provided a review function to the strategy's four working groups. The latter focused on four

workstreams – Prevent, Challenge and Restore and digital matters – in recognition of the importance of developing effective processes and evidence-based decision-making. The Home Department also managed a communication and engagement plan, which was intended as a means of engaging with the local community and ensuring that work was responsive to needs. The Strategy refers to the creation of a Criminal Justice Board which we understand was not established. The relationship between the Board (or Working Group) and the Home Department deputies was not defined within the Strategy.

The Strategy identified a number of other themes linked to other areas of social policy, including mental health and wellbeing, family support, disability and inclusion, supported housing, education, and children and young people who offend. At the time the Strategy was conceived, drug and alcohol policy was part of the remit of the Home Department; this transferred to the Committee *for* Health & Social Care in 2017 in recognition that a broader, more unified approach to substance misuse, balancing the need to tackle the harm causes by drugs, support people through treatment and restrict supply was required. One of the overarching community outcomes overlaying the Strategy was ‘equality of opportunity, social inclusion and social justice’, however, it was not explained how the approaches proposed linked to this outcome.

Proposed monitoring arrangements included ongoing oversight of KPIs, an annual formal review of objectives and KPIs, and a five-year review of strategic commitments (which would have taken place in 2018 when the Justice Review commenced). While some KPIs have been monitored, it does not appear that the action plan has been used as an active, live document to monitor progress. As we examine below, data is not available for several KPIs.

1.1.2 The justice framework 2017

In 2013, the Police and Guernsey Border Agency came together under a shared management structure overseen by the Head of Law Enforcement and are collectively known as Bailiwick Law Enforcement. The Criminal Justice Strategy 2013–2020 was subsequently refreshed by the CfHA and a draft justice framework with revised objectives was created to replace it. This is referred to as the justice strategy and it set out the Vision for Justice as:

“A justice system that contributes positively to the development of a responsible, tolerant and inclusive society, where everyone is safe and secure and the rights of the community are protected.”

This evolved from the previous strategy; it was principally a restatement of that vision with a broader intention to protect the rights of the community as a whole, not solely those of victims. It was agreed by the Criminal Justice Working Group in 2017 and endorsed by the Committee *for* Home Affairs. We discuss the views of those consulted during the Review on the Vision further in Chapter 2. The justice outcomes were also updated at this time. Three outcomes were revised. ‘Our criminal justice services are accessible’, ‘Victims and witnesses are supported’ and ‘Our criminal justice services respect the rights and voices of users and the wider community’ were replaced with ‘A reduction in reoffending’, ‘Identifying and confiscating the proceeds of crime’ and ‘Recognising the links between justice policy and social policy.’

1.2 Progress in implementing the justice strategy

We explore in this section what progress has been made in implementing the strategic commitments and priorities identified in the action plan which accompanied the Criminal Justice Strategy 2013-2020. We set out a brief analysis of developments against the action plan, key data trends, and an overview of current priorities for:

- the core justice agencies and institutions;
- the sub-strategies on drugs and alcohol, domestic abuse, offender management, restorative justice and financial crime;
- key strategic commitments; and,
- the aligned strategies related to other social policy areas.

We then consider progress against the eight justice outcomes underpinning the 2018 justice framework, to the extent that suitable data and indicators are available. Where possible our analysis uses data from 2012 onwards to provide a baseline for the year before the Strategy was published.

1.2.1 Core justice agencies and institutions

For the purposes of the Review, core justice institutions were defined by the CfHA as those agencies and processes established to:

- Stop unlawful behaviour and prevent it from happening again;
- Impose penalties on those who break the law; and
- Rehabilitate offenders.

The core criminal justice agencies, each of which are operationally independent of the CfHA, are:

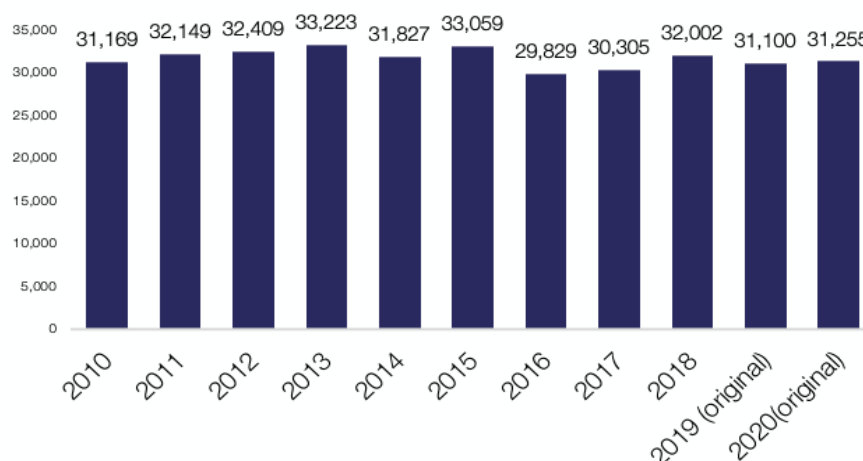
- Law Enforcement
- The Law Officers of the Crown
- Judiciary
- Prison, and
- Probation

Many of the actions stemming from the Criminal Justice Strategy were included in the Committee for Home Affairs' business plan for 2015–2018. The new iteration of the justice framework was not accompanied by a revised action plan. We therefore limit our consideration of progress to the action plan linked to the Criminal Justice Strategy 2013-2020, referred to in this report as 'the 2013 plan', and note any current priorities which have been raised with us during the Review. We also make reference to developments in the family justice system as these were raised with us in the context of reflections on current justice strategy. We have not considered this in depth and propose that this is the subject of a separate review.

In 2018 the actual budget for the Committee *for* Home Affairs was approximately £32 million. This marked a small (6%) rise from the previous year, although subsequently budgets have been earmarked to reduce. Overall, in the last ten years the annual budget for the Committee *for*

Home Affairs has remained fairly flat, ranging between £28.8 million and £33.2 million, averaging £31.6 million per annum over the past ten years. The figure below shows the annual actual budget of the Committee *for* Home Affairs from 2010-18, and the original budgets for 2019 and 2020.

Figure 2: Committee *for* Home Affairs budget (including the Home Department) 2010-2020 (£'000s)³



The implementation of the action plan has taken place in the context of cuts to public funding for the justice system. The Policy & Resources Committee's medium-term financial plan required the CfHA to meet a target of 3% savings in 2017 and 5% savings in both 2018 and 2019. To find these savings, the CfHA asked operational services to identify means to reduce their costs, rather than taking a strategic approach to examine demands on the system. We have not explored the extent to which these savings have been achieved. We discuss the budgets further in Chapter 2.

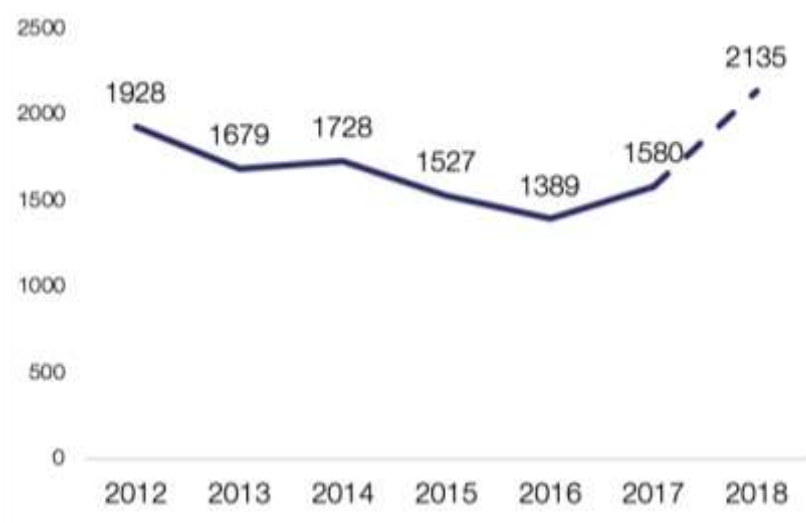
Law Enforcement (Police and Border Agency)

Overall total police recorded crime declined by 18% between 2012 and 2017, although between 2016 and 2017 it increased by 14%. However, in 2018, to bring Law Enforcement in line with UK crime recording standards, the UK Home Office counting rules and recording standards were adopted.⁴ This means that some incidents that would not previously have been recorded as crimes are now included. Overall, the pattern shows therefore that crime increased by 11% between 2012 and 2018 and has risen 54% since 2016. This will have implications for demand on police time and resources.

³ The States of Guernsey Annual Budget 2010-2020. Budgets for 2010-18 are 'actual', 2019 and 2020 are 'original.'

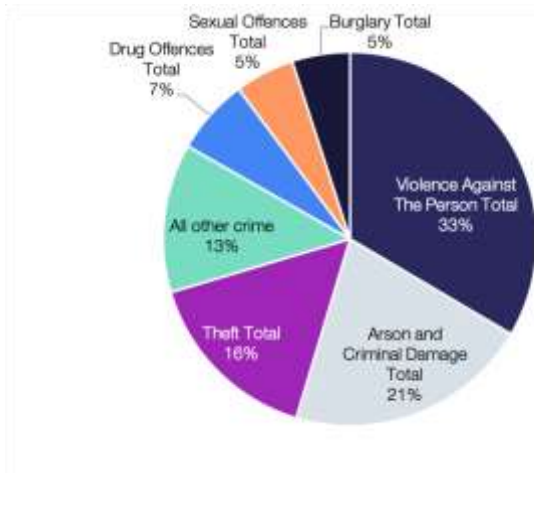
⁴ Recorded crime figures now reflect all crime which is either reported to Law Enforcement or is part of a proactive investigation

Chart 1: Total police recorded crime 2012–2018⁵



Of the 2,135 crimes recorded in 2018, the most common offence type was violence against the person (33%), followed by criminal damage and arson (21%) and theft (16%). These proportions are similar to figures from England and Wales; of the 5,153,064 crimes recorded in 2018 in England and Wales,⁶ the most common offence type was violence against the person (31%), followed by theft (22%) and criminal damage (11%).⁷

Chart 2: Police recorded crime offence breakdown (% of total), 2018⁸



⁵ Data from Law Enforcement Annual Reports 2013–2018, accessed online (<http://www.guernsey.police.uk/annualreports>). Please note that recording practices changed in 2018 so comparisons with earlier figures must be made with this caveat in mind.

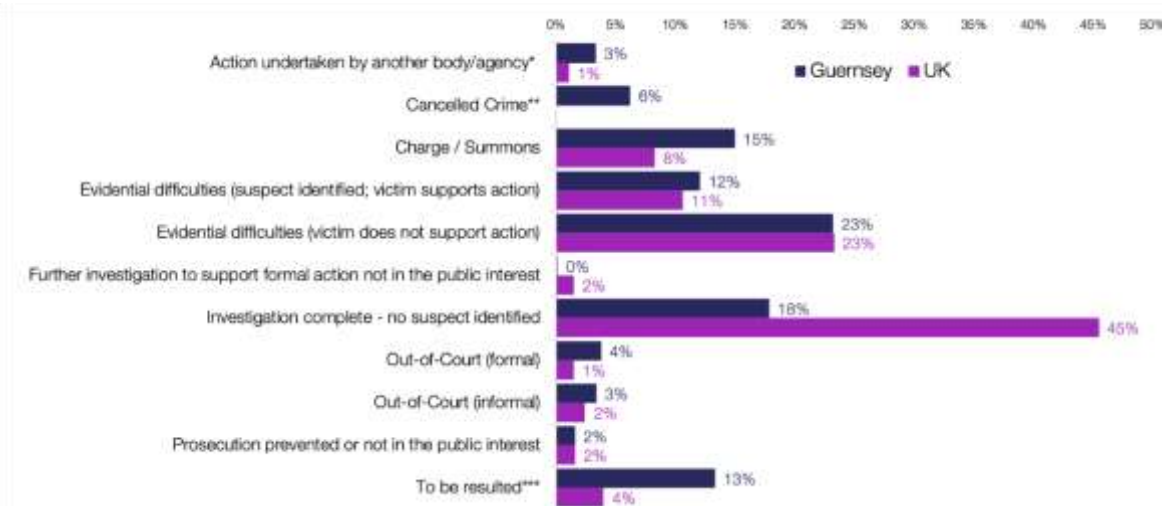
⁶ ONS, Crime in England and Wales: Police Force Area data tables, year ending December 2018. Please note, the figures do not include fraud, unlike Guernsey figures (fraud accounted for just 4% of recorded crimes in Guernsey in 2018.)

⁷ Comparisons are drawn with England and Wales in this section, these are intended to be purely illustrative of the context in Guernsey, as legislation, the nature of crime and other factors vary between jurisdictions.

⁸ Law Enforcement Annual Report 2018. “All other crime” includes offence types with fewer than 100 crimes recorded: fraud offences (93); vehicle offences (69); miscellaneous crimes against society (62); public order offences (27); possession of weapons (23); and robbery (1).

As of 2018, in line with the counting rules adopted by Law Enforcement, data on outcomes of crime investigations is now available.⁹ This information provides greater transparency on how recorded crimes are dealt with and offers a more comprehensive understanding of the police and wider justice system processes in place. In 2018, 15% of recorded crimes resulted in a charge or summons (compared with 8% in England and Wales). The most common outcome (23%) in 2018 was evidential difficulties due to the victim not supporting action, which means the crime is confirmed but the victim declines or is unable to support further police action to identify the perpetrator.¹⁰ This figure is in line with UK proportions, although the figures are not directly comparable¹¹ (see Figure 3 below). There are some notable differences in the outcomes in Guernsey compared with England and Wales, namely the high proportion of investigations that are completed in England and Wales with no suspect identified (45% of all crimes recorded), compared with 18% in Guernsey.

Figure 3: Recorded crime outcomes, % of all crime, Guernsey compared with England and Wales, 2018¹²



⁹ Previously Law Enforcement listed detections. The outcomes of crime investigations provide a far more accurate picture of the criminal justice process.

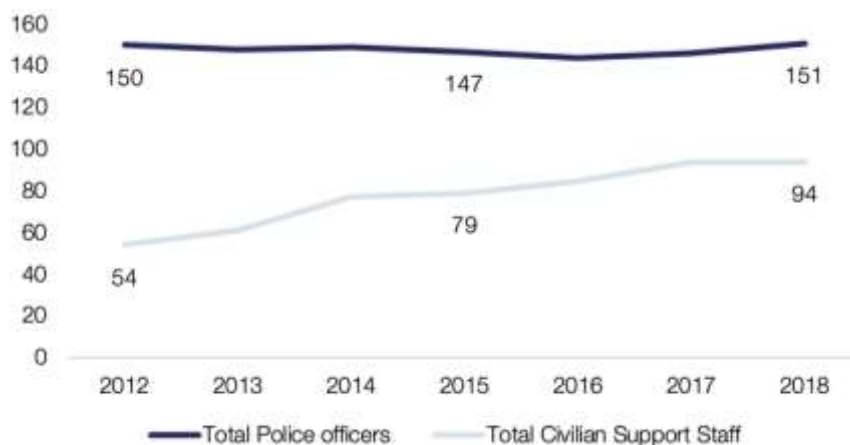
¹⁰ This outcome is discussed in more detail later in this chapter in relation to victims' services.

¹¹ It is noted that it is not possible to make direct comparisons between Guernsey and England and Wales as distinctions arise as a result of differences between UK Law and Bailiwick of Guernsey legislation and criminal justice policy. When following Home Office Counting Rules, where there is a difference in the crime, the most similar UK alternative will be selected. For example, where there is a crime of assault, UK legislation defines four options: 'Common Assault', 'Actual Bodily Harm', 'Grievous Bodily Harm' and 'Wounding' whereas in Bailiwick of Guernsey legislation, there is no offence of 'Actual Bodily Harm'. In this example, the crime would be assigned according to its severity using the options available within Bailiwick of Guernsey legislation. Public expectation also differs, an example being that no crimes are screened out in Guernsey.

¹² Note that not all offences recorded in the year ending 31 December 2018 have been assigned final outcomes as they may still be under investigation. Guernsey data year ending December 2018; Law Enforcement Annual Report 2018; England and Wales data 2018/19 (year ending March 2019), Home Office; Police recorded crime and outcomes open data tables, year ending March 2019

As recorded crime has risen over the same seven-year period, police officer numbers have remained fairly stable – sitting between 144 and 151. The number of police support staff has increased 74% over the same period, although numbers have remained stable at 94 since 2017.

Chart 3: Police personnel numbers 2012–2018, by type¹³



The priorities in the 2013 plan were to:

- maximise police visibility and accessibility through initiatives such as the neighbourhood policing scheme;
- provide appropriate advice on designing safety into environmental plans;
- work with communities to encourage reporting of suspicious activity (including maintaining Drugline and links with Crimestoppers);
- work with partners to develop initiatives to reduce crime;
- identify, and as far as lawfully possible, target persistent offenders; and
- secure the Islands' borders to protect its citizens and environment.

In relation to action plan priorities, Law Enforcement have historically been involved in several initiatives to provide crime prevention education and advice, including in schools, alongside the Office of the Children's Convenor, the Youth Justice Service (YJS) and social work groups that engage with young people. They remain committed to supporting these where possible, but they are no longer doing so regularly due to a need to reprioritise resources away from neighbourhood policing and frontline border enforcement. In recognition of the impact of the shift in resources on the visibility and accessibility of the police, a new diary service has just been introduced for people requiring a police response to non-urgent matters.

One of the broader priorities in the plan, which would have involved Law Enforcement, was to divert appropriate cases away from the courts. There is some data on this from the 2017 cohort, in which 258 (25%) cases did not reach court. The most common verdicts for these cases were

* The UK terminology is "responsibility for further investigation transferred to another body".

** No UK data is available.

*** The UK terminology is "not yet assigned an outcome".

¹³ Data from Law Enforcement Annual Reports 2013–2018, accessed online (<http://www.guernsey.police.uk/annualreports>)

verbal caution (45%), retained by the children's convenor (29%), and withdrawal (22%). We heard that there continues to be scope for more diversionary measures to be used by Law Enforcement. Such measures can include instances where the police use their discretion not to investigate an alleged offence, not to charge someone with an offence (in less serious cases), to issue out-of-court disposals for an offence, or to take an informal approach to dealing with an offence, i.e. one which does not require referral to HM Procureur or the Child, Youth and Community Tribunal (CYCT). The approach currently taken, which is determined to a great extent by legislation, results in a large reliance and spend on legal aid.

The current priorities are to:

- implement an ICT recovery programme;
- address the remaining recommendations and areas of improvement of HMICPFRS report
- address demands related to the police often operating as first point of contact in crisis, particularly for vulnerable people and for child protection
- secure updates to the Bail Law and PPACE which have been agreed by CfHA once other legislative priorities have been addressed.

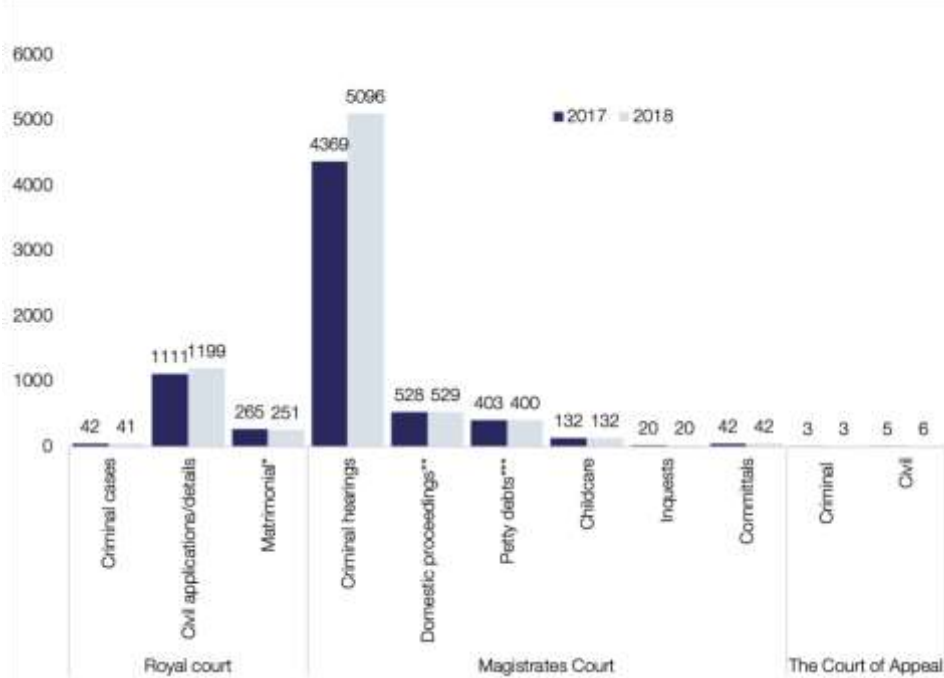
During the period of the Review, significant attention has been paid to understanding the demands on the police and border agency and to addressing the recommendations made in a report by HM Chief Inspector of the Police, Fire and Rescue Service in 2018. We discuss the progress that has been made later in the report.

Royal Court and Greffe

There were no specific priorities identified in the action plan in relation to the Royal Court and Greffe, although there was a representative member on the Criminal Justice Working Group. HM Greffier and other Court officials viewed it as important to maintain independence from government priorities for reforming the justice system, as their focus is on running the court service and facilitating the administration of justice. The Bailiff, jurats and judges are also necessarily independent in terms of their decision-making which also necessarily restricts engagement in justice policymaking. As a result of their remit, the need to maintain independence as well as ICT and other resource constraints, limited administrative data has been collected to date about those appearing in court and about court processes.

All criminal prosecutions in Guernsey commence in the Magistrate's Court, with the more serious cases sent or committed for hearing in the Royal Court. In practice, this means that the vast majority of hearings and cases are heard in the Magistrate's Court. In 2018, 41 criminal cases were dealt with in the Royal Court, one more than in 2017. In comparison, 5,096 criminal hearings were held in the Magistrate's Court, up 17% from the year before (4,369). Figure 4 gives an indication of workloads across the Royal Court, Magistrate's Court and Court of Appeal over the last two years. Most numbers have remained fairly consistent over the period, with the exception being the increase in criminal hearings between 2017 and 2018.

Figure 4: Workloads, resources and indicators by court type, 2017 and 2018¹⁴



Data on court processes and their timeliness is not available in the public domain. We accessed data on all charges brought to court in 2017 for a crime or drink driving offence and were able to pull out limited data on the length of time between the committal of an offence (or an incident occurring) and the court reaching a decision (completing).

Table 1: Time from offence to completion by crime type

Cases by charge crime type	Time (months) offence to completion
All cases	5.9 ^{†,‡}
Drug	4.1
Sexual offences	48.2 [†]
Theft	3.6
[†] Please note, historical cases skewed the timeliness for the overall caseload and sexual offences. There were 38 cases where an offence was committed (or an incident occurred) prior to 2015, for which the court decision was reached in 2017. Of these 38, 33 were sexual offences (87%) and 5 were forgery offences (13%).	
[‡] The median time period (which reduces the impact of outliers) was 2.7 months. To account for the outliers referenced above, by removing 5% of outliers on either side of the median, we can calculate the average time period which drops to 3.9 months from offence/incident to completion (final court decision).	

We were not able to acquire other detail about timeliness, such as the time between an offence (or incident) and charge, or between charge, court listing and case completion which would shed more light on timeliness across different aspects of the system. We therefore advise that our calculations should be treated as estimates based on one source of data.

¹⁴ Royal Court Business Plan 2019

* petitions and final orders combined

** including affiliations (with hearings)

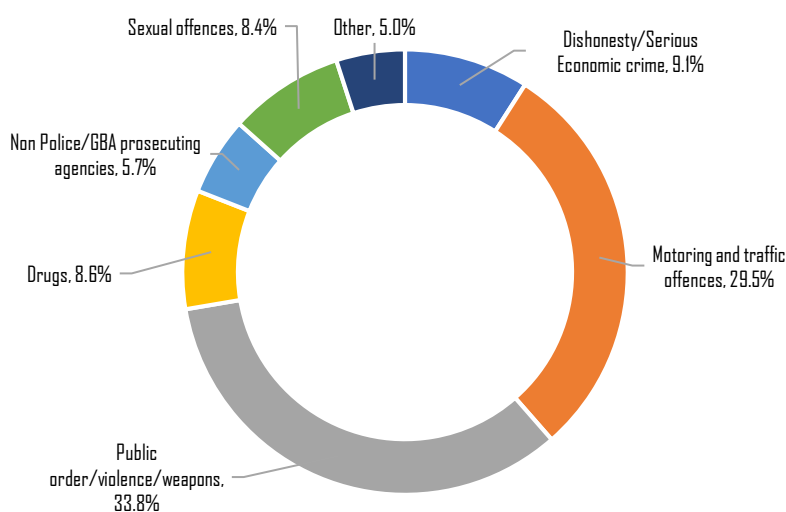
*** total and contested

Law Officers of the Crown

There were no specific priorities identified in the plan for the Law Officers, although several pieces of legislation were identified for reform. These include the Probation Law and the Parole Law, which the Law Officers are responsible for drafting in line with the drafting instructions provided by the Assembly. HM Procureur was a member of the Criminal Justice Working Group. HM Procureur (as HM Receiver General) has responsibility for administering the Seized Asset Fund (which currently amounts to approximately £10–11 million); this function was reviewed while we were undertaking our consultation. The Fund currently has no statutory footing and there is limited transparency about its operation in terms of an agreed system to administer it or clear principles for the allocation of funding. Community-based organisations can bid for resources to deliver services. Stakeholders believe that beneficiary initiatives should have as their purpose fighting crime or promoting social justice more broadly.

There was limited data available to us pertaining to the Law Officers. A breakdown of the nature of new criminal matters received for formal advice by Law Officers (not including the majority of cases which are dealt with in the Magistrate's Court upon first appearance), is set out in the figure below. Prosecutions for public order offences and offences of violence made up the largest proportion of new criminal matters dealt with (33.8%), followed by motoring and traffic offences (29.5%).

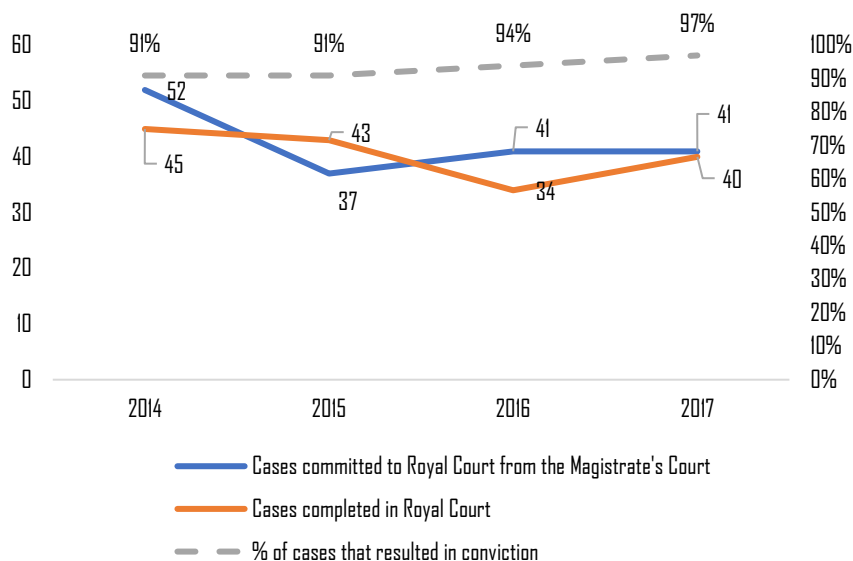
Figure 5: A breakdown of the overall number and general nature of new criminal matters received in 2017 for formal advice and review¹⁵



The number of cases that resulted in a conviction in 2017 was 97%, representing a small increase on previous years.

¹⁵ Law Officers Annual Report (2017)

Chart 4: No. of cases committed to Royal Court from the Magistrate's Court, no. complete and proportion resulting in a conviction (2014-2017)



As noted above, the 2013 plan included as a priority diverting appropriate cases away from the courts. The prosecutor's decision whether or not to prosecute is another point at which diversionary approaches can be taken. The code of guidance on the decision to prosecute includes a set of factors which should be taken into account and balanced in each case when considering whether a prosecution would be in the public interest. There is scope within the guidance for cases not to be proceeded with even when they meet the tests within the code:

"... it has never been the rule that suspected criminal offences must automatically be the subject of criminal proceedings. A prosecution might therefore not take place where the matter can be dealt with properly by some other means, such as a formal caution being given or, in the case of a young person, through action taken by the Children's Convenor."

Existing data does not enable us to identify the extent to which cases referred to prosecutors are not proceeded with.

Probation

The priorities in the 2013 plan were to:

- review parole legislation (which also affects the prison);¹⁶ and
- implement new sexual offences legislation.

Probation and the Prison are jointly responsible for the offender management sub-strategy, now known as the rehabilitation and resettlement strategy, which was refreshed during the period of the Review. This is considered below. The review of the Parole Law has resulted in a resolution to move the first application for parole from a third to halfway through a sentence, with a view

¹⁶ Billet D'État XIII, 2011

to enabling more people to complete the necessary work in prison before applying. Regulations to support the scheme are being drafted.

Civil orders and multi-agency public protection arrangements were implemented in The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013. There is ongoing work on sexual offences law to update legislation on what constitutes a sexual offence (i.e. definition of rape; consent; offences against children; abuse of position of trust; prostitution; trafficking; and indecent images). It is understood that the CfHA intend to bring the Sexual Offences (Bailiwick of Guernsey) Law, 2020 to the States for approval in spring 2020.

We met with representatives of Probation senior management and the operational team, some of whom also attended the workshops as well as people serving prison and community sentences. We heard from them and other stakeholders that the service was largely functioning well.

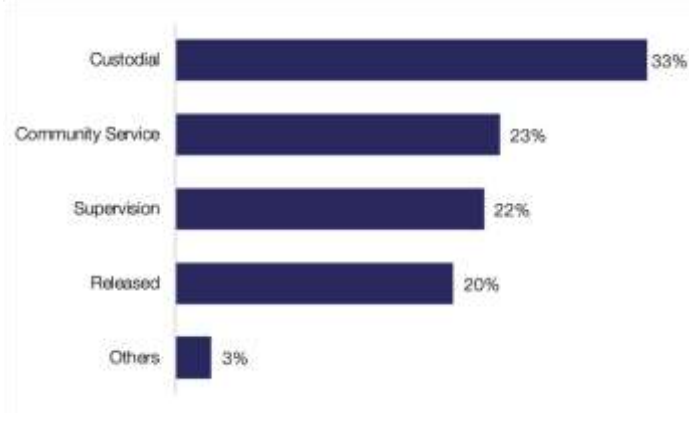
The current priorities are to:

- implement the refreshed rehabilitation and resettlement strategy
- implement the new Probation Law
- scoping alternative sentencing, including, but not limited to, tagging.

The number of reports completed by the Probation Service for the Guernsey Courts decreased 14% between 2017 and 2018, (from 315 in 2017 to 269 in 2018).¹⁷ This decrease was mainly driven by a decline in reports required by the Magistrate's Court, which fell by 18% from 233 in 2017 to 192 in 2018. In the Royal Court on the other hand, the numbers remained comparable (34 in 2017, and 35 in 2018).

The average caseload for the Probation Service has remained broadly steady over the last three years. In 2018 the average annual caseload was 257, compared with 243 in 2017 and 248 in 2016. In 2017, custodial caseloads made up a third (33%) of cases, followed by community service (23%), as shown in figure 6 below. This data is not available for 2018.

Figure 6: 2017 Caseload by case type¹⁸



¹⁷ Probation Service Annual Report 2018, <https://www.gov.gg/CHttpHandler.ashx?id=121123&p=0>

¹⁸ Probation Annual Report 2017: <https://www.gov.gg/CHttpHandler.ashx?id=114280&p=0>. 2017 data is used due to a change in caseload management system, meaning that the data has not been published in the latest 2018 Annual report whilst detailed reporting ability is being developed.

We were unable systematically to gather a breakdown of the Probation caseload by offending type, and trends over time with available data, however the Probation Service Annual Report for 2018 provided an indication of the areas of changing demand:

“The criminal justice system has over the past few years experienced an increase in high risk sexual and serious violence offenders, some resulting from prosecutions of historic cases but still needing appropriate management by the Probation Service in prison and in the community.”

To provide some context, sexual and serious violent offences do not represent the most common offences. Amongst the 204 cases in the 2017 probation cohort the most common offences were drug-related (24%), followed by theft (15%) and assault (14%). Sexual offences accounted for 4.5% of all charges.

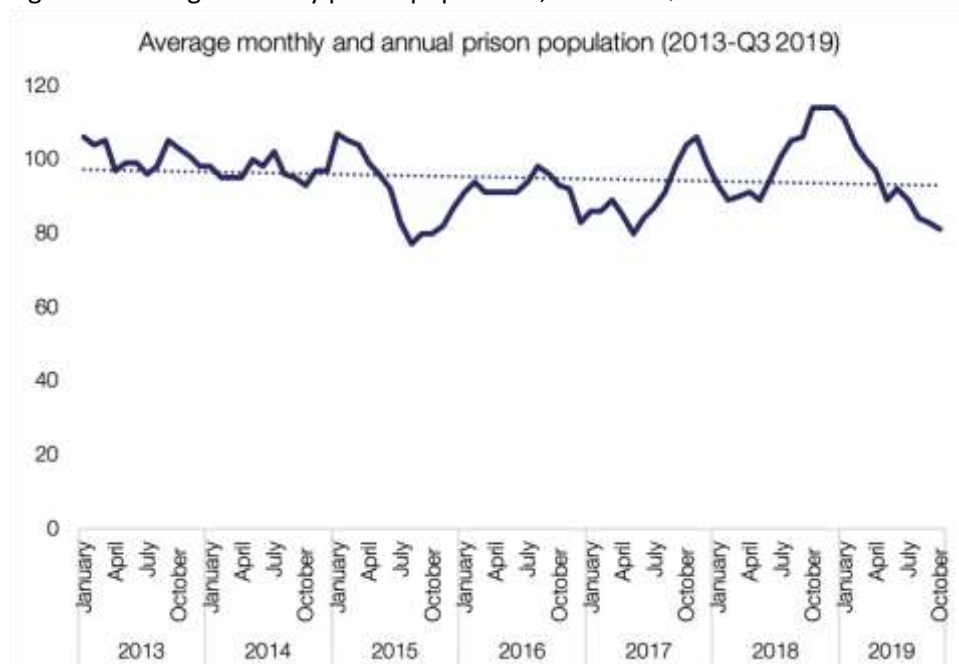
Prison

The priority in the 2013 plan was to:

- upgrade the prison perimeter to ensure that it is appropriate for Category B prisoners.

Between 2013-2017, the prison population declined in Guernsey, however 2018 saw an anomalous spike, before it declined again in 2019.

Figure 7: Average monthly prison population, 2013 to Q3 2019¹⁹

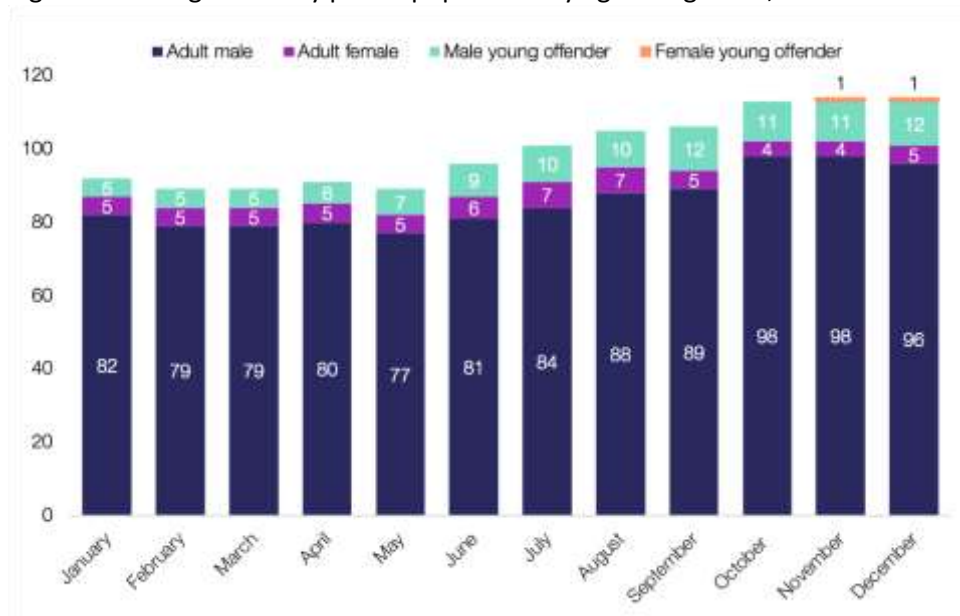


In 2018, the annual average prison population was 100, nine higher than in the previous year. The highest monthly total was 114 (December) and the lowest monthly total was 89 (May). During 2018, the average monthly prison population increased by 23% (see Figure 7).

¹⁹ Guernsey Prison Population Breakdown, 15 November 2019

As Figure 8 shows, male adults made up the majority of the prison population. Over the course of the year, 95% of the prison population was male, and adult males made up 86% of this population. The vulnerable prisoner population, who are predominantly people who have committed sex offences, made up 25% of the prison population.²⁰

Figure 8: Average monthly prison population by age and gender, 2018²¹



The average prison population rate was 154 per 100,000 in 2018, which is notably higher than in other nearby jurisdictions. It must be noted, though, that due to Guernsey's small population (65,200 at September 2019 by States of Guernsey estimates), small changes in the prison population can have a sizeable impact on the rate per 100,000 population. It would be necessary to collate rates over a longer term to determine whether the higher prison population in Guernsey compared to Jersey and the Isle of Man represents a trend. This could usefully be monitored in future and explored further were it demonstrated to remain consistently higher.

Table 2: Selected jurisdictions and prison population rate per 100,000 population, 2018²²

Geography	Rate per 100,000 population
England and Wales	140
Guernsey	154
Isle of Man	125
Jersey	122
Scotland	151

The increase in the prison population resulted in a need to increase the prison budget in 2019, reversing efficiency savings which had previously been achieved. It should be noted that at the time of writing (November 2019), the average monthly prison population had declined to 81, the lowest level over the seven-year period for which figures are available (see Figure 7).²³

²⁰ Year ending 2018. Guernsey Prison – Annual Report 2018:

<https://www.gov.gg/CHttpHandler.ashx?id=119380&p=0>

²¹ Guernsey Prison, Annual Report – 2018: <https://www.gov.gg/CHttpHandler.ashx?id=119380&p=0>

²² World Prison Population List

²³ Guernsey Prison Population Breakdown, 15 November 2019

The current priorities are to:

- implement the refreshed rehabilitation and resettlement strategy;
- review mental health and wellbeing provision; and
- review the Parole Law, which currently allows early conditional release where sentences are less than 15 months, to change it to 21 months.

Child, Youth and Community Tribunal (CYCT)

The Criminal Justice Strategy covered both youth and adult crime. In relation to the former, the Strategy recognised that while the juvenile system acknowledged and adhered to the strategic commitments, its distinct status as an integrated welfare-based model required additional strategic commitments related to child protection.

The CYCT, known as the Children's Convenor system, was designed to replace the court in the majority of cases where compulsory intervention is required for children in need of care, protection, guidance or control. The Children (Guernsey and Alderney) Law, 2008 (the Children Law), which created the CYCT, retained the option for children who commit serious or persistent criminal offences to continue to be dealt with by a court, as appropriate or where necessary. We examine progress in implementing the intentions of the Children Law in Chapter 2.

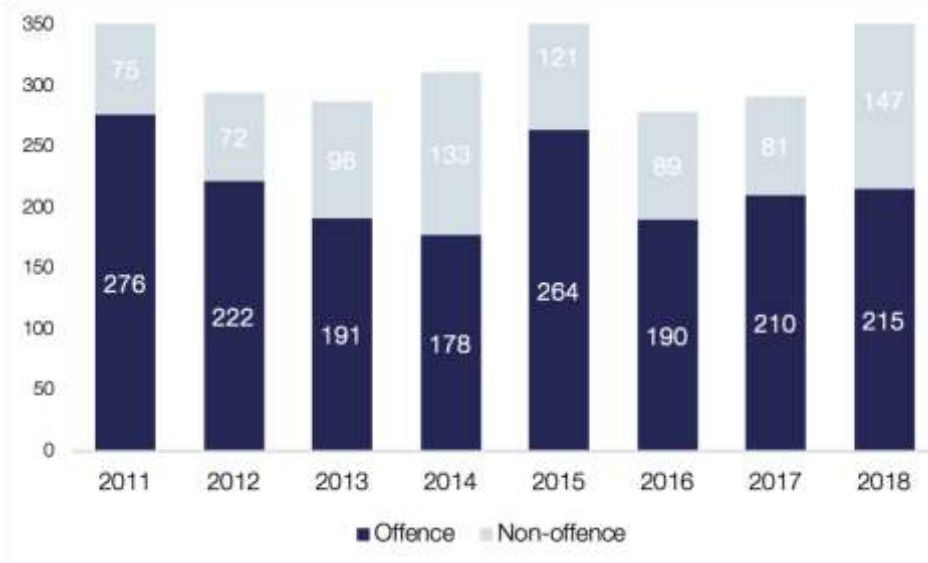
The priority in the 2013 plan was to:

- investigate the practicalities of involving victims in the children's tribunal system.

We met with the Convenor, Deputy Convenor, Director of Children's Services and Head of Youth Justice. We also held a workshop to examine current and future responses to youth crime with a range of stakeholders from Youth Justice, Children's Services and the voluntary sector.

In 2018, 362 referrals were received by the Convenor: 215 of which were offence-related. Law Enforcement were the main source of referrals, accounting for 61% of them. The total number of referrals in 2018 marked a second year of increases after a decline between 2015 and 2016. This was largely driven by an increase in non-offence related referrals, which at 147, were at their highest since records began in 2011.

Figure 9: Number of referrals to the Convenor by offence/non-offence, 2011–2018²⁴



In 2018, 357 decisions were made by the Convenor. 23% (81) of these were dealt with by HM Procureur (compared to 20% the previous year)²⁵, 20% (70) for diversion²⁶ (compared to 26% the previous year), and 17% (60) were referred by the Convenor to the CYCT (up from 15% in 2017).

Table 3: Breakdown of decisions made by the Convenor (2016-18), by number and % of annual total

	2016	2017	2018		2016	2017	2018
Dealt with by HM Procureur	65	53	81		20.1%	20.4%	22.7%
Arrange a Hearing of CYCT	62	38	60		19.1%	14.6%	16.8%
No Hearing required as measures already in place	35	39	50		10.8%	15.0%	14.0%
Diversion to Road Traffic Awareness Programme	42	47	39		13.0%	18.1%	10.9%
No Hearing required as action taken by family or others	33	9	32		10.2%	3.5%	9.0%
Diversion to Restorative Justice	24	20	31		7.4%	7.7%	8.7%
Insufficient evidence to proceed	6	7	23		1.9%	2.7%	6.4%
Refer to Committee for Health and Social Care	26	4	20		8.0%	1.5%	5.6%
Convenor interview	7	18	11		2.2%	6.9%	3.1%
No indication of a need for compulsory measures	13	14	7		4.0%	5.4%	2.0%
Refer to other Committee or Agency	11	11	3		3.4%	4.2%	0.8%
Total	324	260	357		100%	100%	100%

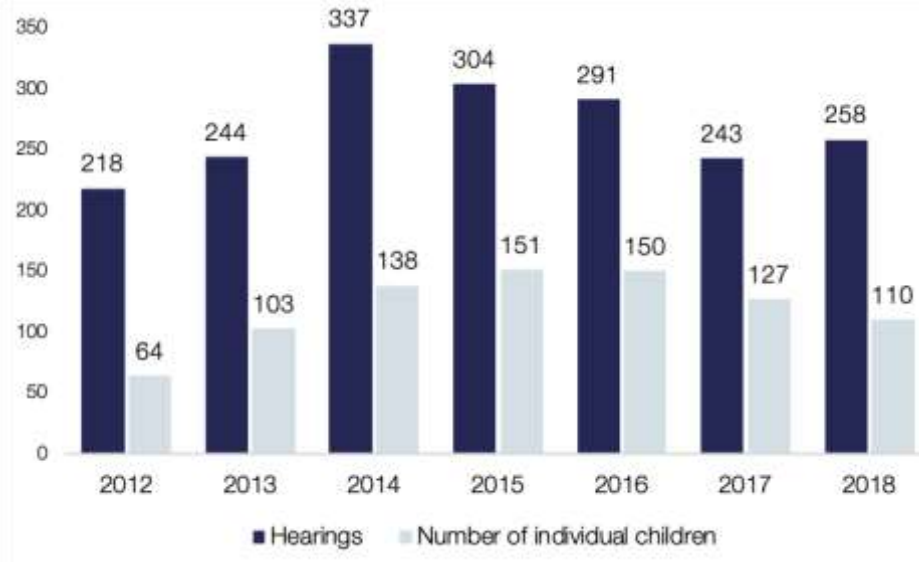
²⁴ Convenor's Annual Reports

²⁵ Some of these referrals will be made for repeat offenders

²⁶ This includes diversion to road traffic awareness programme (39) and diversion to restorative justice (31)

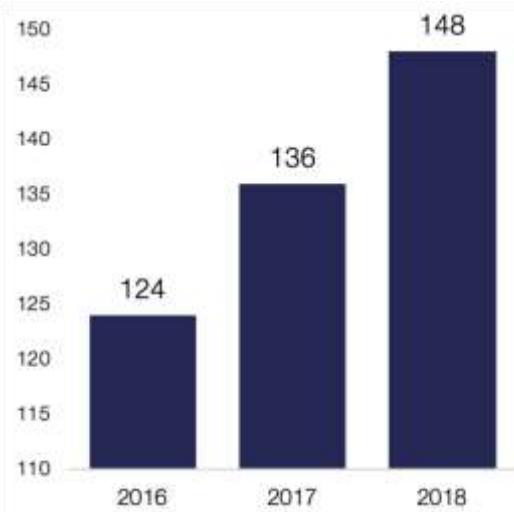
In 2018, 258 hearings of the CYCT were held. These related to 110 individual children (some children appeared before the CYCT more than once). The number of hearings increased from 243 in 2017, although the number of individual children appearing before the CYCT (110) was the lowest since 2014.

Figure 10: Number of CYCT hearings held and no. of individual children these relate to²⁷



In 2018, there were 148 referrals to the Youth Justice Service for offending behaviour, up from 136 the year before. According to Drug and Alcohol Service data, just over a quarter (27%) of young people referred to Youth Justice were known to have been under the influence of drugs or alcohol.²⁸

Figure 11: Number of referrals to Youth Justice, 2016–2018²⁹



²⁷ Convenor's Annual Reports

²⁸ DAS 2018 Annual Report

²⁹ Data from the Drug and Alcohol Service Annual Report 2018

In 2018, a total of 116 referrals were made to the Youth Justice Service for youth offending. Of these, 98 (84%) were new entrants, while 18 were re-referrals. This is a re-referral rate of 16% – a much lower proportion than in 2017, when there was a 31% re-referral rate – meaning that there was a higher proportion of new entrants to the system in 2018.³⁰ [

At the time the system was established, costs were expected to be recovered through medium- and long-term savings in court costs and time; through investment in early intervention resulting in longer-term savings to the States from reduced social and health problems later in life; and through investment in help for care leavers preventing later expenditure on social, mental health and criminal justice services. While such a strategic approach is welcome, it has not been possible for us to determine the extent to which the anticipated savings have been realised, or whether it might be possible to achieve greater long-term savings. There is some evidence of savings in court time and costs which we refer to later in the report.

Family Proceedings Advisory Service (FPAS)

The family justice system was not included in the criminal justice strategy as it relates to matters of civil law. Nevertheless, it is an important aspect of justice policy which we consider should be included in a future strategy. The CfHA is prioritising ongoing action to address recommendations made about FPAS in a report by Ofsted in November 2017.³¹ Wider recommendations on the family justice provisions in the Children Law were made in the Marshall report which the Committee for Health & Social Care (“CfHSC”) are taking forward.³² We met with leaders from Probation and FPAS to discuss challenges with the operation of FPAS and the potential detrimental impact on the children and families involved.

The most significant issue was managing pressures on the family proceedings system stemming from both public and private law cases. For example, we were told that mediation and dispute resolution was hampered by a heavily adversarial approach to family justice and there has been an escalation of the costs of legal aid, including funding for expert assessments.³³ These matters were also raised with us by other stakeholders, including politicians and representatives from Children’s Services, broader government and the legal profession.

The need for change to the family justice system is widely supported, both within and outside the justice system. The Family Court User Group is examining how the organisations it represents can work collectively to improve the functioning of the system within the existing legislative framework. The CfHA is considering changing the governance arrangements for FPAS although no clear alternative model has been identified. Oversight currently sits with the Head of Probation to provide professional social work supervision to the head of the service. The CfHSC is consulting on potential amendments to the Children Law, which provides the legislative framework for safeguarding children in the family justice system.

In 2018, FPAS was involved in 246 live cases, a 7.5% increase from 228 cases in 2017.³⁴ Of these, 146 were new cases, 74 were from 2017, and 26 were from before 2017. In terms of case

³⁰ Islands Safeguarding Children Partnership, [Annual Report](#) 2018

³¹ Ofsted, [Inspection of the Family Proceedings Advisory Service report](#), 16-20 October 2017

³² Marshall, K. (2015) [Guernsey: Children Law Review](#), States of Guernsey

³³ The costs of experts rose from £42,000 to £130,000 between 2012 and 2018.

³⁴ FPAS Annual Report 2018

breakdown, using available data from 2017, the majority of cases (68%) were private law (see Figure 12). This is consistent with, though slightly higher than, previous years (going back to 2014), when private law cases made up between 61% and 63% of the caseload.

Figure 12: Live cases dealt with by FPAS, by case type, 2017



The available data suggests that demand on FPAS is increasing.³⁵ The number of new cases increased by 28% between 2017 and 2018 (from 114 to 146), and in 2018 there were 47 new mediation referrals, a significant increase on previous years and a rise of 161% on the previous year alone.

We were able to access data for legal aid spending broken down by civil and criminal cases but were not able to identify how this was broken down for family justice. In 2018, the legal aid budget was £2.49 million, compared to £2.45 million in 2017. From 2017 the budget was planned to remain flat, after overall increases since 2010, although there has been some fluctuation. Civil legal aid makes up 68% of the budget and criminal legal aid 32%. This has marked a change. In 2010, for example, civil legal aid made up 54% of the budget and criminal legal aid made up 46%.

We have not had the capacity within the timescale of this Review to undertake the kind of in-depth review of the family justice system that is required; neither do we have the expertise to do so. Nevertheless, we have not wholly excluded the family justice system from scope to ensure that our findings can feed into any future review. In addition, many of the broader principles that we recommend become the foundation of future justice policy could also apply to the family justice system. We cover this further in Chapter 2.

The Bailiwick of Guernsey Victim Support and Witness Service

The priorities in the 2013 plan were to:

- identify new measures to support vulnerable defendants;
- make improvements to services for victims and witnesses, including developing a guide to the criminal justice system for victims and witnesses and establishing a witness care unit;
- investigate the practicalities of introducing a victim's surcharge, imposed by the court;
- raise awareness of the impact of cross-examination of victims by advocates during the court process; and

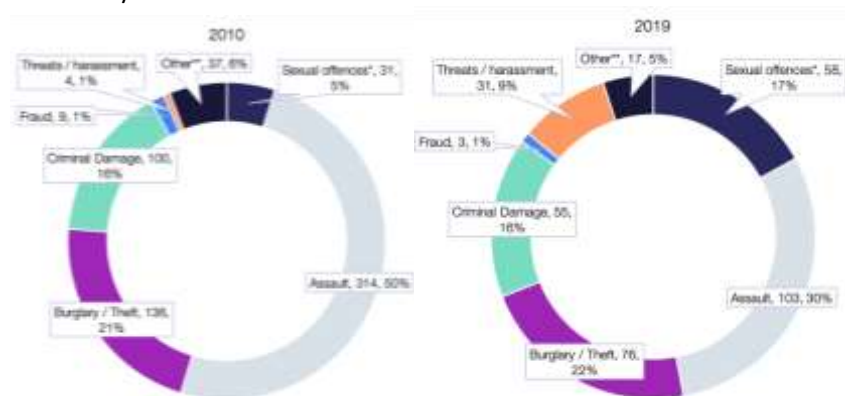
³⁵ Indeed, the FPAS Annual Report 2018 states: "Due to an overall rise in cases impacting Children's Services, CYCT, Law Offices and FPAS, the pressures in the Family Court and Tribunal system in regard to public proceedings for children was escalated to the ISCP (Islands Safeguarding Children Partnership) in November 2018."

- identify new measures to support vulnerable victims and witnesses.

The well-established Bailiwick of Guernsey Victim Support and Witness Service provides the majority of services to victims and witnesses, in addition to those provided under the domestic abuse strategy described above. It receives some funding from the CfHA. The service is based at the court building and the CfHA has produced a guide to the criminal justice system for victims and witnesses, available on its website. Measures are in place to allow for special measures, including video links to enable evidence to be given remotely for vulnerable victims and witnesses. There have been issues with the functioning of this although we understand that these have recently been resolved. We heard that services for victims and witnesses could be seen as a more integral part of the court system. Service providers and service users gave us examples of the treatment of victims of domestic abuse at court which were perceived to be poor.

In the 12 months between June 2018 and May 2019, the Guernsey Victim Support and Witness Service supported 344 victims and 467 witnesses of crime. These numbers are consistent with the previous year, when 342 victims and 467 witnesses were supported. The two most common crimes for which victims were supported in 2018/19 were assault (30% of referrals) and burglary/theft (22% of referrals).³⁶ This case make-up has remained fairly consistent over the past nine years (see Figure 13); however, sexual offences make up an increasing proportion of referrals, as do threats and harassment, possibly due to increased recording and willingness to report crimes.³⁷ The Service believes that this has more to do with the public feeling more able and supported to report such crimes than a rise in incidence.

Figure 13: Referrals to the Service by crime type (% of overall referrals and volume), 2009/10 and 2018/19³⁸



This change in referral types has occurred against a longer-term change in referral numbers. While the number of victims supported has seen a long-term decrease since 2009/10 (from 504) and has remained fairly stable since 2013/14 (when 338 witnesses were supported), the number

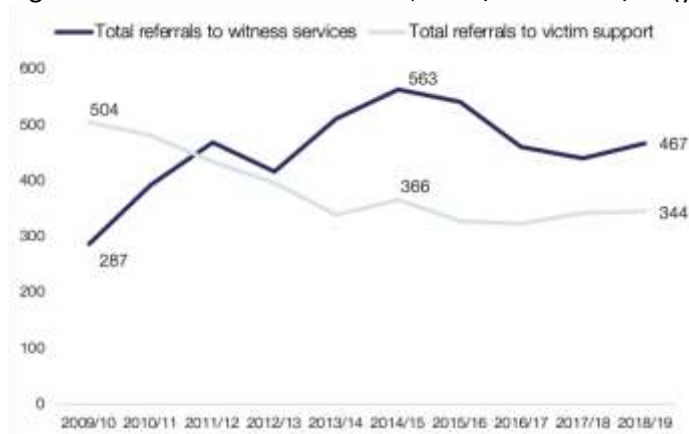
³⁶ Victim Support and Witness Service Annual Report 2018/19

³⁷ * Sexual offences includes "historic sexual abuse" (10 offences in 2019). ** Other includes crimes with fewer than three offences (e.g. robbery)

³⁸ Victim and Witness Service Annual Reports 2015/16 and 2018/19

of witnesses has seen a substantial increase over this period (see Figure 14). We heard that following changes to data protection legislation in 2010 the numbers of individuals coming into contact with the Service significantly dropped. Prior to this every victim was referred to the Service by the police, whereas now there is a choice to opt in.

Figure 14: Referrals to the Service, 2009/10 to 2018/19 (years ending May)³⁹



1.2.2 Sub-strategies in the criminal justice strategy

We have sought to review progress in implementing the five sub-strategies identified as key to the priorities in the criminal justice strategy: offender management, domestic abuse, restorative justice, drugs and alcohol, and financial crime. An additional strategy on cyber security was published in November 2017, in recognition of the increased global threat of cyber crime.

1.2.2.1 Offender management strategy

The priorities in the 2013 plan were to:

- develop individualised pre-release resettlement plans for prisoners;
- implement a mentoring scheme for offenders leaving prison;
- develop an Integrated Offender Management Scheme targeting prolific offenders;
- place existing multi agency public protection arrangements (MAPPA) on a statutory basis; and
- generate a greater awareness of rehabilitation of offenders legislation among employers.

We have been unable to review this strategy as it was in the process of being revised during the Review. Prison and Probation leaders have worked collectively to improve sentence planning, including pre-release resettlement plans. Guernsey Caring for Ex-Offenders, a third sector faith-based charity working in the prison and in the community, has established a group of volunteer mentors who work closely with the probation service and the offender management unit in the prison. We did not hear about any examples of peer support initiatives. We were told that multi-agency public protection arrangements (MAPPA)—which are designed to ensure the successful management of people who commit violent and sexual offences in the community—were

³⁹ Victim and Witness Service Annual Reports. Figures for 2016/17–2018/19 have been calculated from average monthly referral data.

generally working well since they were implemented in 2015. Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) raised concerns about police caseloads for monitoring public protection cases which we understand have now been resolved although we have not verified this. Following the concerns regarding workload and resilience raised during the HMICFRS re-inspection, a review of MAPPA was carried out recommending several initiatives to put in place more robust arrangements to better manage the risk.

The longer-term aim of raising awareness of rehabilitation of offenders legislation among employers continues to be seen as necessary. One of the CfHA's current priorities is to review vetting and barring legislation. This legislation is designed to protect children and vulnerable adults by preventing people who are judged to present a risk of harm from working or volunteering with them. There has been no wider review of the criminal records regime, although concerns were raised with us about the impact of criminal records on the future prospects of children and young adults. We discuss these in Chapter 2.

As noted above, the revised offender management strategy will be known as the rehabilitation and resettlement strategy.

1.2.2.2 Domestic abuse strategy

The priority in the 2013 plan was to:

- provide effective interventions for perpetrators of domestic abuse.

A domestic abuse strategy was launched in 2015. Under the strategy, third sector providers and the Probation Service deliver services for victims and perpetrators of domestic abuse. We found that there is relatively well-developed provision for people who have experienced domestic abuse, including an outreach service, refuge accommodation, independent domestic violence advisory services for adults and children, and a supervised contact centre where the children of victims can maintain relationships with parents in circumstances where this may otherwise not be possible. Nevertheless, as figure 15 illustrates, demand on these services is rising. Some of them are stretched and do not have sufficient funding to cover their full running costs. While practical support is provided by existing services, there is limited provision for therapeutic emotional and psychological interventions to help victims overcome the impact of these offences. More broadly, the absence of a sexual abuse referral centre (SARC) and crisis helpline for victims of sexual violence was identified as a critical gap by several different stakeholders. Preliminary discussions have taken place between the Offices of the CfHA and CfHSC in respect of the merits of creating a SARC.

Figure 15: Number of cases referred to a multi-agency risk assessment conference (MARAC)⁴⁰



In total, 177 reported domestic abuse cases (those identified as high risk) were referred to a MARAC in 2018, 33% of which were repeat MARAC cases (a repeat MARAC case indicates where a further incident constituting criminal behaviour is identified within 12 months of the date of the last referral).⁴¹

Probation-led programmes have been developed for perpetrators of domestic abuse subject to community sentences and medium and long-term prison sentences. The programme also receives referrals from FPAS and Children's Services. There is no dedicated programme for perpetrators serving short custodial sentences. In these cases, the probation service undertakes and assessment and provides individual intervention and there is an option to attend Probation-run programmes voluntarily post-release.

We have not been able to determine the impact of the domestic abuse strategy due to limitations in data on domestic abuse incidents reported to the police and on the outcomes of preventative activity to tackle domestic abuse, or police activity to target repeat and serial perpetrators, or perpetrator programmes run by probation. A re-referral to MARAC will be made by the police if there is a further incident within 12 months. This happened in 40% of MARAC cases in 2019. There are challenges in understanding the reasons for the high rates of attrition in terms of victim participation before cases come to court. We heard that once cases do get to court, some complainants feel that specialist provision could be made for independent advocates to support them in criminal proceedings, although some support is provided by the Victim Support and Witness Service and support is provided out of court by IDVAs. A priority in the domestic abuse strategy is to improve data collection and performance monitoring processes, which we heard would require a multi-agency approach.

⁴⁰ Guernsey Police via Guernsey Facts and Figures 2019: <https://www.gov.gg/CHttpHandler.ashx?id=121362&p=0>; See glossary for definition of MARACs (multi-agency risk assessment conferences).

⁴¹ The expected level of repeats for an established MARAC would be in the range 28–40%. There was a change in the method of recording in 2018, in line with the National Crime Recording Standard, resulting in more domestic abuse incidents being recorded.

Priorities in the current domestic abuse strategy:

- Put in place protocols to identify and address the needs of families/individuals who are experiencing a combination of domestic abuse, mental ill health and drug/alcohol misuse
- Address needs of young people affected living with abuse in family and experiencing abuse in own relationships; a children's domestic violence advisory service has been commissioned to support high risk children.
- Potential violence against women and girls strategy being explored
- Improve data collection and performance monitoring processes in relation to domestic abuse
- Early intervention to encourage disclosure and signposting to specialist services
- Review Criminal Justice System processes and response to DA
- Development of risk identification checklist for MARAC

One current strategic priority is to address the needs of children affected by domestic abuse. The 177 MARAC cases mentioned above involved 224 children; in addition, more than 2% of the subject victims, and just under 2% of those causing harm to others, were under 18 years old.⁴² Action to address this includes seeking to increase opportunities for prevention through schools and other public services which could play a role in identifying adults and children at risk.⁴³ A mechanism to notify schools of children who have been affected by domestic abuse incidents is going to be introduced.

More broadly, the approach towards examining child victims of sexual abuse was seen as particularly problematic, as the small number of cases results in a challenge in maintaining the necessary expertise on the Island. The current solution to enable children to be treated safely and appropriately is for (pre-pubertal) children who require forensic examination to be supported to travel to Jersey SARC with their families for a joint examination with a paediatrician from Guernsey and a forensically trained paediatrician from Jersey. Post pubertal children are examined in the newly equipped examination suite.

We heard that there had been encouraging changes to police culture around domestic abuse incidents, which continued to be embedded. For example, a positive arrest policy has been implemented,⁴⁴ and a part-time domestic abuse specialist is to be recruited. Nevertheless, we heard that there is further scope for improving the policing and prosecution of domestic abuse in the Bailiwick. An ongoing priority for Law Enforcement is the identification of repeat and vulnerable victims. We were told that the reported crime figures were almost certainly an underestimate. Another current strategic priority is to introduce protocols to identify and address the needs of individuals and families who are experiencing a combination of domestic abuse, mental ill health and drug/alcohol misuse.

There are several workstreams related to violence against women and girls and domestic abuse in the CfHA's business plan, including plans to address gaps in legislative provision regarding the range of civil and criminal sanctions available to Law Enforcement and the courts. A notable gap is a statutory definition of domestic abuse which incorporates recognition of the breadth of

⁴² Islands Safeguarding Children Partnership, Guernsey and Alderney, [Annual Report 2018](#)

⁴³ For example, public health agencies, schools, and children's services.

⁴⁴ This means that in general the force would support the arrest of a suspect, and any officer deciding not to arrest a suspect would need to justify that decision to a supervisor.

activities now recognised to constitute it – for example, forms of emotional and financial abuse, and coercive control.

Current priorities (in the CfHA business plan) include:

- a review of domestic abuse legislation as part of a refresh of the domestic abuse strategy, including an examination of provisions in domestic violence legislation in other jurisdictions;
- amendments to the Domestic Proceedings Law⁴⁵ to allow suspended sentences of imprisonment for breaches of Domestic Violence Injunctions (DVIs), and to permit an individual contesting a breach of a DVI to be remanded in custody; and
- a mandatory investigation of the merits of establishing a “violence against women and girls” strategy.⁴⁶

1.2.2.3 Restorative justice strategy

The priorities in the 2013 plan were to:

- develop and implement restorative approaches with offenders to provide positive outcomes for victims; and
- support and enable the continuous development of the restorative justice strategy.

The promotion of restorative approaches was a key workstream of the justice strategy. It was recognised that these could support the commitment of the CfHA to the promotion of a just and tolerant society and could balance tensions within the justice system, which we discuss in the next chapter. A restorative justice strategy (2010–2012) was developed, identifying a range of applications for restorative approaches in settings where “harm has been done to one another, such as in schools, with families, community disputes and children’s homes”.

The majority of criminal justice stakeholders felt that the strategy had not realised its potential. There is no longer a restorative justice coordinator or a functioning management group to drive implementation. At the time the decision was taken not to reappoint a coordinator, it was suggested that restorative approaches had become “business as usual”. While restorative approaches are used to some extent – for example, by the police in out-of-court disposals and by the Children’s Convenor – we heard from criminal justice agencies that they are not embedded in practices across all the agencies envisaged in the strategy and that training is not routinely available. There was a strong consensus among justice system stakeholders that there continues to be greater scope for restorative justice approaches to be used in the Bailiwick, both within and outside the justice system.

1.2.2.4 Drug and Alcohol Strategy

The priorities in the 2013 plan were to:

- support initiatives to reduce drug- and alcohol-related crime and disorder;
- provide services to drug and alcohol offenders which address the causes of their substance misuse and the links with offending;

⁴⁵ Billet D’État XXI, 2009

⁴⁶ Billet D’État XXIII, 2015

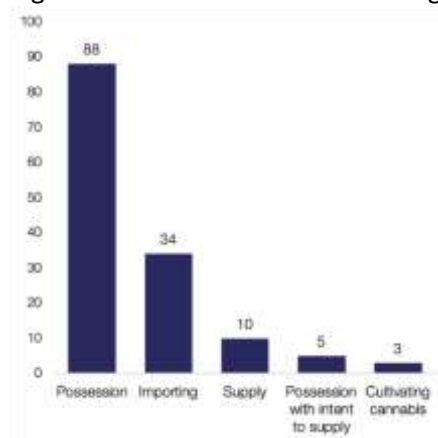
- support partnership working between the Border Agency and the police (now Law Enforcement) to deter the importation and supply of illegal drugs; and
- implement the High-Risk Drink Drivers Scheme.

As we noted above, in 2017, strategic responsibility for the Drug and Alcohol Strategy moved to the CJHSC. Its implementation is driven by a full-time coordinator. The strategy funds a dedicated Criminal Justice Substance Service (CJSS) which is provided by third sector drug and alcohol service In-dependence in partnership with Probation.

Prison-based services aimed at addressing problematic drug or alcohol use are currently under review. A pilot was implemented in August 2019 to maximise the benefits of interventions. Multi-disciplinary collaboration between the prison's offender management unit and the third sector community provider (In-dependence) for drug and alcohol services is well established. Interventions are provided using the SMART UK recovery model. Pathways with prison healthcare are under review, and partnership working with the community criminal justice providers are well embedded and developing.⁴⁷

Guernsey's drug environment is considered unique. The limited ports of entry into Guernsey and Alderney, together with vigilant border controls, have made sourcing traditional recreational drugs such as heroin and cocaine difficult. This, together with the absence of the local availability of methadone and the wide use of dihydrocodeine as opiate substitution therapy has led to the diversion and illicit supply of medicines, commonly referred to as 'prescription diversion.' Prescription diversion is the transfer of a legally prescribed substance from the individual for whom it was prescribed to another person and is an illegal act. In 2018, 140 drug offences were recorded by the police, equating to 7% of overall crime.⁴⁸ By far the most common drug offence was possession of a controlled drug, accounting for 63% of recorded offences. Figure 16 shows a breakdown of drug offences recorded.

Figure 16: Number of recorded drug offences by offence type, 2018⁴⁹



We were told that there had been a recent change in sentencing trends in relation to the use of imprisonment for possession of drugs. In 2018, one in five new prison receptions was for a drug

⁴⁷ Drug and alcohol testing is available as part of CJSS and early access to testing as part of release on temporary licence has recently been implemented.

⁴⁸ [Law Enforcement Annual Report 2018](#)

⁴⁹ Ibid

offence. This is down from 2017, when the figure was one in four. It is not possible to break this down by specific offence. A range of further data would be required to determine the reasons for this shift which could include, for example, changes in patterns of offending, changes in border controls or changes in prosecution or sentencing decisions. It should be noted that in relation to sentencing decisions, sentencing for drug importation is subject to the Richards sentencing guidelines, set out in case law, which has not changed over the period.

Table 4: New prison receptions by crime (% of overall totals, 2013-2018)⁵⁰

	2013	2014	2015	2016	2017	2018
Violence	31%	35%	30%	28%	28%	25%
Other	26%	17%	27%	21%	18%	25%
Vehicle/ driving	14%	7%	13%	6%	7%	9%
Drugs	13%	22%	11%	17%	26%	19%
Sexual	8%	2%	8%	7%	9%	6%
Property	8%	17%	12%	21%	13%	16%

A number of offences other than drug-related offences (such as theft) may be driven by substance misuse needs, however, it is not possible to tell from the data how much overall offending is related to drug or substance misuse. Data is available on the number of drug-related convictions which have risen by 32% since 2010 (from 118 in 2010 to 156 in 2018). In 2017 there was a particularly high number of drug-related convictions (217), so although figures decreased 28% over the last year, they still remain higher than previous years. We also know that in 2018 there were 37 referrals⁵¹ to the CJSS, which marked a 25% decrease from 2017, and resulted in 16 orders being granted in 2018.⁵² We also know that in 2017, of those who were assessed by Probation, just under a quarter (24.8%) had a drug problem at the time of assessment, and just under 40% (39.8%) had had a drug problem at some point.⁵³

The CfHSC is in the process of developing a combined substance use strategy that includes drugs, alcohol and tobacco, with a focus on health and prevention services. Preparation for this includes conducting a joint strategic needs assessment (JSNA) of substance use in Guernsey and Alderney and commissioning an external academic review of the interaction of the health and justice systems. The focus of the latter is on drug use, examining how best to promote the health, wellbeing and safety of people who use drugs, and of the wider community; it is expected to be completed in early 2020. The review will consider different approaches to the issues, and the criminal justice regimes of other jurisdictions. A previous review examined treatment systems for those who misuse substances.⁵⁴ A separate review is being undertaken into the prevalence of gambling, which can also cause social harm, including the use of lottery scratchcards.

⁵⁰ Prison Service data

⁵¹ The CJSS provides treatment for people (clients) who are referred by a probation officer or a court order and for whom drug or alcohol use is considered a contributing factor in their offending behaviour.

⁵² Drug and Alcohol Service Annual Report 2018

⁵³ Bespoke analysis of Probation data carried out for this Review

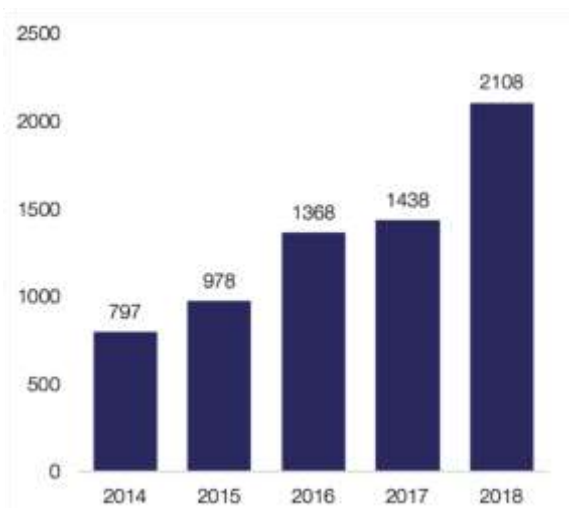
⁵⁴ <https://www.gov.gg/CHttpHandler.ashx?id=88865&p=0>

The Justice Review has not considered in detail the interaction between the justice and health systems, due to the parallel review taking place. Nevertheless, during our consultation particular questions were raised about whether existing sentences for some drug-related offending (which is determined using guidance from case law⁵⁵) were proportionate, the use of imprisonment for relatively low-level offending, the nature of the existing regime for treatment of substance misuse within prison and the availability within the community of an out-of-hours service and suitable detox facilities.

1.2.2.5 Financial crime strategy

The Guernsey Financial Services Commission and the Law Enforcement Economic Crime Division are jointly responsible for combating the abuse of the financial sector for money laundering or terrorist financing purposes in the Bailiwick, as well as for recovering criminal assets.⁵⁶ This is an area in which demand on Law Enforcement is increasing. For example, in 2018, 2108 suspicious activity reports (SARS) were received by the Financial Intelligence Services; this marks a 47% increase from 2017. It also represents an increase of 164% from 2014 (see Figure 17). In 2018, 99% of SARS were for “Suspicion of Money Laundering or that certain property is derived from Criminal conduct”. The remaining 1% were for “Suspicion of Terrorism”.⁵⁷

Figure 17: Total number of SARS per annum (2014-2018)⁵⁸



The Financial Investigation Unit has published strategic priorities in relation to financial crime strategy.⁵⁹ The effectiveness of activity to counter financial crime has been subject to external scrutiny by several bodies. Substantive financial crime policy was therefore not included within the scope of this Review, although a question related to the Bailiwick’s response to economic crime was included in the public survey. We consider later in the report the use of funding which stems from assets related to criminal activity seized by Law Enforcement.

⁵⁵ http://www.guernseylegalresources.gg/ccm/legal-resources/law-reports/SubjectMatter/SubjCRIMINAL_LAW.htm

⁵⁶ The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002

⁵⁷ Bailiwick of Guernsey Financial Intelligence Service, [Suspicious Activity Reports Annual Report 2018](#)

⁵⁸ Bailiwick of Guernsey Financial Intelligence Service, [Suspicious Activity Reports Annual Report 2017](#)

⁵⁹ <http://www.guernseyfiu.gov.gg/article/6006/Financial-Crime-Strategy>

We asked the public how much they know about economic crime in the Bailiwick. Specifically, we asked how much they know about what is being done to *prevent* economic crime, and how much they know about what is being done to *tackle* economic crime. Three-quarters of respondents had knowledge of the former topic; about half (49%) were confident that they knew “a lot” or “a moderate amount”. A further 26% knew “a little”. On tackling economic crime, three-quarters of respondents said they had knowledge, but respondents were slightly less confident on this topic, with 16% answering that they knew “a lot” compared with 20% in the question about preventing economic crime. Almost half (49%) of respondents knew “a lot” or “a moderate amount”, and a further 25% knew “a little”.⁶⁰

1.2.2.6 Cyber security strategy

While it was not in the initial plan, the CfHA produced a cyber security strategy in 2017 to ensure that “Guernsey citizens, business and Government are as ‘safe and secure’ going about their legitimate lives in cyber space as they are in the physical environment”. We have not sought to assess the efficacy of this strategy as part of the Review. As with economic crime, we included in the public survey a question about people’s perceptions of the Bailiwick’s response to cyber security.

We asked the public how much they know about cyber crime in the Bailiwick. Specifically, we asked how much they know about what is being done to *prevent* cyber crime, and how much they know about what is being done to *tackle* cyber crime. On the former, 70% stated that they knew something, although 38% stated that they knew only “a little”. On the latter, a third (34%) stated that they knew nothing at all or answered “don’t know”, and another third stated that they knew “a little”.⁶¹ We explore the survey findings in more detail in Chapter 2.

Conclusion: There has been variation in the degree to which the sub-strategies have been implemented. The domestic abuse strategy and the drug and alcohol strategy are the most well developed. While the latter is no longer the responsibility of the CfHA, it remains a key part of the justice strategy. The restorative justice strategy did not come to full fruition.

1.4 Other social policy priorities aligned to the criminal justice strategy

A key component of the review was to map the key broader strategies to which the criminal justice strategy was initially aligned to examine the extent to which justice-related priorities have been taken forward and endure in existing strategic and operational plans for other public services. We are grateful to representatives of each of the policy areas who have assisted in ensuring that this exercise was accurate and up to date. We have drawn on the information gathered to summarise progress in each of these areas.

1.4.1 Health and social care

Mental health and wellbeing

The priority in the 2013 plan was to:

- promote measures developed to support good mental health and wellbeing.

⁶⁰ Bailiwick Justice Survey carried out for this Review, 2019

⁶¹ Bailiwick Justice Survey carried out for this Review, 2019

The 2013 Mental Health Strategy sought to develop inter-agency working to improve emotional wellbeing and promote a model of prevention, early intervention, resilience and social inclusion. The current Mental Health and Wellbeing Plan 2017–2020 seeks to translate strategic intentions into achievable actions and give mental health the same status as physical health. A welcome priority has been to improve intelligence about health and wellbeing needs to inform the development of responsive services. Notwithstanding this, it is clear both from our initial conversations with stakeholders and subsequent feedback that there is more work that can be done to improve understanding of mental health and wellbeing and the roles which health services, justice agencies and wider organisations can collectively play in supporting islanders experiencing poor mental health, with a view to creating a more joined up approach.

There is a high proportion of people with mental health conditions and disorders that are involved in the criminal justice system. Stakeholders within and outside the justice system consistently raised concerns with us about the nature of mental health provision in the Bailiwick in terms of both preventing crime and family breakdown and ensuring that those affected by these issues are adequately supported. Particular matters drawn to our attention were thresholds for accessing services, which it was recognised may be high due to the need for gatekeeping to manage resources effectively; the nature of the existing model for managing mental ill health which was described to us as medicalised; the level of therapeutic support available for complainants, victims and people on probation and in prison; access to psychologists and psychiatrists; and the level of attendance at partnership meetings. We have been unable to substantiate these so they should be subject to verification with primary and secondary mental health services during the next phase of the review.

We believe that more work should be undertaken to explore the mental health and wellbeing needs of those individuals in contact with the justice system—either as complainants, victims, witnesses, suspects, parties to family justice cases, and convicted perpetrators or their families—and their practical experiences of mental health services. This work should build upon a recent mapping exercise completed in 2019 to determine the extent of existing mental health services in Guernsey and Alderney, including services linked to the justice system, and work conducted to identify the health and wellbeing needs of citizens through strategic needs assessments and the Guernsey and Alderney Wellbeing Survey.⁶² The mapping illustrates that a range of psychological therapies are available in the community, and identifies a “wide variety” of programmes in the prison. What is not yet clear is the extent to which thresholds for support or treatment equate to needs. There is also an opportunity for examining what specialist provision may be required for people involved in the criminal justice system – for example, in relation to personality disorders, learning disabilities, autism and post-traumatic stress, including within the new residential treatment facility. There are a number of other initiatives stemming from the Mental Health and Wellbeing Plan which are intended to broaden the range of provision, such as social prescribing.

Another recent survey, conducted by Mind, identified 24-hour outreach support for people in mental health crisis as a key area for development⁶³, reflecting interest we heard during the

⁶² [Mental health and wellbeing plan – service mapping exercise](#), 2019. For example, while there was engagement with Probation and the criminal justice voluntary sector in mapping mental health service provision, the prison and the Victim Support and Witness Service were not listed as stakeholders.

⁶³ Mind (2019) Your Voice: Experiences of Bailiwick Mental Health Services

Review about resolving the lack of early intervention and diversion processes being in place for those with immediate mental ill health needs who come into contact with the criminal justice system. The current model involves the police placing people under arrest and the arrestees potentially being sectioned under mental health law, although the rates of post-arrest medical detention are recognised as being disproportionately low.⁶⁴ This places significant demands on police time, but more importantly may undermine positive outcomes for those concerned. For example, we were told of examples of people in mental distress being arrested for assault. We discuss in Chapter 3 the priority being afforded to addressing identified gaps in mental health services by the States of Guernsey. We discuss the intersection between health and justice further in Chapter 2.

Supported Living and Ageing Well Strategy (SLAWS)

The priority in the 2013 plan was to:

- provide advice on and have active involvement in the development of initiatives to address the accommodation problems experienced by offenders leaving prison.

We found that the 2016 Supported Living and Ageing Well Strategy (SLAWS) includes only limited consideration of justice matters. The accommodation needs of people in the criminal justice system are not explicitly identified, although there is reference to the prevalence of domestic abuse among older people. On the other hand, we heard that several steps have been taken to improve access to accommodation for people leaving prison, independent of the strategy. For example, the Probation Service has introduced an Offender Deposit Assistance Scheme and Guernsey Community Savings is introducing a scheme to provide bank accounts, loans and grants to people unable to access mainstream banks. Guernsey Caring for Ex-Offenders provides mentoring and practical support to people who have left prison, including to help them find accommodation.

We heard that there have been improvements in social housing provision. Efforts to find appropriate accommodation for those who represent the highest risk to the community was identified as particularly strong. Nevertheless, the quality and appropriateness of the accommodation, and a lack of clarity about the stability of living arrangements for people involved in or at risk of involvement in the justice system, were raised as ongoing issues by representatives of justice agencies, community organisations and service users. There is no data to identify what impact social housing improvements or new initiatives have had on outcomes or on the extent of housing-related needs amongst those engaged with the justice system.

Children and Young People's Plan (CYPP)

The priorities in the 2013 plan were to:

- establish appropriate accommodation provision for convicted and sentenced children and young people; and
- identify/research programmes of intervention for young people who commit serious and persistent offences.

⁶⁴ The section rate post-detention is 2%; in the UK it is in the region of 80%.

While there was no specific action related to prevention of offending in the criminal justice action plan, in the latest iteration of the Children and Young People's Plan (CYPP) the CfHSC has created a well-developed preventative offer, some of which is in its infancy and all of which is at different stages of bedding in. This includes the 1001 Critical Days programme, the multi-agency support hub (MASH), the Strong Families initiative, support for young people not in education or employment, Duke of Edinburgh Award, and a children's safeguarding partnership. Although there was engagement in the refresh of the Plan from probation and youth justice (representatives of which are on the CYPP operational and strategy group) the refresh document did not refer to youth justice or include youth justice stakeholders.

In relation to the plan to develop programmes for young people who commit serious and persistent offences, we were not made aware of specific new initiatives having been introduced. Supervision for children who commit serious and persistent offences is largely provided by the Youth Justice Service, and there are Prince's Trust and Duke of Edinburgh schemes running to provide constructive activity. We also heard that while the CYCT system had reduced the volume of cases reaching court, some young people who persistently offend continued to be dealt with using sanctions designed for adults. Children can be sentenced to prison and community service from the age of 14; some of those we consulted, including representatives of Probation and Children's Services and adult service users, questioned the appropriateness of this. Changing this approach would require legislative change.

The current iteration of the Children and Young People's Plan identifies that there has been an increase in levels of early help for children, and falling numbers of those on the child protection register and who are looked after by the State, although as we note below these have recently increased again.

While these are positive outcomes in themselves, it has not been possible for us to identify how they have impacted on the longer-term prospects for the children concerned. We heard that children's safeguarding partnership arrangements had improved; however, some justice stakeholders raised with us that there is a backlog of child safeguarding reviews and related concerns that there are missed opportunities to learn lessons about safeguarding at a strategic level, meaning that failures are potentially repeated. There was not sufficient time to consult with the ISCP within the timetable of this review.

Secure accommodation, known as the Haven, has been developed to provide suitable premises for the very small number of children who are remanded (up to their 17th birthday) or who require secure care for welfare reasons. This is not yet operational due to a lack of resources and other more practical problems although we understand that it is due to become so soon. Children who are convicted and sentenced are held in a dedicated unit at the prison.

Current priorities set out in the Children and Young People's Plan:

- Accommodation and support for homeless young people
- Early intervention and prevention as a priority, acknowledging high prevalence of mental health, domestic abuse and drug and alcohol use amongst those contacting MASH
- Services for children with social and communication difficulties
- Literacy levels, increasing attendance and reducing school exclusions
- Development of mental health and wellbeing in schools
- Accommodation and improved outcomes for care leavers

- Children’s services and police business case for SARC
- Implementing prevention and early intervention initiatives, including: universal pre-school provision; assisted nursery places; 1001 days; free contraceptives; MASH; Strong Families (commencing late 2019); LAC/NEET project
- Refresh of corporate parenting strategy

1.4.3 Disability and inclusion

The priorities in the action plan were to:

- assess all public-facing documentation for access by visually impaired people;
- review accessibility across criminal justice system service providers and feed relevant information to the Disability and Inclusion Strategy; and
- have all criminal justice system personnel trained in disability awareness via e-learning.

The 2013 Disability and Inclusion Strategy seeks to improve the quality of life of Islanders with disabilities and their carers. It aims to change attitudes towards disabled people and carers so that they can be active and engaged socially, economically and culturally. Our review of the strategy identified no mention of action to address the potential prevalence of people with learning disabilities, autism or other disabilities within the justice system; evidence suggests that people with these conditions are typically over-represented in justice systems in other jurisdictions, particularly in prison. A more recent autism framework, published in 2016, recognises that there might be people with unidentified autism involved in the criminal justice system, and that there may be resulting gaps in service provision for both children and adults.⁶⁵ We do not know the extent to which criminal justice system personnel have received disability awareness training.

The focus of CfHA activity has been on the adoption of best practice in relation to supporting those with a disability, for example, in relation to accessibility. The previous CfHA business plan included an intention to develop policies and procedures for the safeguarding of adults at risk in conjunction with key stakeholders. An adult Multi-Agency Safeguarding Hub has recently been established, similar to the MASH for children, though with a narrower remit. We consider this further in Chapter 3. We heard that there is an insufficient number of volunteer Appropriate Adults to advocate for vulnerable adults and for children at the police station. In relation to the latter, according to legislation a social worker should be used but we heard that they may not be available when required.

1.4.4 Education, sport and culture

The priorities in the 2013 plan were to:

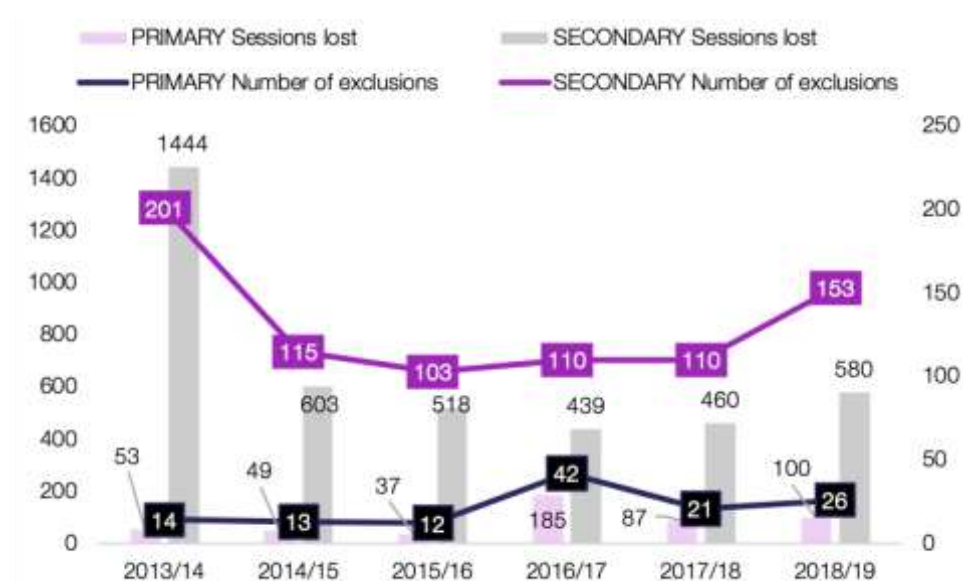
- enhance children’s knowledge about the criminal justice system and the consequences of having a criminal record; and
- promote initiatives to encourage responsible citizenship.

⁶⁵ <https://www.gov.gg/CHttpHandler.ashx?id=105009&p=0>

We found that, in addition to schools having a role to play in the activities identified in the Criminal Justice Strategy, the Youth Commission for Guernsey and Alderney and the PHSE Advisor oversees and performs some functions related to responsible citizenship and enhancing knowledge about the criminal justice system and criminal records. Drug and alcohol education, funded by the drug and alcohol strategy, is also delivered in schools providing the risks, effects and consequences of misusing substances. On the other hand, Law Enforcement acknowledged that the educational role of the police in schools has diminished due to resource pressures. Domestic abuse and relationship education are, however, provided in schools, funded by the domestic abuse strategy, in addition to sexual health and relationships education nurses employed by the Committee for Education, Sport and Culture. The *Today's Learners, Tomorrow's World* strategy referred to in the original action plan is no longer active. The risk factors for youth crime include school exclusion and low educational attainment. The volume of formal and informal school exclusions and the role and impact of the School Attendance Service were raised with us during our consultation. For example, there was a consensus among representatives of Children's Services that better outcomes might be achieved were children were often referred to support services for attendance at an earlier stage.

The total number of school exclusions across both primary and secondary schools fell by 17% between 2013/14 and 2018/19. However, this decline was driven by a significant (40%) decline in secondary exclusions between 2013/14 and 2014/15. Since then, there has been a notable increase in both primary (+100%) and secondary school exclusions (33%) to 2018/19, as well as in sessions lost (see Figure 18).⁶⁶

Figure 18: Number of school exclusions and sessions lost⁶⁷



⁶⁶ It should be noted that the numbers excluded from primary school are very low so it cannot be assumed that this increase is indicative of a firm trend.

⁶⁷ A session is either a morning or afternoon session, i.e. two sessions = one day. Source: data shared with Review team for the purpose of this Review.

From the data available to us, we have not been able to ascertain the reasons for these exclusions, who these children are,⁶⁸ nor why exclusions may be increasing again, although the latter may relate in part to efforts to strengthen recording practices.

The States is in the midst of a major transformation of education, with the intention of creating more inclusive systems for children and adult learners. We discuss this further in Chapter 3. The intention is that the new model will focus on inclusion, improve pastoral care, make better provision to support students with social and communication difficulties and provide other opportunities for greater multi-agency working with those at risk of exclusion. A point of discussion at the youth justice workshop was the potential detrimental impact of education reforms on the amount of pastoral care provided, which it was felt could hinder opportunities for improving engagement with children about justice matters through teaching on citizenship. In addition, the proposed size of the new schools was seen as having the potential to undermine the possibility of inclusion.

Clarity is emerging about what the education reforms should mean for children at risk of exclusion or those who are otherwise not performing well at school, as illustrated by recently revised education KPIs for the Children and Young People's Plan and an updated Inclusion and Equality Review Tool to encourage schools to reflect on their policies and practices.⁶⁹ However, it is not yet clear what the reforms might mean for those who are already involved in the justice system, including adult learners in prison.

1.4.5 Employment and social security

The Criminal Justice Strategy action plan makes reference to the Social Security Department. The actions included in the 2013 plan related predominantly to children's services and disability and inclusion which we have covered above. Following machinery of government changes in 2016, the former Social Security Department became the Committee for Employment & Social Security ("CfESS") with an expanded mandate including social housing and disability and inclusion. We consider briefly in Chapter 3 the role that the CfESS could play in future justice policy.

1.5 The overall impact of the Strategy

In practice, we have found that the justice strategy and accompanying action plan have not functioned as an active driver of progress. The Strategy has proved challenging to coordinate, and some of its centrally coordinated aspects have ceased. This is partly due to insufficient additional resources being attached to its priorities; on the whole, only "business as usual" has been funded. Unless there were dedicated coordinators in place (such as for drugs and alcohol, domestic abuse and restorative justice), the model was for workstreams to be driven by nominated leads within justice services, who were performing this function in addition to their existing responsibilities. Even without these additional actions, we heard that the size and funding of justice agencies means that leadership teams are always very close to operations and

⁶⁸ We do know that there were no exclusions of looked after children in 2017–2018, as stated in the Children and Young People's Plan 2019–22.

⁶⁹ States of Guernsey Education Services have developed an inclusion and equality self-review tool for schools to examine the effectiveness of their strategies for meeting expectations in regard to improving outcomes for all learners, including those from the most deprived areas, young carers, those who are looked after and those with additional support needs.

frequently become drawn into them, either to deal with problems or simply to stand in for other members of staff.

The cross-government efficiency savings which the CfHA was expected to contribute to have been achieved in part by not filling posts. For example, the restorative justice coordinator, who led the restorative justice strategy, was not replaced. The budget dedicated to data collection has been subsumed centrally and facilitates only basic reporting on KPIs. At the time the Strategy was conceived, much of the information required was manually collated by each agency for each KPI. While this process has improved, there are not yet integrated systems in place to facilitate centralised data collection. There is a communications officer who works predominantly with the police.

Conclusion: The basis of the Criminal Justice Strategy 2013–2020, its objectives and the accompanying action plan were sound. They contain the key tenets of activities which have been raised as important during this Review, including the need to take action in three phases: Prevent, Challenge and Restore. The strategy also recognised the importance of evidence and effective governance. At the time it was conceived, the focus of the strategy was on service delivery, with a commendable intention for this to be fully coordinated and for better integration with other policy areas. In practice, this proved challenging to deliver in the absence of a well-functioning mechanism (and funding) for central strategic coordination which was distinct from day-to-day service delivery. Since 2013, the Committee (and formerly the Home Department) and justice agencies and institutions have concentrated effort and resources on the core business of running the justice system. There is significant will but limited capacity within justice agencies and institutions both in terms of staffing and funding to action the broader intentions of the strategy. Additional resources that were earmarked for implementation have ebbed away, largely as a result of efficiency savings.

Conclusion: There is some evidence of justice-related priorities being embedded in other strategies, but this is not comprehensive. Justice issues and the needs, experiences and perspectives of people in contact with the criminal justice and family justice systems are not an explicit consideration in the majority of social policy plans. The pace at which strategic planning objectives in specific policy areas change risks overlooking planned activities aligned to other initiatives. The refresh of the Children and Young People's Plan does not include specific KPIs related to the criminal justice system, although there is a welcome focus on reducing entrants to the care system.

Recommendation 1: A future justice strategy should seek to build on the foundations laid by the Criminal Justice Strategy 2013–2020 and ensure that the action plan remains live as a meaningful driver of progress.

1.5.1 Trends in performance against justice outcomes

The table below provides a rough outcomes framework that can be used to assess performance against the eight justice outcomes in the 2018 Justice Framework. The KPI column details suggested metrics that can be used to provide an overall indication of performance against each outcome. The trend columns details, where available data allows, changes across each KPI over time. We make a number of recommendations where datasets would be useful as a performance measure but are not currently collected.

- Outcome 1: Identifying and tackling the causes of crime
 Outcome 2: A reduction in the levels of crime and fear of crime
 Outcome 3: Ensuring value for money services within the justice system
 Outcome 4: Increase confidence in justice institutions and processes
 Outcome 5: The promotion and delivery of the correct intervention at the right time
 Outcome 6: A reduction in reoffending
 Outcome 7: Identifying and confiscating the proceeds of crime
 Outcome 8: Recognising the links between justice policy and social policy

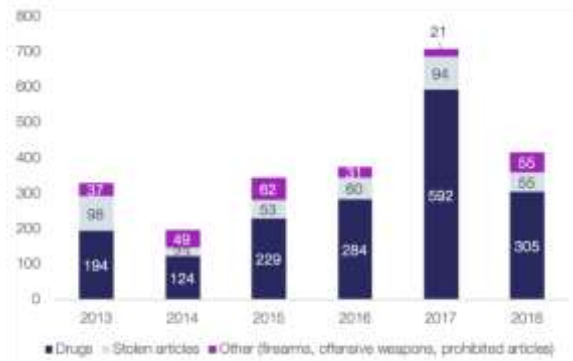
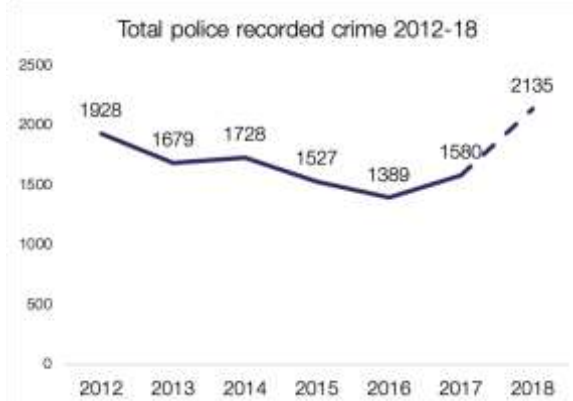
KPI	Trend	Progress																								
Outcome 1: Identifying and tackling the causes of crime <i>As there is no baseline from the CfHA, we have suggested measures that may act as proxies for the purpose of this review.</i>																										
Rate/number of children on the child protection register ⁷⁰ and outcomes of child protection registration (i.e. % resulting in an improved home situation)	<p>After long-term increases, the number of children on the child protection register fell significantly between 2014 and 2016, from 136 to 66. However, numbers have increased since 2016, with 121 children on the register in 2018.</p> <p>Figure 19: Number of children on the child protection register 2008–2018, and rate per 1,000 under 18 population by length of time on register</p> <table><caption>Data for Figure 19</caption><tr><th>Year</th><th>On register for less than 12 months (Rate per 1,000)</th><th>On register for more than 12 months (Rate per 1,000)</th><th>Total No. on register</th></tr><tr><td>2014</td><td>4.91</td><td>1.29</td><td>136</td></tr><tr><td>2015</td><td>3.51</td><td>1.42</td><td>112</td></tr><tr><td>2016</td><td>1.65</td><td>0.87</td><td>66</td></tr><tr><td>2017</td><td>2.41</td><td>0.49</td><td>77</td></tr><tr><td>2018</td><td>4.77</td><td>0.34</td><td>121</td></tr></table>	Year	On register for less than 12 months (Rate per 1,000)	On register for more than 12 months (Rate per 1,000)	Total No. on register	2014	4.91	1.29	136	2015	3.51	1.42	112	2016	1.65	0.87	66	2017	2.41	0.49	77	2018	4.77	0.34	121	<p>The number of children on the child protection register increased by 57% from 2017 to 2018, continuing the increase from 2016.</p>
Year	On register for less than 12 months (Rate per 1,000)	On register for more than 12 months (Rate per 1,000)	Total No. on register																							
2014	4.91	1.29	136																							
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2016	1.65	0.87	66																							
2017	2.41	0.49	77																							
2018	4.77	0.34	121																							
Number of domestic abuse cases dealt with by a MARAC and proportion of repeat cases ⁷¹	<p>The number of domestic abuse cases referred to a MARAC has increased year on year since 2014, with a 46% increase between 2014 and 2018. During 2018, there were 177 cases of domestic violence (involving 224 children) referred to a MARAC, slightly higher than in the previous year. In 2018, more than 2% of the subject victims, and just under 2% of those causing harm to others, were under 18 years old.</p> <p>The proportion of repeat cases (where a further incident constituting criminal behaviour is identified within 12 months of the date of the last referral) has also continued to increase.</p>	<p>The increase in referrals may reflect improved recording/identification by the police and increased reporting by victims. The fact that the proportion of repeat cases is increasing is less positive.</p>																								

⁷⁰ Data from the Island's Child Protection Committee can be used to track this measure.

⁷¹ Data from the police can be used to track this measure.

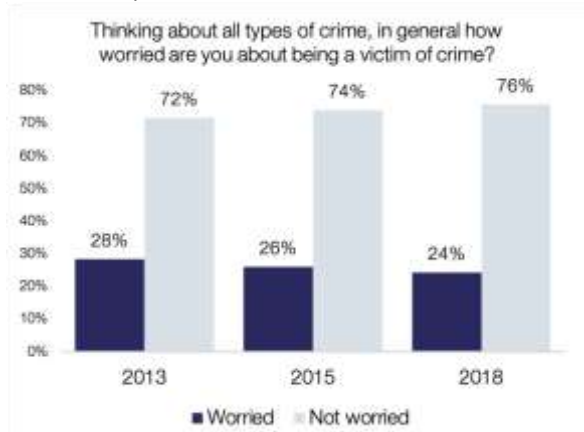
	<p>Figure 20: Number of domestic abuse cases referred to a MARAC and % of repeat cases</p> <table><tr><th>Year</th><th>No. cases referred to MARACs</th><th>% repeat MARAC cases</th></tr><tr><td>2013</td><td>155</td><td>22%</td></tr><tr><td>2014</td><td>121</td><td>20%</td></tr><tr><td>2015</td><td>135</td><td>19%</td></tr><tr><td>2016</td><td>146</td><td>29%</td></tr><tr><td>2017</td><td>165</td><td>28%</td></tr><tr><td>2018</td><td>177</td><td>33%</td></tr></table>	Year	No. cases referred to MARACs	% repeat MARAC cases	2013	155	22%	2014	121	20%	2015	135	19%	2016	146	29%	2017	165	28%	2018	177	33%															
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2017	165	28%																																			
2018	177	33%																																			
Crime resulting in a charge (detection rates were used until 2017; police outcomes are available from 2018) ⁷²	<p>2018 data can serve as a baseline for this trend. In 2018, 2,135 crimes were recorded by Guernsey Police; of these, 15% resulted in a charge or summons. There was significant variation in the charge/summons rate across crime types.</p> <p>Figure 21: Charge/summons rate by crime type, 2018</p> <table><tr><th>Crime Type</th><th>Charge / Summons Rate</th></tr><tr><td>All Crimes</td><td>15%</td></tr><tr><td>Drug Offences</td><td>51%</td></tr><tr><td>Misc. crimes against society</td><td>37%</td></tr><tr><td>Possession of weapons</td><td>35%</td></tr><tr><td>Public Order Offences</td><td>26%</td></tr><tr><td>Violence Against The Person</td><td>15%</td></tr><tr><td>Burglary</td><td>11%</td></tr><tr><td>Theft</td><td>11%</td></tr><tr><td>Arson and Criminal Damage</td><td>9%</td></tr><tr><td>Sexual Offences</td><td>5%</td></tr><tr><td>Vehicle Offences</td><td>4%</td></tr><tr><td>Fraud Offences</td><td>4%</td></tr></table>	Crime Type	Charge / Summons Rate	All Crimes	15%	Drug Offences	51%	Misc. crimes against society	37%	Possession of weapons	35%	Public Order Offences	26%	Violence Against The Person	15%	Burglary	11%	Theft	11%	Arson and Criminal Damage	9%	Sexual Offences	5%	Vehicle Offences	4%	Fraud Offences	4%	2018 data has been used as a baseline for this trend. We recommend that trends are tracked by crime type.									
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Detection rates (charge rates used from 2018)	<p>Before 2018, the crime detection rate was used to measure how many reported crimes were detected by the police. The sanction detection rate varied between crime types (see Table 5), but fell between 2012 and 2017, particularly for sexual offences.</p> <p>Table 5: % of crimes detected by crime type, 2012–2017</p> <table><tr><th></th><th>2012</th><th>2013</th><th>2014</th><th>2015</th><th>2016</th><th>2017</th></tr><tr><td>Violence against the person</td><td>92%</td><td>84%</td><td>83%</td><td>86%</td><td>77%</td><td>78%</td></tr><tr><td>Drug offences</td><td>96%</td><td>95%</td><td>95%</td><td>96%</td><td>75%</td><td>89%</td></tr><tr><td>Sexual offences</td><td>88%</td><td>78%</td><td>52%</td><td>65%</td><td>36%</td><td>39%</td></tr><tr><td>Burglary</td><td>24%</td><td>54%</td><td>32%</td><td>30%</td><td>43%</td><td>15%</td></tr></table>		2012	2013	2014	2015	2016	2017	Violence against the person	92%	84%	83%	86%	77%	78%	Drug offences	96%	95%	95%	96%	75%	89%	Sexual offences	88%	78%	52%	65%	36%	39%	Burglary	24%	54%	32%	30%	43%	15%	The sanction detection rate fell between 2012 and 2017 across all crime types.
	2012	2013	2014	2015	2016	2017																															
Violence against the person	92%	84%	83%	86%	77%	78%																															
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⁷² Data from the police can be used to track this measure. This data is only available from 2018 due to changes in recording practices.

<p>Number of stops and searches and proportion of arrests leading to a stop and search⁷³</p>	<p>Between 2014 and 2017 there was a significant increase in the use of stops and searches. This was particularly marked between 2016 and 2017, which saw a 37% increase (from 375 to 707) due to a rise in drug-related stops and searches. This was followed by a 41% decline in 2018, when the number of stops and searches went down to 415. Despite this decline, the number was still higher than in 2016.</p> <p>The proportion of arrests went down from 8% in 2017 to 5% in 2018, the same percentage as in 2016.</p> <p>Figure 22: Number of stops and searches by reason, 2012–2018</p>  <table><caption>Data for Figure 22: Number of stops and searches by reason, 2012–2018</caption><thead><tr><th>Year</th><th>Drugs</th><th>Stolen articles</th><th>Other (firearms, offensive weapons, prohibited articles)</th><th>Total</th></tr></thead><tbody><tr><td>2013</td><td>194</td><td>98</td><td>37</td><td>329</td></tr><tr><td>2014</td><td>124</td><td>49</td><td>11</td><td>184</td></tr><tr><td>2015</td><td>229</td><td>53</td><td>82</td><td>364</td></tr><tr><td>2016</td><td>284</td><td>60</td><td>61</td><td>405</td></tr><tr><td>2017</td><td>692</td><td>94</td><td>21</td><td>807</td></tr><tr><td>2018</td><td>305</td><td>55</td><td>55</td><td>415</td></tr></tbody></table>	Year	Drugs	Stolen articles	Other (firearms, offensive weapons, prohibited articles)	Total	2013	194	98	37	329	2014	124	49	11	184	2015	229	53	82	364	2016	284	60	61	405	2017	692	94	21	807	2018	305	55	55	415	<p>The number of stops and searches is volatile and subject to police practice, but the proportion of stops and searches resulting in an arrest remains low.</p>
Year	Drugs	Stolen articles	Other (firearms, offensive weapons, prohibited articles)	Total																																	
2013	194	98	37	329																																	
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2017	692	94	21	807																																	
2018	305	55	55	415																																	
<p>Number of people who offended as children who went on to offend as adults</p>	<p>This data can be obtained from Probation and Convenor records but is not currently collected or recorded for this purpose.</p>																																				
<p>Outcome 2: A reduction in the levels of crime and fear of crime</p>																																					
<p>Number of reported crimes⁷⁴</p>	<p>The number of reported crimes has risen 54% since 2016. It should be noted that in 2018 there was a change in the method of recording, in line with the National Crime Recording Standard, resulting in more crimes being recorded. However, prior to this there was a 14% rise in crime between 2016 and 2017.</p> <p>Figure 23: Number of recorded crimes, 2012–2018</p>  <table><caption>Data for Figure 23: Number of recorded crimes, 2012–2018</caption><thead><tr><th>Year</th><th>Total police recorded crime</th></tr></thead><tbody><tr><td>2012</td><td>1928</td></tr><tr><td>2013</td><td>1679</td></tr><tr><td>2014</td><td>1728</td></tr><tr><td>2015</td><td>1527</td></tr><tr><td>2016</td><td>1389</td></tr><tr><td>2017</td><td>1580</td></tr><tr><td>2018</td><td>2135</td></tr></tbody></table>	Year	Total police recorded crime	2012	1928	2013	1679	2014	1728	2015	1527	2016	1389	2017	1580	2018	2135																				
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⁷³ Data from the police can be used to track this measure.

⁷⁴ Data from the police can be used to track this measure.

Reported fear of crime (fear of being a victim of crime) ⁷⁵	<p>Reported fear of crime across the Island has decreased slightly since 2013. In 2013, 72% of respondents to the Crime and Justice Survey were not worried about being a victim of crime. This had increased to 76% in 2018.</p> <p>Figure 24: Reported fear of crime, from three Crime and Justice Surveys</p>  <table><caption>Data for Figure 24: Reported fear of crime</caption><thead><tr><th>Year</th><th>Worried</th><th>Not worried</th></tr></thead><tbody><tr><td>2013</td><td>28%</td><td>72%</td></tr><tr><td>2015</td><td>26%</td><td>74%</td></tr><tr><td>2018</td><td>24%</td><td>76%</td></tr></tbody></table>	Year	Worried	Not worried	2013	28%	72%	2015	26%	74%	2018	24%	76%													
Year	Worried	Not worried																								
2013	28%	72%																								
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2018	24%	76%																								
Number of reported crimes in comparison to other Crown Dependencies ⁷⁶	<p>The rate of reported crime in Guernsey is higher than in other Crown Dependencies (using 2018 figures). It is, however, much lower than in UK jurisdictions.</p> <p>Table 6: Rate of crime per 1,000 population, Guernsey and other jurisdictions and Crown Dependencies</p> <table><thead><tr><th>Jurisdiction</th><th>Rate per 1,000</th><th>Population</th><th>Recorded crime</th></tr></thead><tbody><tr><td>Guernsey</td><td>34.2</td><td>62,500</td><td>2,135</td></tr><tr><td>Jersey</td><td>30.7</td><td>106,800</td><td>3,280</td></tr><tr><td>Isle of Man</td><td>27.6</td><td>90,720</td><td>2,503</td></tr><tr><td>Scotland</td><td>46.9</td><td>5,254,800</td><td>246,480</td></tr><tr><td>England and Wales</td><td>87.7</td><td>58,744,600</td><td>5,153,064</td></tr></tbody></table>	Jurisdiction	Rate per 1,000	Population	Recorded crime	Guernsey	34.2	62,500	2,135	Jersey	30.7	106,800	3,280	Isle of Man	27.6	90,720	2,503	Scotland	46.9	5,254,800	246,480	England and Wales	87.7	58,744,600	5,153,064	
Jurisdiction	Rate per 1,000	Population	Recorded crime																							
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England and Wales	87.7	58,744,600	5,153,064																							
Outcome 3: Ensuring value for money services within the justice system																										
Average length of time from point of incident to final sentence	This data can be obtained from Law Enforcement records but is not currently collected or recorded for this purpose.	We recommend that this data be collected and collated to track timeliness.																								
Average costs	These are not systematically calculated.																									
Outcome 4: Increase confidence in justice institutions and processes																										
Public confidence that the criminal justice system is effective in bringing people who have committed crimes to justice ⁷⁷	Public confidence that the justice system is effective in bringing people who have committed crimes to justice has decreased over time. In 2013, 65% of people felt confident, but this fell to 56% in 2018. The 2018 figure does, however, represent an increase	Confidence has decreased over time.																								

⁷⁵ Data from the Crime and Justice Survey can be used to track this measure.

⁷⁶ Data from Guernsey Police and from police in other jurisdictions can be used to track this measure.

⁷⁷ Data from the Crime and Justice Survey can be used to track this measure.

	<p>from 2015, when fewer than half (49%) of respondents were confident.</p> <p>Table 7: How confident do you feel that the criminal justice system in the Bailiwick is effective in bringing people who commit crime to justice?</p> <table><tr><td></td><td>2013</td><td>2015</td><td>2018</td></tr><tr><td>Confident (very or fairly)</td><td>65%</td><td>49%</td><td>56%</td></tr><tr><td>Not confident (not very or not at all)</td><td>27%</td><td>45%</td><td>40%</td></tr><tr><td>Don't know</td><td>8%</td><td>6%</td><td>3%</td></tr></table>		2013	2015	2018	Confident (very or fairly)	65%	49%	56%	Not confident (not very or not at all)	27%	45%	40%	Don't know	8%	6%	3%	
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Don't know	8%	6%	3%															
Public confidence that the criminal justice system is effective in dealing with cases promptly and efficiently ⁷⁸	<p>Data from the Crime and Justice Survey suggests public confidence that the justice system deals with cases promptly and efficiently has decreased over time, from 50% of respondents feeling confident in 2013 to 43% of respondents feeling confident in 2018.</p> <p>Table 8: How confident do you feel that the criminal justice system in the Bailiwick is effective in dealing with cases promptly and efficiently?</p> <table><tr><td></td><td>2013</td><td>2015</td><td>2018</td></tr><tr><td>Confident (very or fairly)</td><td>50%</td><td>39%</td><td>43%</td></tr><tr><td>Not confident (not very or not at all)</td><td>38%</td><td>49%</td><td>50%</td></tr><tr><td>Don't know</td><td>12%</td><td>12%</td><td>7%</td></tr></table>		2013	2015	2018	Confident (very or fairly)	50%	39%	43%	Not confident (not very or not at all)	38%	49%	50%	Don't know	12%	12%	7%	Confidence has decreased over time.
	2013	2015	2018															
Confident (very or fairly)	50%	39%	43%															
Not confident (not very or not at all)	38%	49%	50%															
Don't know	12%	12%	7%															
% of crime outcomes for selected offences (e.g. sexual offences) where the victim does not support action	<p>Data from the police can be used to track this measure. This data is only available from 2018 due to changes in recording practices.</p> <p>In 2018, just under a quarter of all reported crimes resulted in the outcome “victim does not support action”. This was particularly common for sexual offences (41%) and violence against the person (37%).</p> <p>Figure 25: Proportion of reported crimes, by type, where the outcome was “evidential difficulties – victim does not support action”</p>	Baseline from 2018.																

⁷⁸ Data from the Crime and Justice Survey can be used to track this measure.

Outcome 5: The promotion and delivery of the correct intervention at the right time						
% of juveniles re-entering the CYCT system after initial engagement with the CYCT for a criminal offence	This data was not available to the Review team.					
% of juveniles entering the adult justice system after initial engagement with the CYCT for a criminal offence	This data was not available to the Review team.					
- % adults whose first offence was committed as an adult and who is reconvicted of a similar offence after engagement in an offending behaviour course	This data was not available to the Review team.					
Outcome 6: A reduction in reoffending						
% of convicted offenders who are reconvicted within two years of the start of their community sentence	In 2018, 30% of convicted offenders were reconvicted within two years of the start of their community supervision (the figure was 20% for those on community service). Both percentages marked an increase from 2017.	Numbers are low meaning that trends should be treated with caution.				
% of convicted offenders who are reconvicted within two years of the end of their prison sentence	In 2018, 24% of convicted offenders were reconvicted within two years of the start of their prison sentence (both with and without post-custody supervision). This generally marks a downward trend since 2013.	Numbers are low meaning that trends should be treated with caution.				
% of offenders who go on to offend within two years of engaging in a restorative justice conference	This data was not available to the Review team.					
Outcome 7: Identifying and confiscating the proceeds of crime						
<i>As there is no baseline from the CfHA, we have suggested measures that may act as proxies for the purpose of this review.</i>						
Total drug seizures and value in line with trends in drug use/consumption	The total volume of drug seizures has tended to increase since 2012, but conversely the value of seizures has decreased. The value of seizures does not necessarily correspond to the volume, as some drugs are worth more than others.	Value does not necessarily correspond to volume and varies between class and type of drug, meaning this metric is subject to flux year on year based on Law Enforcement activities.				
Confiscation orders (COs) in the Royal Court and notional benefit figure	<p>This data is available from the Law Officers and data to 2017 shows that the total value of COs as well as the notional benefit figure has varied over the years.</p> <p>Table 9: COs in relation to the proceeds of crime in the Royal Courts, 2014–2017</p> <table><tr><td>2014</td><td>2015</td><td>2016</td><td>2017</td></tr></table>	2014	2015	2016	2017	
2014	2015	2016	2017			

	Total amount COs	£13,138	£370,073	£112,911	£47,375	
	Notional benefit figure	£191,246	£1,692,915	£927,513	£1,530,365	
Outcome 8: Recognising the links between justice policy and social policy <i>As there is no baseline from the CfHA, we have suggested measures that may act as proxies for outcomes for future justice policy later in the report.</i>						

At the time the justice strategy was conceived, where there were a number of clear related outcomes, little attention was given to how criminal justice agencies were operating to deliver them or how they could be captured. For example, no indicator for cost-effectiveness was developed (due to the challenges of doing so) and, while useful, the average time from point of incident to final sentence lacks transparency about where in the system delays may arise.⁷⁹ Reconviction rates have been tracked over 8 years and highlight fluctuations in rates between different sentences year on year, most likely due to the small number of cases concerned. While a useful indicator of progress in individual cases, monitoring reoffending is unlikely to be a reliable indicator of service impact on its own.

Conclusion: Identifying the value for money and effectiveness of services is reliant on strong data about the existing functioning of the system, the capacity to identify the allocation of resources to specific services or interventions, and clarity about the outcomes the services are seeking to achieve. It is not currently possible to determine clearly the extent to which the current justice strategy is impacting on the outcomes it set out to improve.

Recommendation 2: The achievement of justice outcomes would benefit in future from greater clarity about the contribution that other departments should make towards them.

1.6 Broader government priorities

Future reforms to justice policy will take place in the context of wider public service reform which we outline below.

1.6.1 The Future Guernsey Plan

The Justice Review is a priority under the Future Guernsey Plan (also known as the Policy & Resource Plan), which sets out the government's strategic priorities towards its 20-year vision. These priorities are updated annually. The Plan states:

“We are an open, forward-looking community, celebrating difference and diversity and freedom of expression. But we also need to further strengthen our commitment to inclusion and social justice to ensure they are universal. Inclusion and equality of opportunity should exist from birth into adult life in areas such as education, the workplace and the community. The Bailiwick of Guernsey should be a place where no-one gets left behind, and where a commitment to community is balanced by a recognition of the importance of personal responsibility.”⁸⁰

⁷⁹ NB: We found that this figure is skewed by historical incidents

⁸⁰ <https://www.gov.gg/futureguernsey>

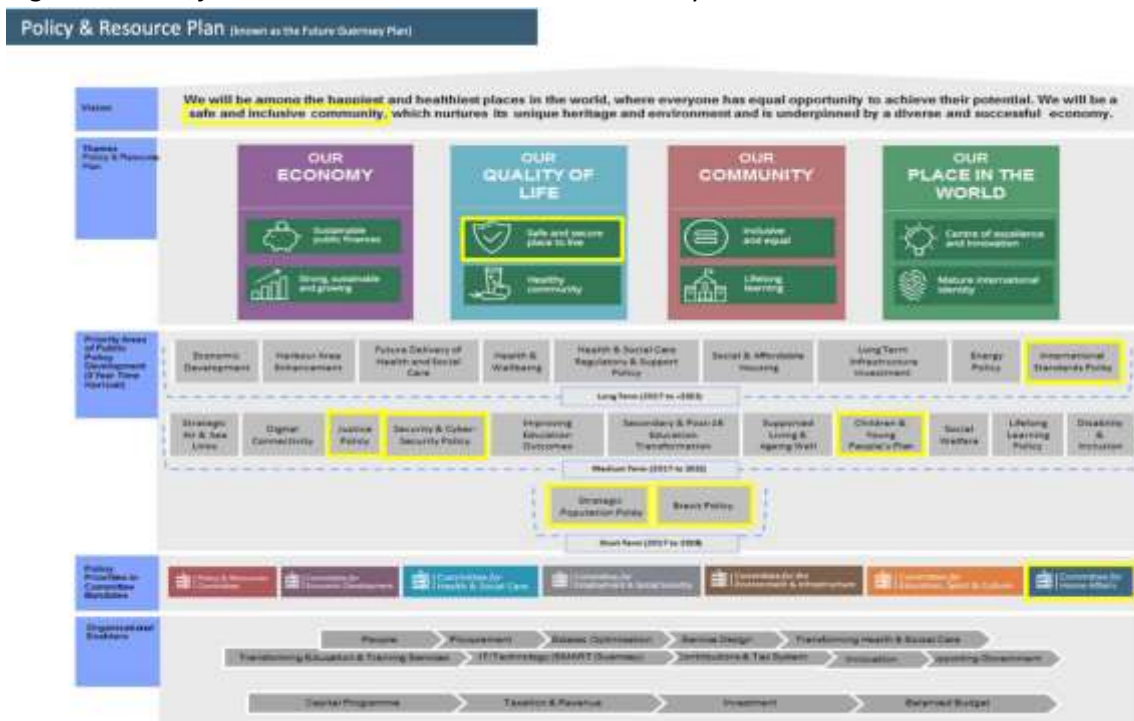
The Plan identifies 8 overarching outcomes for the Bailiwick:

- A strong, sustainable and growing economy
- Sustainable public finances
- A healthy community
- A safe and secure place to live
- One community: inclusive and committed to social justice
- Lifelong learning
- A centre of excellence and innovation, and
- A mature international identity.

The commitment to inclusion, social justice and equality of opportunity – along with the balance between these and personal responsibility – has been an important theme of this Review, where we have been examining existing practices and the experiences of those involved in the family and criminal justice systems. Social justice is not currently defined in the Plan so we have sought to examine ways in which social inequality might impact on engagement with the justice system. The relationship between the two goals of the safety and security of the community and a diverse and successful economy will also be explored in this report.

The Committee for Home Affairs Business Plan 2019–2022 sets out how its work currently feeds into the Future Guernsey Plan. Figure 26 illustrates that their focus is on achieving a safe and inclusive community, which is also captured in their Vision for the justice system, discussed further below.

Figure 26: The CfHA's contribution to the Future Guernsey Plan



“Social justice” is referred to in the Future Guernsey Plan, although it is not evident to us how this is defined in the Bailiwick. We did not adopt a specific definition during the consultation, so as to understand how those we spoke to wished to define it. We discuss this in Chapter 2.

1.6.2 Public Service Reform

The Review also has as a central consideration the States’ agreement to adopt public service reform which seeks to ensure that public services:

- focus on customer needs, improving engagement and satisfaction;
- act in partnership as one organisation with a common purpose;
- improve staff engagement and satisfaction;
- demonstrate that they represent value for money; and
- improve the measurement and management of performance.

The aim is:

“to build a single public service organisation, one that works in partnership with outside expertise, organising and delivering services centred on those who use them, and using money wisely and carefully. An organisation designed around meeting community needs, rather than expecting the customer to adapt to the public service’s internal procedures and structures. One which has adopted technology and a ‘one-stop, tell us once’ approach to make our services easier to access and use.”

Conclusion: The Future Guernsey Plan and the public service transformation agenda provide positive opportunities to embed the future justice strategy into broad priorities for the States.

Chapter 2: Where do we want to get to?

The second overarching question we have considered during this phase of the Review is: “Where do we want to get to?” The Review team was asked by the CfHA to examine what a relatively long-term future justice framework might comprise, and how justice policy should interact with wider policy related to social justice.

During our engagement meetings with justice system stakeholders, the workshops and consultation with the public and service users, we explored this question using as a starting point the Justice Vision set out in the existing framework. First, we sought to understand what the Vision means to people and the extent to which there is support for it. We then considered what a future justice framework would look like in practice were the Vision to be realised. Participants were asked to identify barriers to achieving it and how these might be overcome. In this chapter we discuss these findings and use them to identify a set of common principles, a refreshed set of strategic commitments which we propose are adopted in creating future justice policy, and we highlight a range of complex and challenging questions which stem from our review which should be reflected upon and tested through further consultation and research in the next phase of strategic development.

2.1 The Vision for a future justice framework

The Justice Vision

A justice system that contributes positively to the development of a responsible, tolerant and inclusive society, where everyone is safe and secure and the rights of the community are protected.

Each of the workshops commenced with a discussion about the current Justice Vision. We asked participants for their overall impressions of the Vision and what they felt each component of it should mean; we have set their thoughts out below. Respondents to the public survey were asked about the extent to which they supported the Vision and which aspects they considered most important; overall, they strongly agreed with it and considered all the elements to be important. We also include below some of their observations, while noting that these findings cannot be assumed to be representative of the views of whole population and require validation. We consulted with representatives of victims’ organisations through the workshops and invited these organisations and people using their services to meet with us for a more focused discussion. These did not take place, which means that victims’ perspectives are unlikely to be well represented. This should be addressed in the next phase of the Review.

The Oxford Learners’ Dictionary definitions of each of the words in the Vision have been included, to illustrate what these terms typically mean, to help frame participants’ responses and to provide a context for thinking in the next phase of the Review. These were not used in the workshops so that participants could give us their own interpretation of the terms.

2.1.1 “A justice system that contributes positively”

Justice

The fair treatment of people
The quality of being fair or reasonable
The legal system used to punish people who have committed crimes

System

An organised set of ideas or theories or a particular way of doing something
A group of things, pieces of equipment, etc that are connected or work together

Positive

Directed at dealing with something or producing a successful result

Several related questions were raised by workshop participants when discussing this element of the Vision. As we noted in Chapter 1, existing responses to crime and family breakdown tend to involve resort to the agencies of the justice system, largely the courts. Workshop participants discussed how the balance is currently struck in terms of resort to the law to resolve criminal and family matters and the extent to which they considered that these approaches facilitate justice in its broadest sense as exemplified in the Vision. For example, the existing justice system was characterised in one workshop as a “machine” and there was discussion about whether there is sufficient flexibility and discretion within the existing legal framework for alternative approaches to be taken. In that and another workshop, participants felt that the system at times placed more emphasis on processes rather than on the individuals who become involved in the justice system. Comments from the public survey and one of the workshops captured this sentiment:

“At the moment it seems like a legal system rather than a justice system.”

"Is it justice or justice according to the law?"

Other questions related to the extent to which achieving justice should be the role of the justice system rather than other parts of government or the community and how much reliance should be placed on justice measures to solve broader social problems. In one of the workshops it was proposed that the use of the word “system” might not be the most helpful way of conceptualising what was required to achieve the Justice Vision. Suggestions included “partnership”, “approach” and “network”. Other essential components were identified as good governance arrangements, accountability to the public, and realism about what is achievable with the resources available, particularly given what were perceived to be high public expectations of the system.

Further questions arose in each workshop about what the justice system, or broader responses to matters of justice, should be seeking to achieve. For example, participants queried whether the current approach, particularly towards the administration of justice, was “fit for purpose” in the 21st century. Workshop participants also wondered whether the existing approach might inadvertently be creating other social problems, with discussion about whether society gains in the long term from criminalising some people, for example. The timeliness and effectiveness of action were also identified as important for positive outcomes, as was clarity for complainants, victims and others about what to expect and what the overall outcomes are.

There was a consensus at all the workshops that in a future justice framework the scope of “the system” should, broadly speaking, be seeking to “break the cycle” of crime in the Bailiwick,

which was characterised as frequently intergenerational. The existing response was viewed by participants as “reactive” and working at the “back end” of justice problems that could potentially be dealt with earlier and more proactively, or even prevented. Some participants suggested that the existence of the cycle of crime could be viewed as a failure by the States to deal appropriately with crime and social justice issues. For example, the justice system was characterised by some participants as “picking up the pieces” of poverty, family breakdown, mental health problems and other vulnerabilities. Participants noted that the root causes of crime and family breakdown, and of triggers to offending in individual cases, were well known and that more could be done to understand, acknowledge and address them in the Bailiwick, including by targeting additional funding.

Both justice system agencies and other States agencies were felt to work frequently in silos, and to have thresholds which mean that children and other vulnerable people who might be at risk of crime (either as complainants, victims or perpetrators) may not get the help they need when they most need it. Participants agreed that this required a response which was more than just the responsibility of justice agencies or the CfHA: children’s and family services, education, public health, other safeguarding agencies, the Convenor and other “preventative” organisations and agencies were all seen as having an important role to play. This works both ways. Social policy is inherently interconnected. Just as demands placed on the justice system can be influenced by, for example, education or children’s services, the success or otherwise of the justice system in, for example, rehabilitating offenders can impact on other service areas. We consider further below different aspects of rehabilitation and the implications of these for criminal justice and other public services, and for the wider community.

Another important element of achieving the Vision discussed collectively was the need for shared values and principles to underpin the approach. There was consensus that everyone involved in any future justice framework should be aware of their responsibilities, with clear dialogue and information flow between the parties involved. The need to have sufficient resources to enable the system to function as intended was also seen as key, including appropriate funding and having “the right people in the right place with the right expertise”. They acknowledged that this was likely to require additional resources to be made available and thorny questions to be asked and resolved about the most appropriate direction of resources.

It is important that all areas of government adopt a collaborative approach to addressing crime and family breakdown and avoid blame. On the other hand, aligning practices and policies and resolving tensions between cultures and operational priorities will undoubtedly prove challenging. A tendency for policy problems which might be politically inconvenient or very challenging to address to be at best overlooked or at worst “brushed under the carpet” (to adopt a phrase used by a survey respondent) was highlighted to us in the course of our consultation. Concerns were raised with us about whether the existing justice system is achieving outcomes that are supported by the broader Vision, or whether in some instances it could be causing damaging effects in itself. During our consultation we identified several “policy clashes” where achieving one objective (e.g. punishment for traffic offences or the possession of drugs, both of which Guernsey has historically taken a tough view on) potentially conflicts with others (e.g. the welfare of the child, long-term employment prospects for individuals, and economic prosperity for the community). Another example, linked to achieving a sense of safety and security, is the cultural expectations of the public. For example, there appears to be a strong public desire for more visible community policing when the crime rate is already relatively low, which conflicts with the drive for efficiency savings. We consider later in this chapter the question of resources.

The primary Committees that participants felt should work together with the CfHA to achieve the Vision were the CfHSC, Committee *for* Education, Sport & Culture, and Committee *for* Employment & Social Security. The Policy & Resources Committee would also have an important role to play with regard to resourcing future activity.

2.1.2 “A responsible, tolerant and inclusive society”

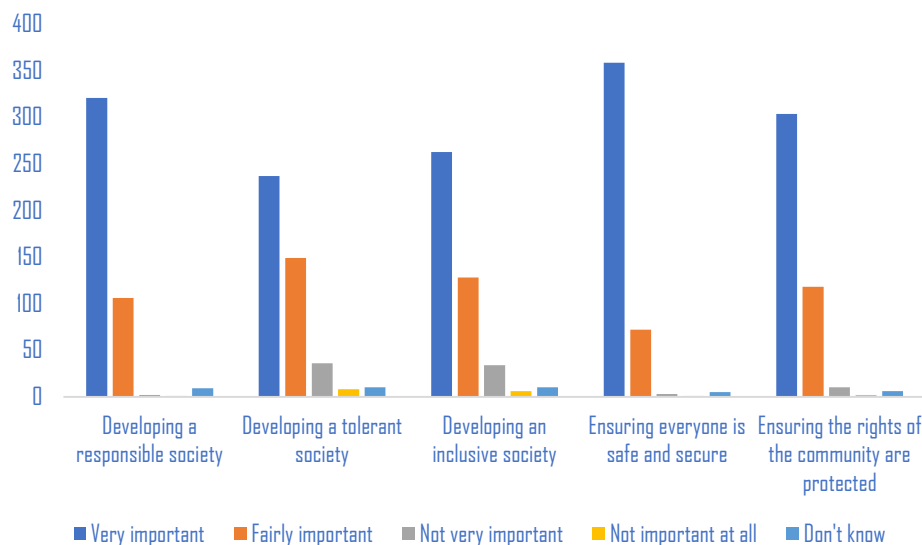
<p>Responsible</p> <p>Taking blame for something bad that has happened (i.e. being morally accountable for one’s behaviour)</p> <p>A duty to help or take care of somebody because of your job, position, etc</p> <p>Tolerant</p> <p>(of/towards somebody/something) Able to accept what other people say or do even if you do not agree with it</p> <p>Inclusive</p> <p>Including a wide range of people, things, ideas, etc</p> <p>Society</p> <p>People in general, living together in communities</p> <p>A particular community of people who share the same customs, laws, etc</p>

A responsible society

Figure 27 shows responses to the public survey on the components of the Vision. Although each component was seen as important,⁸¹ developing a tolerant society and developing an inclusive society were seen as less important than developing a responsible society.

⁸¹ All aspects were considered “very important” by at least 50% of respondents.

Figure 27: Responses to the question “How important do you consider the following parts of this Vision to be?”



We sought to unpick how these terms are interpreted in the survey and the workshops and our analysis revealed a range of interpretation which must be carefully considered in implementing and communicating the Vision. In discussing what a responsible society should mean in the context of justice policy, some workshop participants placed emphasis on people who commit crime taking responsibility for their behaviour and being accountable for this to society and their victims, where applicable. Throughout our consultation, we encountered a strong sense among politicians, some parts of the legal profession and some parts of the community that a lack of morality, lack of respect for authority, or failure to exercise good choices is the determining factor in criminality. This is based on the notion that committing crime is a rational choice. We also encountered strong views among others, including representatives of justice agencies, some parts of the legal profession, and some respondents to the survey, who believed that responsibility should lie not only with the person who commits the crime; they felt that the Vision implies the need for balance in the respective responsibilities of individuals, the community and the State. This is linked in part to the notion that crime is related to social causes, some of which are structural and societal. The word “community” was interpreted broadly, to include the third sector, businesses and churches, for example, as well as residents of the Bailiwick.

In addition, the word “responsibility” was seen as conferring particular obligations on government, including the availability and distribution of sufficient resources, challenging misconceptions with evidence, managing risk to the community and to victims, and ensuring that when people commit crime and are held accountable, they are treated fairly and consistently. The role of the state in preventing future victims by giving appropriate, individualised support to people at risk of offending and reoffending was also identified as important. There was an acknowledgement that this should not just be about the response of the criminal justice system but about the broader responsibility of the whole community.

A tolerant society

Tolerance was seen to refer to an acknowledgement that people should be free to live their lives how they choose, and that the community must live together with an understanding of each other and with respect for differences. Nevertheless, participants in the workshops and focus groups, and some responses to the public survey, highlighted a strong perception that Guernsey is not tolerant of people who commit crime or infringe moral values more broadly; we heard that public and political perceptions can be “very black and white”. While these views certainly exist, and tolerance must of course have its limits, the perspectives of those who responded to our survey were more nuanced than this.

Some workshop participants believed that the voices currently being heard within the community may not reflect the range of citizens’ perspectives, and that it might be necessary for some parts of the community who currently persecute people who commit crime to become more tolerant towards them and more understanding of underlying causes, where relevant. For example, participants in the adult workshop believed that there should be a greater ethos of compassion in responses to crime in the Bailiwick. Respondents to the survey largely disagreed with the statement “The community should not be tolerant of people who have committed crime, served their sentence and want to go on to lead useful lives” which may be illustrative of broader support for this view, and which should be tested in further consultation. Some comments in the survey reflected the role that the respondents believed the community could play in reducing crime:

“Tolerance is key when reducing conflict and goes with inclusivity which helps people feel secure.”

“The word tolerance suggests that there is something wrong with someone, understanding them would be better.”

“These days children brought up in one parent families are numerous, and they commit more crime than children whose parents remain together. Alcohol and drug abuse stem from the above and create a vicious spiral of crime. We need to promote old fashioned virtues, encourage people to be responsible and concentrate less on hammering people with prison sentences when they commit crime.”

“If people were responsible and tolerant in themselves it is likely there would be less seclusion. If you feel part of a community I imagine (hope) you’d be less inclined to let that community down through offending.”

In relation to the latter point, it should be noted that the Health and Wellbeing Survey 2018 found that over one-third of those aged 16-54 were considered to be ‘intensely socially lonely’, defined as missing a wider social network.

Participants in the workshop acknowledged that people have different levels of tolerance for different types of offending. Responses to questions about the length of sentences for different offences highlighted, not surprisingly, that there was the least tolerance for sexual offences against children.

“Tolerance” implies that in devising inclusive policies, there should be consideration of the range of perspectives held within the Bailiwick. Justice agencies and politicians were identified as

having a role to play in driving greater tolerance and moving away from adopting what might be seen as populist policies related to the justice system, which were considered not necessarily to be reflective of broader public opinion.

An inclusive society

We heard that the “small island” nature of the jurisdiction impacts on inclusivity in different ways and there appears to be scope for greater inclusion within the community.

“I like the positive focus of the Vision being tolerant and inclusive as it indicates support for rehabilitation rather than punishment of offenders which I feel is progressive and the right direction for the community.”

“They are all very important: but you will never achieve a totally inclusive society because not everyone wants to be included!”

“... it will take generations to bring everyone in the fold into a more inclusive mindset but we must start it’s so important.”

The size of the community means that there is significant exposure when offences are committed and when cases go to court. This can undermine inclusion, particularly when publicity is given in the media to crimes, including publicising the names and addresses of suspects. While some people might feel assured that “justice is being done”, such publicity might have the effect of perpetuating the fear of crime. It also has the potential to undermine future rehabilitation, for example, for a former offender seeking to gain employment. Our survey illustrated that people were more confident in their knowledge about sentencing than about other aspects of the justice system. In total, 93% of respondents felt that they had some knowledge on this topic, with 58% knowing “a lot” or “a moderate amount”. We discuss later in the report the potential for greater information sharing about court processes and outcomes and for greater public education about the functioning of the justice system.

Workshop participants agreed that building a responsible and inclusive society should start from an early age, with shared values driven through families, school and the wider community. Respondents to the survey identified these shared values as one of the key factors contributing to the relatively low crime rate. Responses to other questions illustrate that some people believe crime stems from those who do not understand, or choose not to accept, those shared values.

“There are no police on the street so unless morality has been taught there is no hope.”

“Children do not have the discipline and morals needed to live in today’s society.”

“In a rules-based system everyone should be expected to obey all the rules. At present some rules are simply ignored. There should be a review of legislation which is currently on the books, and where the state (police) have decided they do not prosecute certain laws they should be removed from the statute books. The problem with having laws which are routinely ignored by everyone is that it creates a gateway to crime for youth. They see rules constantly being broken and learn that rule breaking is OK.”

This raises the question of why some members of the community conform to these values and others do not and emphasises crime as being an individual problem, rather than a social justice

problem. This was a theme raised by participants in the workshops and focus groups, along with discussion about whether it is possible to assume that the values espoused most are shared. Related to this is an assumption that those who do not conform to what are considered to be shared values are to be feared or mistrusted. Indeed, a small number of respondents to the survey proposed that people who commit crime should be expelled from the community i.e. by having to leave the Islands.

Another dimension of inclusion is social deprivation. We heard frequently from stakeholders that Guernsey is an island of “haves” and “have nots”, and that social inequality can be hidden and therefore overlooked. This may mean that some types of social harm, like crime, may have greater prominence in the views of some parts of the community than others, including for example, income inequality, education, housing and health. These responses from the survey illustrated that there is some public recognition of the impact of structural inequalities on crime in the Bailiwick which could be further explored:

“The reasons are many and varied, but the lack of a stable family background is a major driver.”

“Early intervention in a range of forms must be the most effective way to spend in this area. Reducing poverty, supporting families, restorative approaches in schools, access to pre-school education all provide great value.”

“I think that there is a real inequity within our community, leading to a large proportion of families living in poverty and without access to support...those who are receiving a low income rather than on benefits.”

“Kids are not stupid. I think apologising for the way that we have brought them up and messed up their moral code, would be a good place to start. They must always have a goal. To deny an individual the right to dream of positive change is going to produce a dangerous individual and very probably a mentally unstable one.”

A body of academic research indicates that, rather than the presence of inequalities being in itself a driver of crime, the scale of inequalities is important, particularly regarding rates of violent crime.⁸²

There was a discussion in one workshop about whether it was necessary to include within the overarching Vision the clause about a responsible, tolerant and inclusive society. The suggestion was that it may be sufficient to focus on safety and security and the protection of rights. We have included these (or similar) terms because the majority of those we consulted were positive about them, and it is clear from the conversations we had that they add significant depth to the parameters within which the other objectives ought to be achieved.

2.1.3 “A society where everyone is safe and secure”

Safe

⁸² See, for example, Wilkinson, R. G. and Pickett, K. *The Spirit Level: Why More Equal Societies Almost Always Do Better*, Allen Lane, 2009.

Protected from any danger or harm

Secure

(against/from something) That cannot be affected or harmed by something

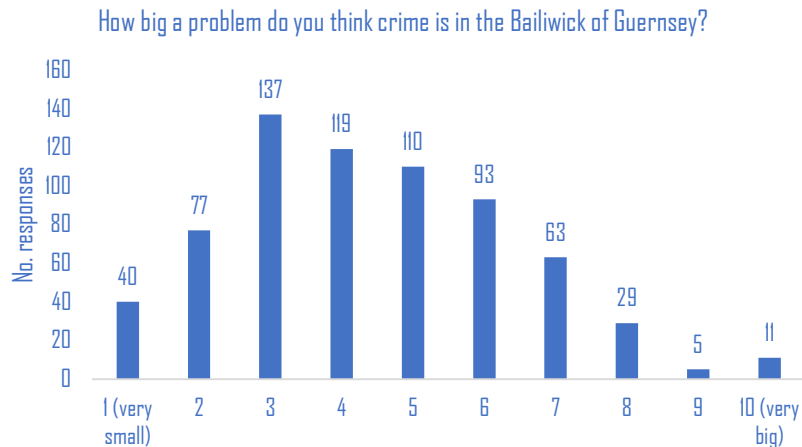
“A safe and secure place to live” is part of the wider vision for the Bailiwick set out in the Future Guernsey Plan. Participants in one of the workshops questioned whether it was necessary to use both words, which have similar meanings. The use of the word “secure” in the context of justice may arise from the importance to the justice system of ensuring the strength of the Islands’ borders and the security of the prison. The importance of the message that the Bailiwick is not a soft target for crime was also raised.

There is an acknowledgement, both politically and on the part of the public, that Guernsey is a safe place where crime rates are low. This was largely the perspective of respondents to our survey, although some felt that part of the reason for this may be that certain crimes go undetected or unreported. A victimisation survey would be required to shine a light on the extent of underreporting.

Focusing justice policy and resulting activity predominantly on safety and security risks legitimising and reinforcing fear, which can itself affect public perceptions of safety. People rightly raise with politicians their fears about being a victim of crime. What is not known is why people feel unsafe, when the evidence is that there is a low risk of them being affected. Reinforcing the toughness of the justice system may not assuage their fear. People’s perceptions about their safety and the effectiveness of responses to justice issues also reflect to some extent their knowledge about how the system works in preventing and tackling crime. As we have identified, the Bailiwick has a relatively low crime rate. Nevertheless, in response to our survey, while just over one in three people believed that crime is a small problem in the Bailiwick, almost half believed it was a medium-sized problem and 16% that it was a big problem.⁸³ It is important to understand why so many people feel crime is a problem in the Bailiwick and say that they do not feel safe

⁸³ See survey report for classification

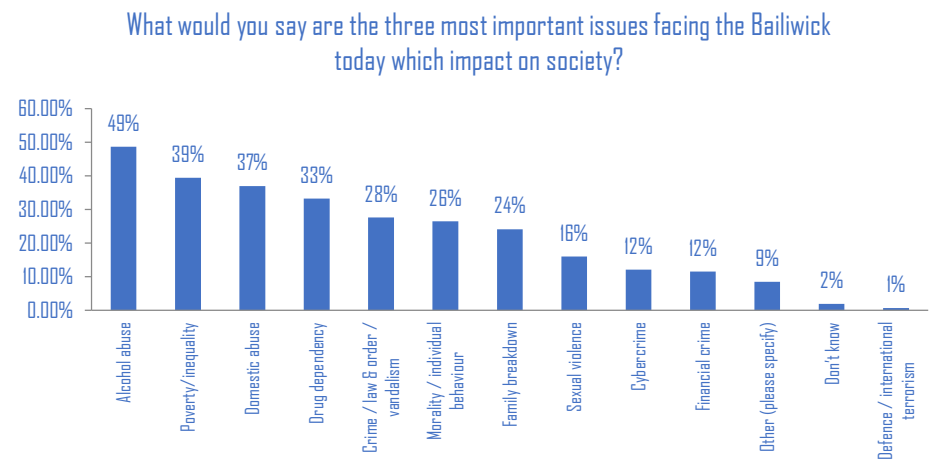
Figure 36: Survey responses on the scale of the crime problem



Another aspect of safety and security identified by workshop participants was the community having faith in the systems in place to protect them. This may be linked to the fear of crime and could be further explored in the context of some indication of changes in public confidence in the justice system found in the Crime and Justice Surveys, which we noted in Chapter 1.

It is also important to keep in perspective the nature of the threat to safety and security in the community. A strong theme in our conversations with stakeholders (and in the workshops) was the importance of striking the right balance between responses to “run of the mill” offences and wider concerns such as people trafficking, drug syndicates and money laundering, which were seen as more serious threats to safety and security. In our survey we asked people to identify the three most important issues impacting on society in the Bailiwick today. The most common, identified by over a third of respondents, were “alcohol abuse”, “poverty/inequality”, “domestic abuse” and “drug dependency”. More than a quarter of respondents selected “crime/law and order/vandalism” and “morality/individual behaviour”. Another issue raised frequently in additional comments in the survey was road traffic offences. We discuss later in this chapter public expectations about the role of the justice system in managing social order issues.

Figure 28: Survey response to the three most important issues facing the Bailiwick



Promoting justice agencies as the primary architects of public safety can reinforce the view that crime reduction is predominantly the responsibility of the state, and the agencies and institutions of the justice system in particular, rather than a broader issue that should be owned by the whole community. Proportionality also means being mindful of the balance between responses to crime and other justice issues; responses should relate to the level of threat to safety and security and the wider impact this has on the community. Financial crime, border security and cyber crime all pose bigger threats than public nuisance and disorder in terms of the broader societal costs.

2.1.4 “A society which protects the rights of the community”

Right

A moral or legal claim to have or get something or to behave in a particular way

Community

All the people who live in a particular area, country, etc when talked about as a group
The feeling of sharing things and belonging to a group in the place where you live

Protect

To make sure that somebody/something is not harmed, injured, damaged, etc

There was a suggestion that it was important to refer to the rights of individuals as well as the community, although it was also acknowledged that the community is made up of individuals. This part of the Vision opened up philosophical debates about the relative weight that should be given to the rights of different individuals within the community – specifically, the balance between complainants, victims, perpetrators and the wider community. For example, in the youth justice workshop there was a feeling that children’s rights should be afforded higher priority within the Bailiwick and that victims’ rights should be paramount.

In relation to victims, participants in the workshops and focus groups agreed that preventing harm to victims and reducing the likelihood of future harm was a fundamental part of the duties of the state in protecting victims’ rights. The role of justice agencies and other States agencies in protecting the rights of children and adults by seeking to prevent victimisation and repeat victimisation was raised in relation to offences including domestic abuse, sexual offences and (in particular) child abuse. There was a perception among some workshop participants that the States tends to be offender-focused rather than putting the complainant or victim first when responding to crime. On the other hand, victims are not a homogenous group, all looking for the same outcomes.

There was a general consensus that complainants and victims should feel they have been treated well, that they have received a fair hearing by the police and in court, and that something has been done to address the crime. This might also extend to them receiving practical support, counselling or other treatment for any trauma or other harm to be repaired. Another aspect of protecting rights that was seen as fundamental to achieving the Justice Vision is protecting potential future victims of crime. For example, participants referred to the rights of families in

need and children at risk to receive adequate help, to reduce the risk of intergenerational effects.

Importance was placed on ensuring that justice processes respect the rights of all individuals affected. There was consensus that responses to crime should seek to provide a result or resolution for all concerned, including the victim. Aspects of privacy were also raised in relation to media reporting of crimes and criminal justice processes, as these can impact not only on the alleged or convicted perpetrators but also on victims and the families of all parties concerned, including children. The portrayal of children in the media and some public sentiment towards young people was regarded as particularly problematic and stigmatising. There was a sense that rights should be proportionate and balanced against the community's right to feel safe and secure. Participants felt that people's rights should only be protected within the boundaries of existing laws, but that, in turn, these laws must reflect tolerance and balance.

The relationship between rights and responsibilities was a feature of discussion in the workshops and focus groups and in responses to the public survey. These comments provide a flavour of the views we heard:

"People will be responsible when their own rights are respected. Unfortunately, we have a system where the rights of the rich far outweigh the rights of the poor."

"Although 'life is not fair' (usually a quote from someone in a position of power or privilege) it is a duty of all to make the community a fair and safe place."

The perspective in the last comment illustrates the connections between inclusion, rights and justice which we will return to later in this chapter.

Finally, participants felt that the rights of all parties in relation to justice system processes should be more transparent, partly reflecting the absence of a broader human rights framework in the Bailiwick. When the Justice Vision was revised in 2018, the commitment to protecting the rights of victims and witnesses became a broader commitment towards the whole community. Some participants observed that there was a risk that the rights of victims could be overlooked without specific mention of them.

Principle 1: The future justice framework should ensure that the justice system is no longer the default response to crime and family breakdown. The emphasis should be on responses that are proactive and preventative in the long term, rather than reactive and punitive in the short term.

Principle 2: The future justice framework should be underpinned by a genuinely collective long-term approach to deal with the complex factors that contribute to crime and family breakdown in the Bailiwick. The States should work in partnership with an agreed purpose, with clarity about shared outcomes and respective responsibilities towards achieving them.

Principle 3: The future justice framework should ensure that there is clarity for complainants, victims, witnesses and others involved in the justice system about what to expect from it. This should include examining and understanding perceptions of the public and those who come into contact with the system about its proportionality, consistency, fairness and costs.

Principle 4: The future justice framework should seek to balance the respective responsibilities of individuals, the community and the States, and should seek to strike the right balance in responses towards different types of threat to safety and security and social order.

Principle 5: The future justice framework should seek to foster cultural change to ensure that a responsible, tolerant and inclusive approach to justice matters is supported by, and reflected in, wider society.

Principle 6: The future justice framework should ensure that the justice system is fair, proportionate and accessible to all, and should have at its heart a joined-up approach to improving equality and inclusivity.

Principle 7: The future justice framework should shift the emphasis of policy to people rather than processes, i.e. to supporting victims, witnesses, and all parties in family breakdowns, and to addressing the underlying causes of crime and other forms of social disorder both structurally and in individual cases.

Principle 8: The future justice framework should facilitate whole-community approaches to supporting complainants, victims and to reintegrating people who have served their sentences, and to supporting all those involved with the family justice system.

Principle 9: The future justice framework should seek to restore the harm caused to victims of crime using restorative approaches, where appropriate.

2.1.5 Revisiting the Vision

The current justice strategy is underpinned by a strong, ambitious Vision. The consultation and research we conducted during this phase of the review indicates that there is broad support for the spirit of this Vision but a strong sense that there is a long way to go before it can be achieved. This signifies that there may be support for a significant change in approach towards delivering justice in the Bailiwick, with scope for a new concept of how best to achieve safety and security that does not look to the justice system as the primary solution. It is important that the rights of complainants, victims and witnesses are not overlooked in the context of the broad statement made in the Vision about protecting the community.

We propose that a simplified version of the Vision is used for the future justice framework. We also suggest producing an appropriate wording which is more understandable to children. Consultation on this could be undertaken in association with the Youth Commission.

Proposed new Justice Vision

A society that contributes positively to the development of an understanding, inclusive and responsible community, where everyone is safe and secure and individuals' rights are protected.

Recommendation 3: The future justice strategy should be underpinned by the revised Justice Vision, which should be used more prominently to describe the intended future direction of policy. The implications of the Justice Vision for the level of transformation to justice policy which may be required will entail careful consideration when devising, seeking support for,

and implementing a new justice framework. This will require ongoing reflection by politicians, members of the legal profession, criminal justice agencies and other public services, as well as further public debate.

Recommendation 4: The proposed principles for the future justice framework should apply to both the family and criminal justice systems.

2.2 Achieving the Justice Vision

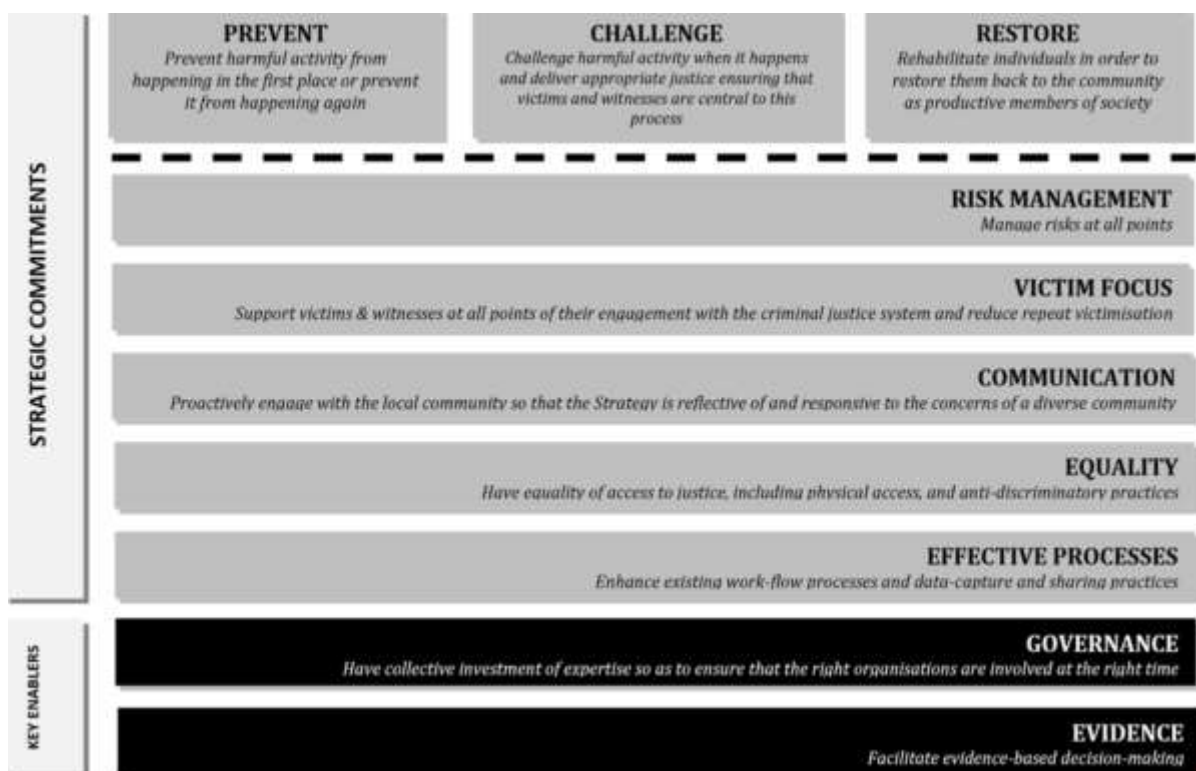
In this section of the report, we revisit the key purpose and commitments in the 2013 justice strategy to determine whether they meet the principles we propose should underpin the Justice Vision and the extent to which they remain helpful in facilitating the required transformation of justice policy. We examine stakeholders’ views of some of the barriers to meeting these commitments and some enablers to facilitate them in the future. In doing so we raise a number of questions which could frame some self-reflection about the current system and the changes that might be necessary to achieve the widely supported Vision. We also identify other commitments which we propose should be taken forward in the future justice framework in addition to (or as an alternative to) existing ones. We have made these proposals based on the evidence we gathered during this phase of the review and suggest that further data, research and testing of these findings be undertaken to inform the creation of the new framework.

The existing purpose and strategic commitments and enablers are defined in Figures 29 and 30.

Figure 29: Existing strategic purpose



Figure 30: Existing strategic commitments



2.2.1 Overarching strategic purpose and commitments

As noted in Chapter 1, the existing strategy is focused on delivering justice services to maintain and enhance public safety, tackle crime and ensure secure borders. The criminal justice strategy used the terms Prevent, Challenge and Restore to describe the overarching approaches to achieving the strategic commitments. The purposes of these activities, which at the moment are undertaken largely by justice agencies have been defined as to “stop unlawful behaviour”, “prevent unlawful behaviour from happening again”, “impose penalties” and “rehabilitate people who commit crime”. In this section we examine each of these approaches and what they could mean in the context of a broader future justice framework. We also propose an additional component: Divert.

A. PREVENT

A very strong conclusion from the workshops was that in order to achieve the Vision there should be greater emphasis on prevention, both for its own sake and because of the potential to save costs within the justice system and the States in the long term. The emphasis of current practice is on the role of justice agencies themselves in preventing crime and reoffending. As we noted above, our consultation has identified that achieving the Justice Vision should involve a multi-agency approach and a stronger emphasis on social policy and prevention. The term ‘prevent’ is used interchangeably with ‘stop’ in the current strategy with the emphasis placed on promoting the role of justice agencies in stopping crime, using sentencing as a deterrent, and keeping people safe.

Some criminal justice stakeholders questioned the extent to which justice agencies are realistically capable of stopping criminal activity. This quote illustrates views we heard about what the States can feasibly do to keep the Bailiwick safe and secure.

“The economic, social and environmental factors that drive criminal activity are simply so vast and so complex, that Law Enforcement cannot be expected to stop it or be responsible for it increasing or decreasing. [...] It is essential that we coordinate our efforts to maintain a safe environment that enables our communities and businesses to flourish. [...] Collectively society, together with the criminal justice system, may seek to reduce overall offending, reoffending as well as to deter and prevent individuals from engaging in criminal activity.”

In the next phase of the Review, it will be important to consider what expectations should be placed on the justice system and other agencies in terms of their role in preventing crime and delivering justice. Workshop participants felt that key to preventing crime was identifying patterns across the Bailiwick in the causes of offending, particularly offending by children. As we highlight in Chapter 1, the strategic approach now taken to children’s services, education and health is focused on inclusion and prevention, and there is a range of preventative and early intervention provision for children. Participants in the adult workshop did not seem to be aware of the extent of this activity.

Fewer preventative measures are in place for adults, although an adult multi-agency safeguarding hub has recently been established and we understand that there are plans in 2020 to establish a multi-agency vulnerable adult safeguarding partnership. We were told that the current threshold for intervention from the hub is high and hence does not apply to most of those who come into contact with the criminal justice system. Maintaining narrow eligibility for such provision may be related to the resources available. On the other hand, dealing with vulnerable individuals forms a substantial part of mainstream police activity which means that resources may not be found for other policing priorities. For example, HMICFRS recommended that the police be given additional capacity to manage people who have committed sexual and violent offences in the community who are subject to public protection arrangements. An uplift in resources has recently been provided to Law Enforcement to employ additional staff.

The CfHSC has already recognised the potential economic benefit of keeping people with addictions out of the criminal justice system. There is also a strong emphasis in its health and children’s social care programmes on prevention and early intervention. Similarly, reforms to the education system are being undertaken with the intention of increasing inclusion. Participants in the workshops and some of the stakeholders we spoke to identified reducing in-work poverty as another issue which warrants further consideration in relation to the potential impact on preventing crime. We understand that there is now a commitment to take work on in-work poverty forward, providing an opportunity to give thorough consideration to the links between these two agendas.

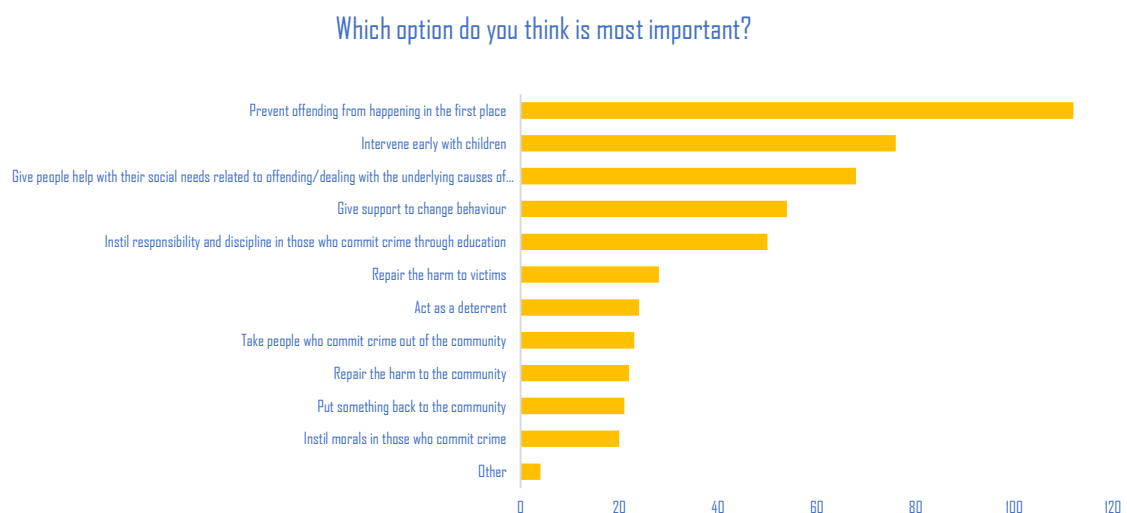
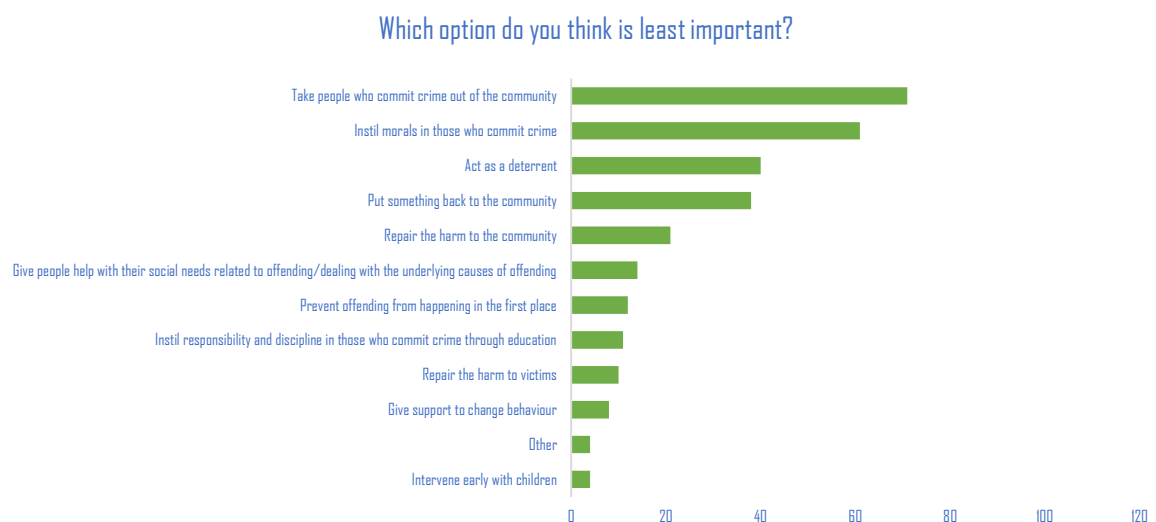
Key findings of survey:

- Prevention and early intervention were ranked as the most important things the Bailiwick should be trying to achieve when dealing with crime committed by children and adults.
- Taking offenders out of the community was ranked as the least important.

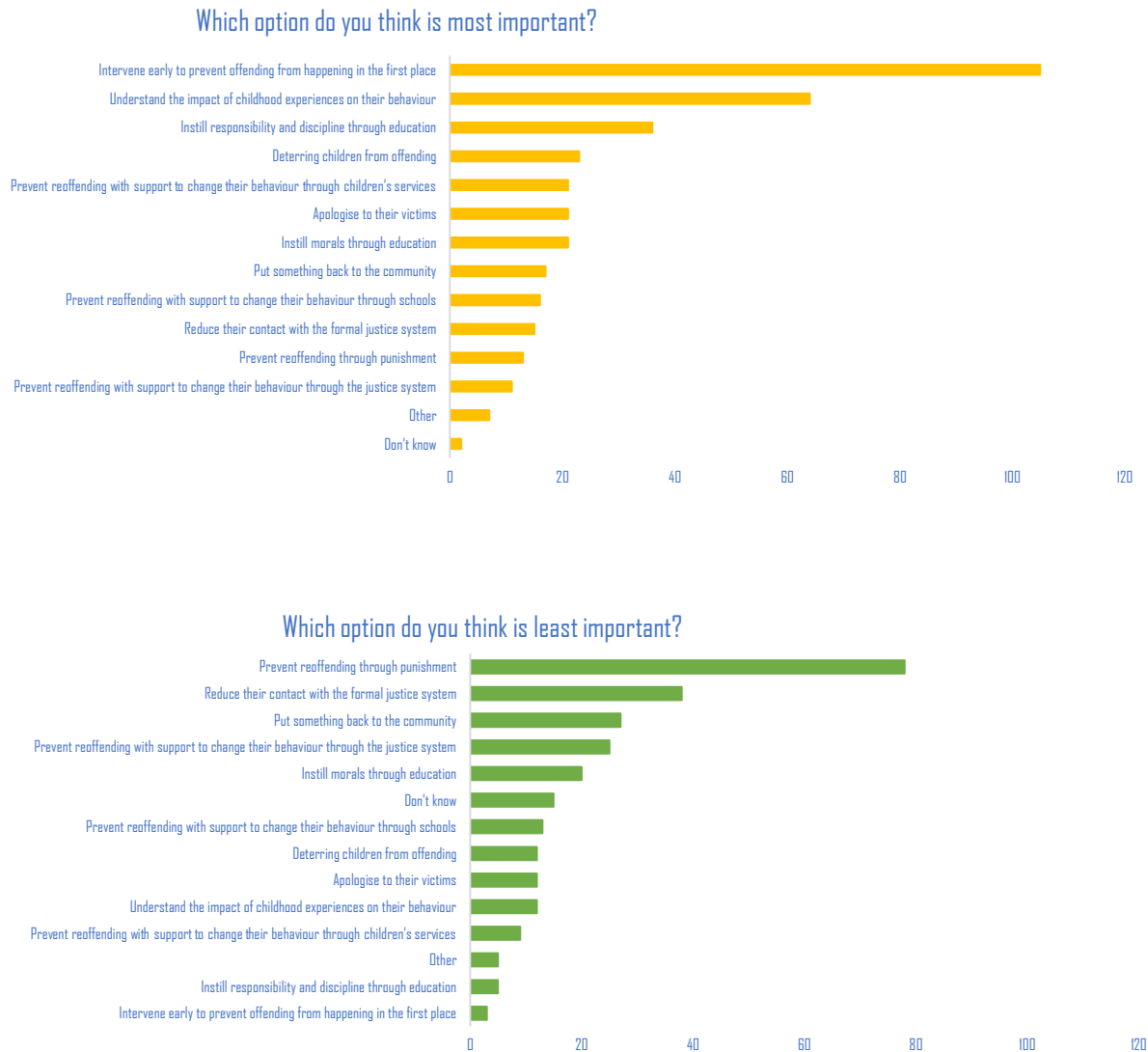
- “Parental neglect”, “peer influence” and “lack of positive adult role models” were thought to be the three main reasons that young people commit crime in the Bailiwick.
- A large proportion of respondents thought that “protecting the welfare of the child” and “protecting the public” were equally important goals.
- When given options for how to spend a hypothetical £10 million on justice issues, respondents thought that “preventing young people most at risk from getting involved with crime” would be the most effective use of the money.

We asked respondents to the survey to rank the most and least important things the Bailiwick should be trying to do when preventing and responding to both adult crime and youth crime. This included options related to criminal justice sanctions as well as social justice-oriented solutions. In relation to both adult and youth crime respondents tended to choose options relating to prevention and support as most important, rather than more punitive options. The most frequently chosen response for least important for adult crime was “taking people who commit crime out of the community” and for youth crime it was “prevent reoffending through punishment”. Further research would be required to ascertain how citizens view the use of imprisonment amongst a range of sentencing options.

Figures 31 and 32: Adult crime (Q19)



Figures 33 and 34: Responses to youth crime (Q24)



We had hoped to collate data which would provide an illustration of the backgrounds of the people involved in the youth justice and adult justice systems to inform a strategic approach to developing prevention activity under future justice policy. Some limited information about the background of people involved in the latter is available from the 2017 cohort data. For example, in the probation cohort 28% did not complete the end of 6th form or college, 33% had been expelled or suspended at least once and 41% had been arrested or charged as a child (under 16). No information is available about mental health or their childhood experiences outside of the criminal justice system, for example, involvement in the care system. A small-scale study was conducted by Probation to examine the prevalence of adverse childhood experiences (ACEs) in a sample of cases. In some cases, it was possible to identify the presence or otherwise of ACEs from the existing information collected, however this is not currently gathered routinely. Such information would provide useful context for examining further with the community their

perspectives on characteristics of people who commit crime, how these accord with public perspectives on the causes of crime, and the implications for future prevention and youth justice policy.

Conclusion: Prevention should become a more prominent element of the future justice framework, encompassing the activities of both justice agencies and other States agencies.

The role of deterrence

Political representatives and some members of the legal profession attributed the low crime rate to taking a serious view of certain offences to provide deterrence. As far as we can determine, this presumption is not based on specific evidence of the effects of the prosecution and sentencing regime within the Bailiwick. In the absence of such research, or similar evidence about the impact of deterrence in other island jurisdictions, it is conceivable that other factors impact on the low crime rate. The key message from international criminological literature is that the perceived likelihood of getting caught provides the greatest deterrent effect rather than the severity of the consequence, in terms of the nature of the sanction or length of sentence.⁸⁴ Matters such as these are important to reflect upon when considering the future justice framework because the scale of the use of imprisonment, in terms of both the volume and length of such sentences, has resource implications. Where resources are finite, policy decisions might focus upon how the balance should be struck between the use of imprisonment and the visibility of policing when allocating resources, for example.

We explored in the public survey why people believed that Guernsey has a relatively low crime rate. Responses focused largely on the presence of informal mechanisms of social control, such as the size and nature of the community or other formal mechanisms like the strength of border security, rather than police presence or the strictness of sentencing, which were in the minority. For example, respondents referred most commonly to protective factors related to being in an island community: there is control of the borders to prevent drugs coming in, for example, and there is a high likelihood of getting caught because “everyone knows everyone” so large quantities of drugs are likely to be detected quickly. Illustrative quotes include:

“We are a small community which leads to more respect for fellow residents and their property and rights.”

“Smaller society with more cohesion. Much harder to feel detached from the victim.”

On the other hand, the size of the community can have the opposite effect. For instance, the Joint Strategic Needs Assessment (“JSNA”) on older people found that domestic abuse was surprisingly high among this group, suggesting that there is underreporting, possibly due to the stigma of being involved in the criminal justice system in such a small community. Representatives of victims’ services suggested to us that the relatively low rates of reported sexual offending in proportion to the population might also be related to this stigma. Other frequent responses mentioned the relative affluence and wealth within the Bailiwick, including high employment, and the strong community values and high levels of integrity amongst those living on the Island.

⁸⁴ See, for example, Nagin, D.S. [Deterrence in the Twenty-First Century](#) in *Crime and Justice* Vol. 42, No. 1, (August 2013), pp. 199-263, The University of Chicago Press

We raise these points not to undermine the importance of the deterrent effect within the sentencing regime, rather to highlight that there may be other factors at play in driving the low crime rate. Reflecting on this approach may create space for examining the implications of perhaps shifting the balance towards other principles of sentencing or justice as more broadly conceived in the Vision. For example, it is possible that shifting the direction of resources from long sentences could have a positive impact in other ways, without reducing the deterrent effect.

B. DIVERT

Diversion refers to activity to either direct people away from the justice system or to divert them from formal criminal justice measures. This currently includes the use of out-of-court disposals, which can be given at the discretion of Law Enforcement, and decisions taken by prosecutors about whether prosecutions are in the public interest. As noted in Chapter 1, there is currently no clear picture of what diversion measures are available in the Bailiwick, or the extent to which they are used. We do know from the 2017 cohort data derived from law enforcement records that almost three-quarters of cases in the sample were heard at court.

Representatives of criminal justice agencies and legal professionals agreed that there is scope for developing more avenues for achieving justice without resort to courts, including under existing legislation which gives the police discretion in terms of charging people with low-level offences. Restorative justice initiatives are used to some extent although not systematically, but we have not had access to data which would enable this to be quantified. Other options would require legislative change. Some of those we consulted suggested that the police and prosecutors should be given greater discretion to “avoid clogging up the courts” and to enable the costs to the public purse of the legal aid budget stemming from the involvement of defence practitioners in such cases to be redeployed.

As we noted in Chapter 1, the police also spend significant time on safeguarding. Workshop participants connected this to the existence of gaps in the provision of mental health treatment, for example, in the Child and Adolescent Mental Health Service (CAMHS), for children transitioning to the adult system, for young adults up to the age of 25 and for older adults which they considered vulnerable but who did not meet the threshold for statutory support. We have been unable to verify this so further research is required to examine the nature and extent of any such gaps.

Some of those we consulted felt that diversion initiatives, which might include treatment for mental health and substance misuse issues, for example, can sometimes be perceived as “soft options”, although there is some support for treatment options to be more available to Court amongst legal professionals. Others believed that diversion would better serve justice because of the immediacy of the response and the reduced costs to society through limiting the need for lengthy court proceedings. For example, it was suggested to us frequently that, with legislative change, traffic offences could alternatively be dealt with through fixed penalty notices and a points-based scheme. These accounted for almost 30% of cases dealt with by prosecutors in 2017. Further research could be undertaken to examine the potential applicability of diversion measures available in other jurisdictions to the Bailiwick including, for example, schemes which facilitate engagement with specialist services to enable people with mental ill health or learning disabilities to be assessed and receive appropriate treatment, problem solving courts, and deferred prosecutions.

In relation to the prevalence of misuse of drugs and alcohol by those in the criminal justice system, some information is available from the 2017 cohort data. Almost 25% had a current drug problem and 24% had a current alcohol problem when they were assessed by probation. Furthermore, 41% of the sample had previously had an alcohol problem and a similar proportion had previously had a drug problem. There is not currently data on what proportion of these cases had been assessed or had received treatment for these issues, either within or outside the justice system.

Prevalence of alcohol and drug problems in the 2017 cohort:

- 24% (49) had an alcohol problem at the time of assessment. 41% (84) had an alcohol problem at some point.
 - The most common offence types committed by those with an alcohol problem at the time of assessment were drug offences (29%), followed by assault (21%)
- 25% (51) had a drug problem at the time of assessment. The specific drug was known in 92% of cases and was most often cannabis.
 - 40% (82) had a drug problem at some point.
 - The most common offence types committed by those with a drug problem at the time of assessment were drug offences (43%), assault (17%) and theft (15%)

Another issue which warrants particular attention is how best to respond to repeat minor offending following diversion, CYCT decisions, probation supervision or prison sentences.

Recommendation 5: In preparation for the future justice framework, a review should be undertaken of the formal and informal diversion measures currently used in the justice system, along with scoping of alternative or additional measures which could be introduced either within the existing legal framework or by amending legislation.

Diversion in the youth justice system

The most well-developed diversionary measures are available through the Convenor system. Prior to the system's introduction, the majority of youth crime was dealt with in the juvenile court, which sat once a week to consider cases involving children. The significant reduction in the number of young people being prosecuted in court means that it now sits once a month, dealing on average with five cases each time. The majority of youth offending is dealt with by non-compulsory outcomes, significantly reducing costs. An estimate of cost savings was shared with us, although limitations in data mean that this is not comprehensive; as such, it has not been included in this report.

Key findings of survey:

- 94% of respondents agreed with the statement that children who commit crime should be given help and support.
- Respondents felt that for those who have committed youth crime preventing reoffending with support to change behaviour through schools and children's services was more important than doing so through the justice system.

The case study below examines in more detail the approach taken towards offending by children.

Case study: The approach to youth justice in the Bailiwick

Youth crime is one area where there are particular challenges in agreeing what should constitute “appropriate justice” and what approaches would be most conducive to long-term safety and security. We heard about some very complex cases involving children who had committed crimes, which are not reproduced in this report to avoid identification. We also met with people who had been involved with the youth justice system and care system who felt they had little prospect of crime-free futures. The Children’s Convenor, Law Officers and the judiciary all make crucial decisions about children who offend. For the former the focus is on prevention of further offending and the decision-making process is relatively transparent, governed to some extent by the Children Law.

Under the Criminal Justice (Children and Juvenile Court Reform)(Bailiwick of Guernsey) Law, 2008, the Criminal Prosecution Team receives reports of criminal offences committed by children and young persons under the age of 18, which are considered for prosecution applying the Code of Guidance and in the light of all the available information, including representations from the Children’s Convenor. The number of jointly referred matters has remained steady since the introduction of the legislation in 2010. 2017 saw an increase in the overall number of offences jointly referred, a significant proportion of which were repeated joint referrals for a small number of individuals.⁸⁵ These cases go through a gatekeeping process whereby the prosecution and the Convenor discuss all potential prosecutions and a decision to refer to the Convenor can be taken without charge or referral to the court. Road traffic offences that carry the possibility of disqualification are always dealt with in court under current legislation. Just under half of joint referrals in 2017 were for motoring offences (46%, compared to 68% in 2016.) Public order offences were the next most common reason for referrals (27%, compared to 19% in 2016). 55% of joint referrals resulted in a referral to the Convenor and just under a third (30%) led to a prosecution.

Although the majority of jointly referred cases are dealt with by the Convenor, questions were raised with us by stakeholders from across the youth justice system about the balance of cases being dealt with in the Children’s Convenor system and the Juvenile Court for matters that are jointly referred and, in a small number of cases, about the subsequent response to persistent criminal offences by children, specifically the degree of alignment between the views of judiciary and the advice and recommendations of youth justice professionals. There is recognition by all parties that the approach to youth justice set out in the Children Law is still embedding that there is scope for further improving aspects of the system and how it operates in practice. We note that the judiciary is independent and exercise their own discretion and they are therefore not obliged to accept such advice. It should also be noted that the threshold for reporting cases to HM Procureur in this way is different than in Scotland i.e. requiring three or more referrals to the Convenor in a period of 12 months, compared to six months in Scotland.

Since 2004, when the Children Law was conceived, there has been a remarkable amount of progress internationally in understanding the factors underlying youth offending. Of particular relevance is research on the impact of trauma and adverse childhood experiences,

⁸⁵ Law Officers Annual Report 2017

as well as of maturity, on brain development and behaviour. Figure 35 sets out the key factors linked to youth criminality stemming from adverse childhood experiences and other risks.

Figure 35: Adverse childhood experiences and childhood risk factors for criminality⁸⁶



The UK-based charity Nacro explains that:

“... where trauma is particularly acute or generated by multiple events (as in the case of child abuse, for example) there can be an adverse physical and emotional impact which in turn has a profound effect on individual development during childhood, adolescence and into adulthood. These effects can blunt emotional development and socialisation, levels of self-esteem and confidence and the ability to form relationships with others.”⁸⁷

A study of adverse childhood experiences in the Welsh population found that those who had undergone four or more such experiences were:

- 14 times more likely to have been a victim of violence over the last 12 months;
- 15 times more likely to have committed violence against another person in the last 12 months;
- 16 times more likely to have used crack cocaine or heroin; and
- 20 times more likely to have been incarcerated at any point in their lifetime.⁸⁸

The prevalence of these factors in children involved with the youth justice system in the Bailiwick is not fully understood. The adverse developmental effects of trauma in childhood may result in extremely testing behaviours, which can be interpreted as wilfulness or defiance when they actually represent hypervigilance against threat stemming from feeling unsafe due

⁸⁶ Scottish Government (2018) [Understanding childhood adversity, resilience and crime](#), Justice Analytical Services

⁸⁷ Wright, S & Liddle, M (2014) [Young offenders and trauma: experience and impact a practitioner's guide](#), Beyond Youth Custody

⁸⁸Public Health Wales (2015) Welsh Adverse Childhood Experiences (ACE) Study: [Adverse Childhood Experiences and their impact on health-harming behaviours in the Welsh adult population](#), Public Health Wales NHS Trust.

to previous abusive experiences. Nevertheless, current understanding of the impact of childhood trauma on behaviour may lack congruence with traditional approaches to administering justice, which are adversarial and often based on moral values and rational choice theories of crime.

It is important that research evidence is reflected in responses to youth crime because attempting to address behaviour without understanding underlying difficulties can result in unsuccessful and sometimes counterproductive interventions. This can reinforce trauma and compound any underlying difficulties; it also delays recovery, which in turn can prolong involvement in the justice system, culminating in undermining public safety and increasing costs. The detrimental long-term effect of off-island care placements (which might contribute to later involvement in the justice system, including imprisonment) was one issue raised with us during our consultation.⁸⁹

With the juvenile court now sitting once a month rather than once a week, some stakeholders identified potential limitations in the knowledge of the legal profession in regard to dealing with children who commit crime. There are also resource and time constraints in attendance at relevant training by members of the magistracy or judiciary as this requires time to be taken from court sittings. On the other hand, as sentencers work across other areas of law, they gain knowledge about child development through expert reports provided during child protection and private family law proceedings in addition to receiving expert advice from probation, health and social services in relation to youth justice cases. Should there be considered to be scope for building on this knowledge, guidance and training on the impact of childhood trauma is available within the Bailiwick and could be provided to members of the legal profession working in Family and Juvenile courts.

Achieving the spirit of the Children Law is likely to require further cultural change. For example, in England and Wales the youth court has a statutory obligation to look at any welfare issues, and the youth magistracy has increasingly adopted a “child first, offender second” culture and approach, with emphasis placed on recognising the benefits of trauma-informed practices and the possible background of the child concerned. A child-first approach is also embedded into Sentencing Council guidelines on the sentencing of children and young people, which we understand the Bailiwick judiciary make reference to.

In some jurisdictions, dedicated provision is being made in recognition of the developmental immaturity of young adults, reflecting neuroscientific research that shows young adults’ brains are not fully developed until they reach their mid-20s. Criminological research also demonstrates that many young adults “grow out of” crime at a similar age. This is typically when they are navigating into adulthood and recognise that offending is unlikely to offer them a viable path in life and could result in other negative consequences, including serious injury or long-term imprisonment. It is also known that some social factors (including stable relationships, parenthood, full-time employment and moving into secure, independent accommodation) induce stability, which can help contribute to a shift away from criminal behaviour. Having a criminal record can impact detrimentally on these transitions to

⁸⁹ The number of off-island placements has reduced dramatically and it is understood that the placements of children outside of jurisdiction now only occurs where it is a clear part of the child’s care plan (for example for those children with very complex needs or where it is necessary for the child’s safety).

adulthood, delaying them and hence prolonging the likelihood of involvement in the criminal justice system.

As part of the 2019 Policy & Resource Plan, the States of Guernsey directed the Committee for Health & Social Care to undertake a review of the Children (Guernsey & Alderney) Law, 2008 and more broadly agreed that Committees, including Home Affairs, should work together to review the steps that could be taken to remove delay from systems and processes relating to the delivery of services to children and young people in need, and to ensure that such systems and processes are centred on the best interests of the child. This work is currently ongoing.

Having listened to the views of stakeholders, we consider that areas which may merit inclusion as part of the latter workstream are an examination of the characteristics of the children who are suspected of committing crime, the factors considered in such cases by Law Enforcement, the Convenor, the Law Officers and the judiciary to provide transparency about the decisions made at different stages of the process and the balance between matters related to the child's welfare and circumstances and other risk factors. This might include, for example, how engagement with the CYCT is recorded and subsequently treated should there be further episodes of youth crime. The review would also be an opportunity to consider the age of criminal responsibility and whether some youth justice provisions could be extended to young adults in line with the research literature on the development of maturity.

Conclusion: While it is clear that the Convenor system has resulted in a significant reduction in the number of children appearing in the Juvenile Court—in accordance with research evidence on the detrimental effect of formal contact with the youth justice system on future outcomes and the formation of positive identities—the broader impact of the youth justice provisions of the Children Law, and the associated processes, are not fully understood. The work set out through the Policy & Resource Plan is a welcome opportunity to review both the operation of the Children Law, and the wider processes and procedures, with respect to children alleged to have committed crimes or already involved in the youth justice system.

Conclusion: Research evidence illustrates that responses to youth crime should be developmentally appropriate as recognised by the United Nations Convention on the Rights of the Child. Responses to adult crime should also recognise that most young people will stop offending by their mid-20s, in a process known as “desistance”. Formal involvement with the criminal justice system is known to have the effect of slowing the development of maturity and positive identity, prolonging a young person’s contact with the system and increasing costs to the state in the long term.

Recommendation 6: A review should be undertaken to examine in detail the wider processes and procedures in respect of children who are alleged to have committed offences as part of a report into outcomes for children in the short, medium and long term, including the length of time that they are in the justice system. This review should examine the operation of the Children Law for children alleged to have offended, the merits of the current dual-track approach, the potential for, and desirability of, greater diversion from formal justice measures, and whether any further legislative change might be required. The review should also consider the appropriateness of the age of criminal responsibility and whether some Children Law youth justice provisions should be extended to young adults.

C. CHALLENGE

In relation to the role of justice policy to challenge, the terms “challenge harmful activity” and “deliver appropriate justice” are used in the existing justice framework with a core function being identified as being to “impose penalties”. Furthermore, the CfHA has stated elsewhere that it seeks to “bring law breakers to account”.⁹⁰ A key question for the next phase of the Review will be to determine what these terms mean in practice and to consider how they accord with the ethos of the Justice Vision.

There is limited clarity about this in the legislation – for example, there is no overarching “justice law” or “sentencing law”. Sentencing law is embedded in legislation relating both to the operation of the courts, which outline the parameters of sentencing tariffs, and to the approach to sentencing that should be applied to different types of offence. For example, maximum sentences are prescribed, along with whether offences are summary or indictable as well as venues for trial. There are guidelines for sentencing some offences, derived from case law, which ensure consistency within similar offences, including for drug-related and drink driving offences, for example. There is also legislation which focuses on the respective remits of individual justice agencies and institutions. The body of criminal law has developed in a relatively piecemeal manner over a significant period of time. It is our understanding that the various legal provisions which make up sentencing policy have never been systematically reviewed (apart from the youth justice provisions in the Children Law). The legislature has input and makes determination when new legislation is conceived or when existing individual laws are revised. The prevailing view appears to us to have been that it is important to keep the parameters of sentencing legislation broad to facilitate judicial discretion. There is also a concern that reviewing or changing sentencing policy risks political interference with judicial independence. While this is understandable, in our view it is unjustified, although we appreciate it is a challenging line to tread.

It has not been possible to assess comprehensively the extent to which sentencing practice accords with the objectives of the current justice strategy, including with the Justice Vision. This is due to both a lack of data and a lack of clarity about how the overall sentencing regime—which forms a crucial component of justice policy—maps across to the strategic outcomes intended. In practice sentencers will seek to balance in their decision-making various considerations which may relate indirectly to the strategy. The absence of clearly stated principles or objectives specifically for sentencing policy makes it challenging to determine what contribution this element of the system should be making to the impact of the overall policy. We therefore consider that any major transformation of justice policy must include a review of sentencing policy, which was not within the scope of this phase of the Review.

The evidence we have gathered raises some potential areas for exploration and research as part of a sentencing review to inform the development of the strategic approach to sentencing under the new justice framework.

Matters for consideration in the proposed Sentencing Review

The balance between different purposes of sentencing

⁹⁰ 2016 response to Policy and Resources Committee consultation

Both the criminal and family justice systems are adversarial in nature. In relation to criminal justice, there is a need to reflect on whether prosecution, conviction and punishment are the most appropriate or effective ways to “challenge” people who commit crime. In relation to family justice matters there is a similar need to consider whether it is necessary to resolve these in court. Workshop participants identified that while it is important that people are held to account in some way for the harms they cause, a satisfactory resolution to all parties need not necessitate resort to courts. Criminal justice sanctions can be a blunt instrument which may not support desistance from offending and indeed may compound existing issues both for the victim and the perpetrator, particularly where the foundations of criminal behaviour are complex, which may result in further harm. The Review could usefully examine the extent to which it is possible to explore these matters within existing legislation.

Opinion among those who responded to the survey and representatives of the justice system, legal profession and politicians varies widely about what the key emphasis of the justice system should be. It is interesting to note that the word “punishment” does not appear in the Vision; nor do other overarching traditional purposes of the justice system. During the workshops and broader consultation, the question frequently arose about the extent to which punishment should be the primary means of achieving justice. We sought to probe the perspectives of the public about this in our survey. Our findings, which we emphasise again warrant testing, indicate that there may be public support for a less retributive approach to “achieving justice” overall:

- We asked the public what they felt courts should be trying to achieve when sentencing. Respondents were invited to choose from options reflecting the traditional purposes of the justice system, i.e. protecting the public, punishment of offenders, and rehabilitating offenders. The largest proportion (38%) of respondents answered that all the available options were equally important. Among the remainder, a greater proportion chose protection of the public (38%) and rehabilitation of offenders (39%) than chose punishment (14%).
- We also asked people to identify three options for reducing spending or making savings in the justice budget. The two most common responses were “using more community-based sentences” and “decriminalising some offences”, each of which was selected by more than a third of respondents. “Imprisoning fewer offenders” was in the top six options. It should be noted that had the choices focused solely on sentencing options there may have been different results.
- Over 50% of respondents disagreed or strongly disagreed with the statements “adults who commit minor offences should be given a criminal record even if it may affect their chances of getting a job”, “very short prison sentences (of less than three months) should be given by courts even if they may not work to prevent future offending” and “short prison sentences (of less than 12 months) should be given by courts even if they may not work to prevent future offending”.

Approaches to different types of offence

Our evidence also raises questions about what should be considered to constitute both “appropriate justice” and “harmful activity” in future justice policy. The evidence we have gathered during this phase of the review indicates that there is some expectation that the answers to these questions should vary depending upon the nature of the offence:

- there was a strong perception among some representatives of justice agencies and service users who engaged with us that the current response within the criminal justice system is overly punitive for some offences and not sufficiently strong for others.
- this is particularly the case for the treatment of sexual offending, especially against children, compared with offences related to drugs, for example. with sentences for non-violent offences, such as the possession of drugs, being perceived as being treated more severely, or on a par with, sexual and violent crimes when the latter were considered to warrant a more punitive response due to the higher levels of harm.
- there was also a view amongst some stakeholders that under the current sentencing regime domestic abuse and some financial crimes are treated more leniently than other types of offence. The lack of transparency about the outcomes of the economic crime strategy might contribute to the latter.

It has not been possible for us to determine how sentencing for different types of offence compare in practice as data on court outcomes is not collated centrally. We have some data from the 2017 cohort which indicates sentencing outcomes by offence. Guilty verdicts from the probation subset resulted in the following range of outcomes:

- Drug-related: Imprisonment (49%), community service orders (26%), and probation orders (7%)
- Assault: Imprisonment (51%), community service order (25%) and probation orders (10%)
- Theft: Imprisonment (60%), community service orders (19%) and fines (8%).
- Sexual offences: Imprisonment (100%)

A welcome recent development is that sentencing decisions of the Royal Court are now reported, and these will usually include sentencing remarks.⁹¹ The extent to which it would be desirable to compare sentencing for different types of offence and what weight, if any, should be afforded to public sentiment about the harm caused are important questions which should be considered as part of the development of future sentencing policy. We discuss later in this chapter the potential for greater communication with the public to improve knowledge about the operation of the justice system and its outcomes.

Values regarding the relative use of drugs and alcohol

Another issue raised with us frequently throughout our consultation was the treatment of alcohol-related disorder compared with disorder connected to personal drug use. We found differences in perspective among survey respondents about the potential liberalisation of regimes for the control of drugs and the existing laws related to the use of alcohol. Some of the young people we spoke to, expressed the view that personal drug use causes less harm to society than alcohol. This view was borne out more broadly in responses to the public survey in which alcohol was identified as the biggest problem facing society in the Bailiwick. It is important not to shy away from these questions within a democracy in which there are differing, strongly held views and possible generational differences in perspective.

The relative use of drugs and alcohol and the criminal justice responses to their use were raised frequently with us during our consultation. Respondents to our survey identified alcohol abuse as the biggest problem facing Guernsey today, and drug dependence as the fourth biggest problem (behind domestic abuse and poverty and inequality).

⁹¹ These are reported on the Guernsey Legal Resources website

There is evidence that patterns of use are changing. Patterns of self-reported substance use were examined in the latest Guernsey and Alderney Wellbeing Survey. This found that 91% of people drink alcohol, 22% were classed as having “risky” drinking behaviour, and 5% were classed as having “high risk” drinking behaviour. In relation to drugs, around 11% of people admitted having used cannabis in the last year, compared with 5% in 2013. Approximately 4% had used other illegal drugs in the last 12 months. Patterns of drug use in young people were particularly noteworthy, with 16–24 year olds having the highest prevalence of use (38% of 16–24 year olds said they had used cannabis in the last year and 11% had used other illegal drugs), followed by 25–34 year olds (23% had used cannabis in the last year and 7% had used other illegal drugs).⁹²

Almost two-fifths of custody records in 2018 (39%) were deemed to be alcohol-related, to the extent that the individual arrested was readily identifiable as being under the influence of alcohol. There has been a 6% decrease in the number of alcohol-related records since 2010.

Levels of public confidence

The evidence we gathered also highlighted the need for further examination of levels of public confidence in the criminal justice system. The responses from the survey about perceptions of the fairness of the system reflected wider views we heard frequently during our consultation from representatives of justice agencies and service users:

- 52% of respondents were “not very” or “not at all” confident that the Bailiwick’s criminal justice system as a whole is fair to all, compared with 20% who were “very confident” or “fairly confident”.
- These proportions rose to 56% and fell to 17% respectively when respondents who have personal experience of the criminal justice system were removed.
- 51% of respondents disagreed with the statement “the punishment for committing a crime is the same no matter who you are”, whereas 35% agreed. The feeling expressed to us was that people from ‘good families’ or who may be well connected are treated less harshly than people from poorer backgrounds.
- A minority of respondents expressed distrust of some parts of the justice system and of government.⁹³ As respondents were anonymous and comments were non-specific and as such they cannot be verified. This was not unique to the criminal or family justice systems and was also directed at wider States services, including mental health and Children’s Services. While there will always be people who feel aggrieved at how they perceive they have been treated, this appeared to us to be linked to a wider matter of how best to ensure that service users feel that they have a voice within these systems and that any complaints which may arise are satisfactorily addressed and, where necessary, redressed. We discuss the importance of public and service user engagement, effective complaints systems, and options for improving public knowledge of the system later in the report.

⁹² Island Research Group (2018) [Guernsey and Alderney Wellbeing Survey](#), States of Guernsey Public Health Services. NB: Due to a small sample size in the 16-24 age group, statistical weights had to be applied which reduce the level of confidence that the findings are representative of the general 16-24 population. The survey authors advise that caution should be used when interpreting these figures as fact.

⁹³ The survey was anonymous and open to all members of the public who were free to leave comments, which are used in this report to illustrate the range of views of respondents. It was not possible to substantiate individual claims made in response to this survey.

- Unequal access to legal representation and legal aid was also perceived as an issue due to the costs involved in going to court.

We were also told that these perceptions could possibly stem from a “rumour mill” effect which might be generated relatively easily within a small community. Views may also stem from the level of personal knowledge people have about the system which might be improved by efforts to engage with the public to improve their understanding of the system. For example, those who claimed in the survey that they were confident in the family justice system largely said this was because they didn’t know the system well, had little contact with it, and/or just “believed” or “trusted” it to be equitable. Others said that from what they had read or heard it seemed fair. Understanding the root of these perceptions, and the extent to which they are representative of the wider population is particularly important from a social justice perspective.

In the absence of data about the characteristics of those sentenced and about sentencing outcomes it is not possible to determine whether these views are borne out in reality and we are not suggesting that they should be accepted at face value without robust evidence. The extent to which these perceptions stand up to scrutiny, are indicative of views held by the wider population and whether or not it might be desirable to rationalise sentences for offences of different types, should all be examined in future consultation. In the meantime, it is important that they are not purely dismissed, without firm evidence, because perceptions of fairness in the administration of justice in themselves have important implications for compliance with, or acceptance of, the outcome of legal proceedings. We discuss this further later in the chapter.

Other matters

Other matters which arose in the course of our review which we have not been able to examine included:

- some areas of law being regarded as “antiquated” by some respondents to the survey and other stakeholders, including areas relating to child contact, divorce, homosexuality, and personal drug use, for example. More specific concerns were raised by representatives of justice agencies and some respondents to the survey about the use of mopeds by children which we return to briefly in Chapter 3.
- some reservations about how reflective juries were of the wider community and encountered some proponents of a jury system, neither of which we have had the opportunity to explore during the course of our review, although we understand that there have been recent efforts to increase diversity.
- whether the right balance is currently struck in legislation between civil and criminal justice system responses to justice matters.
- the potential to review whether there is scope for greater diversion from the system, a wider range of sentencing options and to consider the balance between the use of the Magistrates Court and the Royal Court.

Conclusion: It is wholly legitimate for historical perspectives about the nature of responses to criminal justice matters embedded in existing legislation to be reviewed and refreshed, to ensure that justice policy is fit for the 21st century, takes into account contemporary

criminological evidence, and is financially sustainable. It should be for the States of Deliberation to determine sentencing policy and for the judiciary to apply the law.

Conclusion: There has never been a systematic review of sentencing legislation or a declaration of sentencing policy in the Bailiwick. The lack of data about the administration of criminal justice and how the existing sentencing regime operates in relation to different types of offence means that the contribution of current sentencing practice to justice policy and its desired outcomes is not sufficiently transparent. This may contribute to perceptions of unfairness amongst some people and warrants clarification.

Recommendation 7: We propose that an independent analysis is commissioned of sentencing practices and factors taken into account in decision-making, including offending history and aggravating and mitigating factors for adults, young adults (aged 18–25) and children (aged under 18). The CfHA should use this evidence to establish a baseline and in future monitor sentencing trends for different types of offence, including how sentences and sentence lengths compare for different types of offence and by different characteristics.

Recommendation 8: An independent review of sentencing legislation and sentencing outcomes should be a priority for the next phase of the Justice Review. The Review should examine the purposes of sentencing, existing sentencing regimes, and potential additions or subtractions to the options available to the courts, and make recommendations to the States about potential legislative change. This need not entail creating a more prescriptive sentencing framework with the potential to curtail judicial discretion. The States should set the direction for future justice policy by clarifying, eventually in legislation, what the prevailing purpose of the criminal justice system should be to best realise the Justice Vision. This will require political and public debate which recognises the existing tensions between sentencing goals, the diversity of public attitudes, and the current culture of the system.

Recommendation 9: The review of youth justice provisions in the Children Law should be separate from, but aligned with, the wider review of sentencing policy. The review should consider how to ensure that responses to youth crime are focused on improving future behaviour and life chances in accordance with the Justice Vision. Any resulting activity should be included within the Children and Young People’s Plan.

D. RESTORE

The CfHA identifies the importance within justice policy of a commitment to “supporting the rehabilitation of offenders so that reoffending is reduced”. The strategic approach currently focuses on the role of the Prison and the Probation Service in rehabilitating people who have been sentenced by the courts, now underpinned by a dedicated strategy, and the welfare-oriented approach to dealing with children according to the principles of the Children Law under the Convenor system.

There was some indication from survey respondents of community support for a greater focus on rehabilitation:

Key findings of survey:

- Respondents chose “rehabilitating children in trouble” as the most important thing the Children’s Convenor and/or courts should be trying to do when addressing offending by a child.
- 80% of respondents disagreed with the statement “The community should not be tolerant of people who have committed crime, served their sentence and want to go on to lead useful lives.”
- 64% of respondents disagreed with the statement “Adults who commit minor offences should be given a criminal record even if it may affect their chances of getting a job.”

We heard largely positive views about the probation service from those on community service, those who were being supervised in the community, and those in prison. Some concerns were raised about the frequency of engagement between probation officers and those in prison to support sentence progression. Nevertheless, providing rehabilitative interventions and practices within the justice system addresses only one form of rehabilitation. The term restore implies a much broader approach to addressing the harm caused by crime. Academics have sought to classify different types of rehabilitation, which may assist in considering how best to ensure that this element of activity under the new justice framework is achieved as comprehensively as possible within and outside the justice system.

Forms of rehabilitation

Scottish Professor Fergus McNeill has identified four forms of rehabilitation that are important in the process of desistance from crime, each of which requires a different form of action.⁹⁴

Psychological or personal rehabilitation refers to interventions that seek to somehow change or restore the offender, allowing them to develop new skills or abilities, and to address and resolve deficits or problems.

Judicial rehabilitation relates to when, how and to what extent a criminal record and the formal stigma of having been convicted for a criminal offence can be set aside, sealed or surpassed.

Social rehabilitation includes the restoration of the citizen’s formal social status, the availability of the personal and social means to achieve this, and the informal social recognition and acceptance of the reformed ex-offender.

Moral rehabilitation relates to the notion that an offender has to somehow “pay back” or “make good” before he or she can “trade up” to a restored social position as a citizen of good character.

A fifth form of rehabilitation, “natural rehabilitation”, has been identified by other academics.

⁹⁴ <http://www.fead.org.uk/wp-content/uploads/2015/09/What-works-Fergus-McNeill.pdf>
<https://blogs.iriss.org.uk/discoveringdesistance/files/2012/06/McNeill-When-PisR.pdf>

Natural rehabilitation or natural desistance is used to describe the process whereby individuals cease law-breaking behaviour and effectively “grow out” of criminality as they mature.

The challenges of repairing harm and achieving reintegration and social inclusion in this broader sense within an island community were also apparent in the discussions we had in our focus groups and in some of the comments on the survey in which a handful of people proposed exclusion or expulsion from the community.

"It is a small community, people get to know who the trouble makers are."

"Removal off island permanently for reoffending scum"

"Bring back the birch and smacking."

"[G]enerally there is an attitude that supports pro-social community involvement within the community and this has an impact (though can also be prohibitive to rehabilitation)."

Participants in the focus groups considered it likely that strong attitudes like these were minority views and were not reflective of the community as a whole. While the responses to our survey indicated that this may be the case given the small numbers of people presenting such comments, feelings were particularly strong in relation to people who had committed sexual offences and offences towards children.

Some of the children and adults we spoke to who had been involved with the police or who had convictions felt a sense of alienation from the community as a result of their offending history and the fact that ‘everybody’ knew about it. The challenge for government will be to bring together the community as far as possible to ensure that rehabilitation in all its forms can take place.

A key question for the next phase of the Review will be what contribution should be made towards the aim to “restore” beyond the justice system; that is, by other agencies of the States and by the wider community. Work by justice agencies to rehabilitate those who have committed crime is only part of the equation. Housing, education, employment and health services may also be necessary to provide the foundation to desistance from crime. It will also be important not to overlook is the impact of an offence on the victim and the ripple effect on families, who may be hidden victims. For example, future measures under this element of the future strategy could include providing ongoing counselling and other support to victims of crime to repair the harm they have experienced, and addressing issues arising for people who have been convicted once they have served their sentence (e.g. criminal records, housing, ongoing wellbeing, and societal acceptance).

Restorative justice

As we noted in Chapter 1, there is a widespread feeling that there is more scope for adopting restorative justice approaches in the Bailiwick as a means of maintaining social order in various different settings and achieving a balance between different purposes of justice policy. The

restorative justice strategy identifies restorative justice approaches as seeking to address a number of different tensions within the justice system:

- a balance between the therapeutic and retributive models of justice;
- a balance between the rights of offenders and the needs of victims; and
- a balance between the need to rehabilitate offenders and the duty to protect the public.⁹⁵

The potential of restorative approaches to support the Vision across a range of policy areas was raised in all workshops and was mentioned by several respondents to the survey. In relation to the criminal justice system, such approaches could be used more widely as an alternative to more formal measures, which could be viewed as retributive. Existing provision allows restorative justice to be used in addition to formal justice measures or as part of existing diversionary schemes. The original strategy intended restorative approaches to be introduced post-sentence in the adult criminal justice system, and in regard to dealing with young people who are identified as offending or at risk of offending. Importantly, they can also offer a means of repairing the harm caused to the victim more effectively than traditional means of justice.⁹⁶ Repairing the harm caused by crime is all the more important in an island community where inhabitants are unlikely to be able to avoid future contact with each other. Another potential application is between the police, the community, and groups of children or young people who occupy public spaces and are either acting anti-socially or criminally or are perceived to be acting in such a way.

Workshop participants and respondents to the survey believed that restorative justice should have a wide application across the Bailiwick, including in schools to deal with conflict and behaviour management and in the Convenor system to deal with both family support issues and crime. We have not managed to ascertain the full extent to which restorative approaches are used in these settings as they are not currently captured in the data. We do know that 31 of 357 referrals to the Children’s Convenor resulted in restorative justice diversion to restorative justice, although these are for all cases, not only those related to crime. Adopting restorative justice approaches to resolving conflict across the Bailiwick could help to foster the cultural change that was identified as required in the workshops to achieve the Vision.

Conclusion: The challenges in implementing the restorative justice strategy resulted in a missed opportunity to embed a pan-Island approach to dealing with conflict that could contribute towards the promotion of a just and tolerant society

2.3 Equality and inclusion

Equality is a strategic commitment in the existing justice strategy. There are opportunities to integrate future work regarding how best to foster a sense of justice within a community with the workstreams of the Future Guernsey Plan—which is seeking to achieve the outcome of “one community”—related to inclusion and social justice. We consider these opportunities further in Chapter 3.

⁹⁵ Liebmann, M. *Restorative Justice: How it Works*, JKP Books, 2007, p33

⁹⁶ UK Government research demonstrates that restorative justice provides an 85% victim satisfaction rate, and a 14% reduction in the frequency of reoffending.

2.3.1 Social justice and social capital

As we noted above, we have not come across a working definition of social justice in the Bailiwick during our review. We see “social justice” as strongly linked to community inclusion. This implies giving all members of the community a sense of empowerment and agency over their lives, as reflected in the overarching outcomes in the Future Guernsey Plan. A key question for the next phase of the Review will be to consider what that means for an adversarial and retributive justice system which tends to “other” those involved in the system and in which there are “winners” and “losers”, both of which remain members of the community.

Linked to social justice is the notion of social order which covers not only the safety and security of the community but other matters that can disrupt quality of life. In the Bailiwick, these might include:

- relatively low-level nuisance, including poor parking, poor driving, littering and dog fouling;
- prevalence of drugs and alcohol in community, and violence accompanying their use;
- prevalence of domestic abuse and sexual violence, some of which may not be reported;
- changes to long-standing norms about marriage, obligations and childcare within relationships;
- the level of income disparities; and
- the changing nature of relationships between children and young people and adults.

Considering crime and family breakdown within the wider context of other forms of social harm may provide a useful framework for prioritising strategic approaches and directing resources under the future justice framework. For example, while we were told often in the course of our conversations with stakeholders that there is public concern about low-level nuisance and that expectations of public services to address this are high, we also heard repeatedly that a significant challenge facing the Bailiwick is promoting social justice in a community “which places high importance on where you live, where you went to school, and where and with whom you socialise”. Participants in one of the workshops identified that there were “islands within islands”. In our survey, poverty/inequality was identified as the second most important problem facing Bailiwick society, chosen by 39% of respondents.

The legacy of children in the care system being sent off island was another issue raised during this Review and could be characterised as a matter relating to social order and we consider it should be urgently addressed. Some of those who experienced this as a child are now involved in the criminal justice system as adults. While the number of children being looked after in this way has reduced significantly, for those who were previously removed, this experience may well have compounded any existing trauma they may already have encountered and might also continue to impact them detrimentally in terms of their engagement with States services. It would not be possible definitively to gauge its impact on later life prospects, including involvement with the criminal justice system, because of a lack of long-term monitoring of outcomes and difficulties correlating such outcomes to placement in the UK rather than other, previous trauma.

Social capital can be used as a means of building community cohesion and restoring social order.

Social capital

The intergovernmental body, the Organisation for Economic Co-operation and Development (OECD) defines social capital as “networks together with shared norms, values and understandings that facilitate co-operation within or among groups”.⁹⁷ It further explains:

“In this definition, we can think of networks as real-world links between groups or individuals. Think of networks of friends, family networks, networks of former colleagues, and so on. Our shared norms, values and understandings are less concrete than our social networks. Sociologists sometimes speak of norms as society’s unspoken and largely unquestioned rules. Norms and understandings may not become apparent until they’re broken. If adults attack a child, for example, they breach the norms that protect children from harm. Values may be more open to question; indeed societies often debate whether their values are changing. And yet values – such as respect for people’s safety and security – are an essential linchpin in every social group. Put together, these networks and understandings engender trust and so enable people to work together.”

Creating social capital, and hence mutual trust, as the foundation of a common sense of justice and social justice relies on building links between people at various different levels: these are characterised as bonds, bridges and linkages. Bonds relate to links with “people like us” – i.e. family, close friends and people who share our culture or ethnicity. Bridges refer to links that stretch beyond a shared sense of identity, for example to distant friends, colleagues and associates. Linkages are links to people or groups with different ‘social status’.

Conclusion: Promoting social justice and community cohesion are instrumental to achieving the Justice Vision by reducing the harms related to crime, criminalisation and family breakdown.

Recommendation 10: We propose that equality and inclusion should be included as overarching commitments in the future justice framework. The framework should adopt a broad interpretation of the term “justice”, integrating action to deal with justice and social order issues related to crime and family breakdown within wider structures to tackle real or perceived social injustices within the Bailiwick. This should take account of the impact of a lack of social capital on achieving community cohesion. Future strategic approaches towards achieving justice in its broadest sense should therefore seek to address related issues of social inequality, including poverty and class-based discrimination. This will require careful consideration of the implications of adopting a social justice approach for the current ‘traditional’ purposes of the justice system.

Recommendation 11: The Committee *for* Home Affairs should consult on and agree with other responsible Committees a definition of social justice for the Bailiwick.

⁹⁷ Organisation for Economic Co-operation and Development (OECD), (2007) Insights: Human Capital, [pp102-105](#)

2.3.2 Understanding the experiences of those involved the system

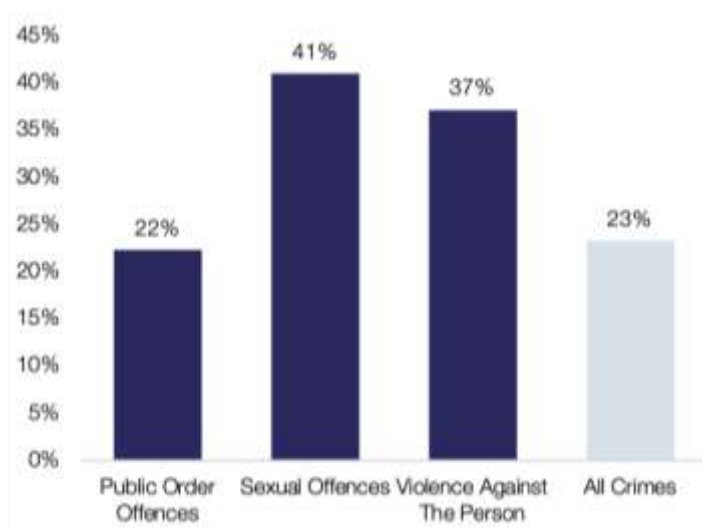
Meeting the commitment to equality and inclusion must involve understanding the needs of complainants, victims, other service users, including alleged and convicted perpetrators, and the wider community. We have heard examples of the potential adverse impact of engagement with the justice system on mental health and wellbeing, particularly in relation to family justice and in cases of domestic abuse. Comments in the survey illustrate that the family and criminal justice systems can in some cases have detrimental effects on the wellbeing of all parties involved. We also found in both the survey and our focus groups a strong sense of disenfranchisement amongst some of those involved in these systems who expressed feelings that the “system” is stacked against them. This included some victims and some suggestions that fathers were not treated favourably in family courts in some cases. Again, it is not possible for us to determine whether these claims have substance.

These feelings about the “system” were not limited to the justice system itself but also applied to the mental health system and to family and children’s services, for example. Where this applies to perpetrators of crime some people may believe that this is rightly or deservedly so. This may also be the case in relation to the impact of the family justice system (in both public and private cases). The impact on the “losers” in the justice system may be magnified in a small island community so it is important to acknowledge, understand and, where possible, address these feelings to engender a sense of justice across the whole community. Where this was recognised by stakeholders – for example, as a result of the nature of complaints about the system – it was seen as an inevitable function of the courts and a matter for judicial discretion rather than a strategic issue. Nevertheless, when people carry these feelings with them throughout life, they can affect their interaction with the justice system and other States services. We examine the complaints system later in this chapter.

The mechanisms which exist to enable the system to reflect on its functioning warrant further attention, for example, by capturing satisfaction data about all parties’ experiences of such processes. Our evidence suggests that this reflection could be strengthened in the future justice framework. KPI measures in the current strategy relate to public satisfaction, rather than victim or witness satisfaction. The outcomes which would have focused attention on the needs and experiences of those involved in the justice system i.e. ‘Our criminal justice services are accessible’, ‘Victims and witnesses are supported’ and ‘Our criminal justice services respect the rights and voices of users and the wider community’ were replaced with more generic outcomes in the latest iteration of the justice strategy. These views are an important barometer of the effectiveness of the administration of justice and would support an understanding of where it might be necessary to take action to strengthen public trust, so it is important that these or similar measures are reinstated.

Police outcome data from 2018 suggests that there may be limitations with some elements of support to victims in specific offence types. Although there may be reasons behind this, such as the historical nature of some offences now being reported, it may warrant further examination. Figure 37 shows the proportion of specific crime types which resulted in the victim declining, or being unable, to support further police action to identify the offender. In 2018, 23% of all crimes resulted in this outcome. It was most notable for sexual offences, where 41% of all reported crimes resulted in this action, followed by 37% for violence against the person crimes and 22% for public order offences.

Figure 37: Proportion (%) of selected crime types and overall crime where the investigation outcome is “evidential difficulties because the victim does not support action”, 2018⁹⁸



The President of the CfHA recently spoke of the importance of justice for any society. She characterised this as “fair treatment for all and the rules and structures by which the Bailiwick deals with those who choose not to respect the rules”.⁹⁹ As we identified earlier in the report, a key question for the next stage of the Review is to understand more about the reasons why some people “break the rules” and why some people question the legitimacy of the system. An important concept to consider in seeking better to understand perceptions of a lack of fairness is “procedural justice”. For law to be effective it needs to be widely obeyed by members of the public. Cooperation with the system is influenced by subjective judgements about the fairness of procedures through which the police, courts and other criminal justice agencies exercise their authority.

The concept of procedural justice highlights the importance of ensuring that – where “justice has been done” from the perspective of justice agencies and institutions and in compliance with the local law and international standards – unresolved issues may be left from the perspective of others concerned. In the criminal justice system, this might be the victim or the perpetrator, depending on the outcome of the case, and in the family justice system it might be the party which “loses”, potentially with a very profound and lasting impact. It could also relate to the application of proceeds of crime legislation and to the process for appeals, for example.

Drawing attention to procedural justice is not to assume that the existing system is not operating in a fair manner. The outcome of criminal and family law cases are judicial decisions, which are rightly independent, and are governed by practices and processes relating to how such cases are conducted. People may feel that the system has been procedurally unfair despite the appropriate practices and processes having been followed because, for example, they may not have understood the legal procedures, the complex legal language or other information involved, or how the decision which was reached. This may leave them feeling that institutions

⁹⁸ Data from Law Enforcement Annual Report 2018

⁹⁹ Assembly, 16 October 2019

responsible for social order deserve limited trust and respect, which can further undermine social order.

Procedural justice

Research has shown that, when citizens perceive the justice system to be fair, they are more likely to obey the law in the future and be satisfied with judicial decisions, regardless of the outcome of their case.

According to the research, four elements determine peoples' perceptions of fairness:

1. Neutrality – do citizens perceive that decisions are made in an unbiased and trustworthy manner?
2. Respect – does the citizen feel that they were treated with dignity and respect?
3. Understanding – do citizens understand how decisions are made and what is expected of them?
4. Voice – has the citizen had an opportunity to be heard?

Procedural justice therefore prioritises treating people with dignity and respect, ensuring that actions and decisions are transparent and made neutrally and that people understand how they were reached, and providing opportunity for all parties to have a voice.

This applies to all aspects of justice and – in the case of criminal justice – to complainants, victims, witnesses, and suspected and convicted perpetrators. In the research evidence, particular attention has been paid to its application to the interactions of the police and courts, although it has also been applied to prisons and probation.¹⁰⁰ This has included for example, adapting written communication to witnesses and defendants, using plain language, paraphrasing to check understanding and explaining the purpose of court proceedings, courtroom rules, and other useful information at the beginning of hearings.

The CfHA has recognised that there is a group of people who feel that the judicial system did not listen to them or treat them fairly. This includes complainants, victims and perpetrators. The level of attrition related to victims not wishing to proceed once they have reported an offence which we identified in Chapter 1 warrants particular attention. Applying these practices could provide an opportunity to educate the public about the justice system, how it functions, and its outcomes, starting with those who are involved in interactions with the police and in court proceedings. Guidance is available about how the principles of procedural justice can be translated into specific strategies and tools that practitioners can employ to enhance the likelihood that justice processes are perceived to be as fair as possible. Dedicated training has been introduced in some jurisdictions to support reflection on practice. We propose that such training is delivered across the justice system in the Bailiwick should it not already have taken place.

¹⁰⁰ See, for example, Hough, M., Jackson, J., Bradford, B., Myhill, A. & Quinton, P, [Procedural Justice, Trust, and Institutional Legitimacy](#), *Policing: A Journal of Policy and Practice*, Volume 4, Issue 3, August 2010, Pages 203–210; Gold Lagratta, E & Bowen, P. (2014) [To be fair: procedural fairness in courts](#), Criminal Justice Alliance; and, Her Majesty's Prison and Probation Service (England and Wales) [Guidance: procedural justice](#), July 2019.

EU jurisdictions have developed statutory codes of practice for dealing with victims of crime. These outline a range of entitlements, including some related to how victims should be treated in their interactions with the justice system.¹⁰¹ We heard that a formal code of practice or Victim Charter was considered in the Bailiwick but was not proceeded with due to concerns that adhering to it might not prove achievable, although Law Enforcement seek to observe many of the parameters of the UK code.

Recommendation 12: The principles of procedural justice should become part of the commitment to equality and inclusion in the new justice framework. This may require training across all justice agencies and institutions.

2.3.3 Risk management

The current strategic focus of justice agencies in managing risk is on public protection – through containment in prison, probation supervision, multi-agency public protection arrangements (MAPPA), by keeping borders safe, through the use of imprisonment and by supporting victims of domestic abuse (through Multi Agency Risk Assessment Conferences (MARACs), for example). This is of significant importance and should continue to be a feature of justice policy. Nevertheless, there is potential within the future framework for a broader conceptualisation of what constitutes risk in relation to inclusion and the maintenance of social order. For example, this element could in future encompass risks related to the detrimental effects of the system itself and to the failure to prevent intergenerational crime or prevent parental alienation, by focusing attention on different typologies of rehabilitation, procedural fairness, broader provision of services to various parties affected by their involvement in the justice system, and trauma-informed practices. It could also stimulate consideration of how limited resources are utilised across the justice system. For example, the impact of the need for GBA to prioritise resources on the borders and the cost of key actors in the criminal justice system processing individuals importing small amounts of drugs, rather than disrupting the drugs trade by targeting principals.

2.4 Governance

2.4.1 Partnership between justice agencies and other social agencies

As we concluded earlier in this chapter, the future justice strategy will require a whole system, multi-disciplinary approach in order to achieve the Vision. This is likely to require a significant cultural shift as well as an increase in, and redirection of, resources. Silo working was seen as a key issue both in terms of linking what other areas of the States or community are working on and addressing what was described to us as “not my problem” thinking. This results in diverse, unclear priorities amongst the agencies concerned and responses to justice issues which were characterised in the workshops as reactive, not proactive, which is also hindered by significant operational pressures and limited resources within most of the services which will need to be working in partnership to deliver the new strategic approach. The lack of clarity within the social policy strategies aligned to the criminal justice action plan that there was a link to justice policy was in our view symptomatic of these issues. Strong governance arrangements and a long-term commitment will be required to ensure that these pressures and potential resistance does not

¹⁰¹ For example, the UK Code of Practice was introduced in 2015.

hinder the creation or implementation of the broad social justice approach to reducing crime and family breakdown which we propose.

We have identified two key examples of siloed approaches operating in practice which illustrate variation in public services about where respective responsibilities currently lie in providing services within the justice system. Where delivery models vary in this way, it may result in disjointed services and potential inefficiencies which could undermine the consistency of care or service provision. It is not clear what impact this has on outcomes as the split in responsibilities also means that it is a challenge to collect meaningful, comparable data to track the effectiveness of provision. Perhaps more importantly, it also reinforces the cultural assumption that the justice system has primary responsibility for responding to crime.

Police healthcare

Law Enforcement fund a private firm of GPs to provide forensic medical provision; they also work for the Border Agency at the hospital to recover concealed drugs. Law Enforcement would like to see this provision overseen or commissioned by the Committee for Health & Social Care (CfHSC). Prison healthcare is currently delivered by CfHSC under separate commissioning arrangements by nurses along with a private GP specialist. We understand that protracted discussions took place for forensic medical supervision required by the police to be delivered at the Emergency Department but it did not prove possible to agree contractual and remuneration issues, training costs and the costs of setting up the service. Other options considered were a UK provider or nurse-led care. This also illustrates the challenges of providing specialist services in a cost-effective way in such as small jurisdiction.

Prison education

Prison education is currently provided directly by the prison. While this is regarded as working better than previous arrangements, the adult education reforms provide an opportunity for people in custody to access a broader range of learning activities both through day release and online learning.

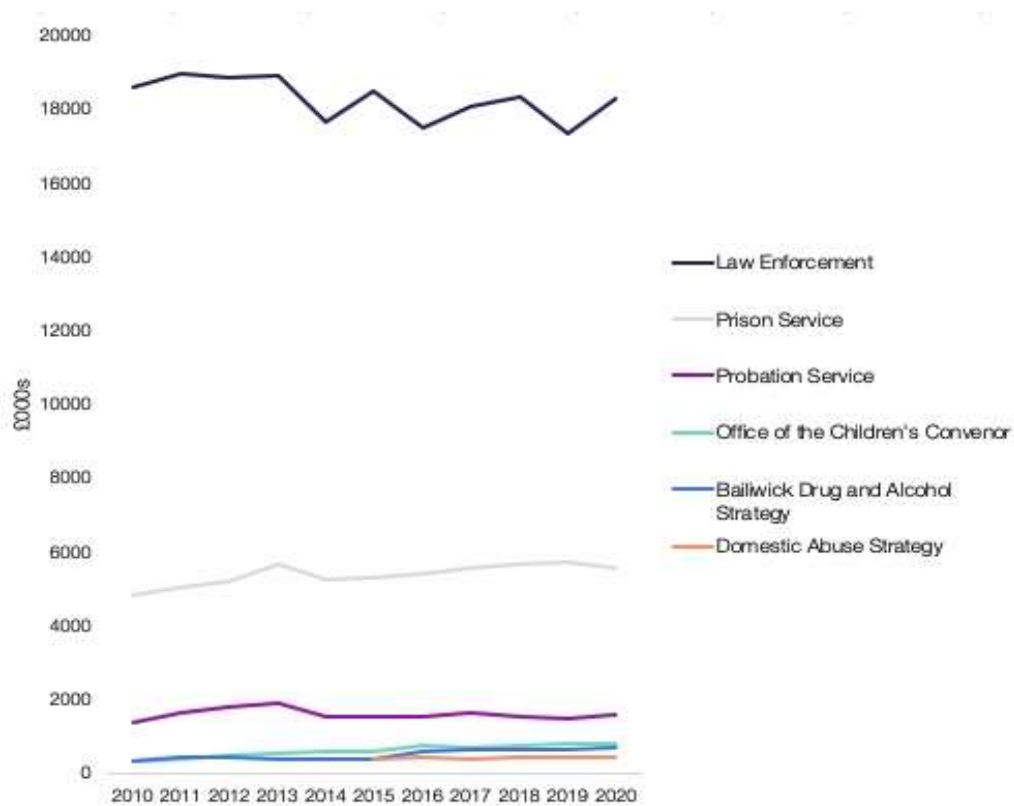
Conclusion: The future justice framework should be underpinned by effective cross-Committee governance and political leadership and an overarching cross-government, community-wide strategy encompassing justice and social justice issues and promoting shared values and outcomes.

Recommendation 13: We propose that mainstream States agencies should in future be responsible for addressing social policy issues within the justice system by default. As well as facilitating better integrated provision for people involved in the justice system, it will also promote the cultural change necessary to ensure that the social justice element of the Vision is realised.

2.4.2 Financial planning

The budgets for criminal justice agencies have been relatively static since 2013 when the original justice strategy was conceived.

Figure 38: Justice agencies under the Committee *for* Home Affairs budget and Committee *for* Health & Social Care, 2010-18 (actual) and 2019-2020 (planned)¹⁰²



As we highlighted in the previous chapter, efficiency savings have sometimes been achieved at the expense of implementing key aspects of the strategic plan. One of the key priorities of the Future Guernsey Plan is to achieve sustainable public finances. There are few clear opportunities for further savings within the justice system, with the exception of plans for estates rationalisation, which we discuss further below.

We have encountered examples that indicate that there is scope for understanding and better controlling the existing costs of the justice system. For example, there is currently no strategic approach to enable the CfHA (or other parts of the States) to predict the flow of individuals into the justice system, into criminal court or ultimately into prison custody, or to exercise any control over it. This also leads to legal aid costs which could potentially be reduced and channelled into frontline services, for example. In taking decisions about new initiatives, there is limited data held centrally to facilitate modelling the impact of different options or full cost-benefit analyses. There is currently no mechanism to identify the relative costs of sentences or other interventions which might enable consideration to be given to more effective management of resources. For example, the cost of a community service order or probation supervision (including licences) is about one-fifth of a commensurate prison sentence and reoffending statistics indicate that community service typically has the best outcomes. Trends

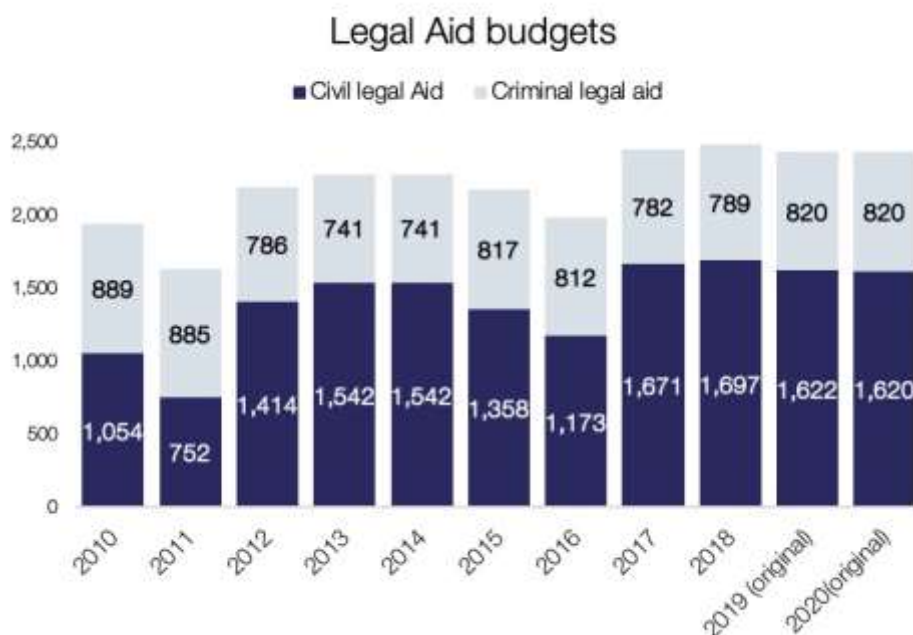
¹⁰² The States of Guernsey Annual Budget 2020-2012. Budgets for 2012-18 are 'actual', 2019 and 2020 are 'original.' In 2014 Law Enforcement and Border Agency budgets have been combined, for ease, these budgets have been amalgamated for the years 2010-13.

in reoffending rates to enable concrete comparisons in outcomes to be made for custody and community supervision are less clear cut and of course the extent to which they are suitable varies depending on the nature of the offence. The 2018 reconviction study identified that “the cohort sentenced to Community Supervision (Probation and SSSO) is broadly comparable in terms of likelihood of reoffending to the population sentenced to 12 months and under imprisonment” and that “comparison with other jurisdictions indicates that lowering the rates of imprisonment in Guernsey would not necessarily increase offending or re-offending rates.”

Costs have also been identified for civil court cases and there is scope for making a similar estimate for criminal cases, although this is more complex.

We heard that there have recently been changing patterns of demand. For example:

- Law Enforcement have been particularly affected by the impact of Brexit.
- The prison population grew more than anticipated in 2018.
- There has been a proliferation of digital evidence to be investigated by the police and handled by Law Officers, the courts and defence practitioners.
- HMICFRS identified a potential risk to public protection due to a lack of resource for Law Enforcement to undertake home visits to violent and sexual offenders.
- The budget allocated for FPAS has been overspent due to the volume and complexity of cases. The legal aid budget (below) has also grown, particularly for family law cases, although this cost is borne by the Committee for Employment & Social Security (CfESS).



The changing patterns of demand raises questions about the sustainability of the current CfHA budget and other resources which facilitate the administration of justice simply to undertake business as usual, let alone to find the resources for transformation of the scale required to achieve the Justice Vision. For example, for 2020 there has been a request for a budget increase to accommodate a baseline prison population of 100. To accommodate this, savings would need to be made elsewhere in the CfHA budget, which as we noted in Chapter 1 has been done to some extent by reducing recruitment. In addition, the limited funding awarded to the domestic

abuse strategy means that it is not possible to support all of the services identified as necessary, neither does it fully meet the cost of running the voluntary sector agencies that it supports. Another example is Guernsey Border Agency prioritising the majority of its reduced resources on discharging roles and responsibilities at the border rather than utilising them on targeting the principals and syndicates involved in commercial smuggling, predominantly drug trafficking. The consequence of this is that couriers are caught and sanctioned, whilst the principals remain at large, limiting opportunities to disrupt supply from the top down.

Controlling these costs is a challenge for the justice system because it is responding to demands that are largely outside its control. We have not been able to collate the necessary data during the course of our Review to make firm recommendations about potential savings. Nevertheless, we have found that there are some demands which could be more readily identified and addressed as part of future justice policy, by both the CfHA and other Committees.

We were told of some existing or proposed initiatives to reduce demand on the justice system, identified by the CfHA, police, Probation and the prison:

- To address issues with prison capacity, there is an intention to introduce early conditional release using GPS electronic monitoring to institute home detention curfews.¹⁰³
- There is a suggestion that restrictions could be placed on the use of short prison sentences for which there is limited evidence of effectiveness in other jurisdictions.¹⁰⁴ As we noted above, there seems to be some public support for this.
- Following internal and peer review exercises Law Enforcement has introduced a new model, known as T.H.R.I.V.E. (Threat, Harm, Risk, Investigation opportunities, Vulnerability of the victim and the Engagement level required to resolve the issue) to assist them in recognising and prioritising cases, based on threat, harm and risk to the individual or the organisation.
- One option considered for making efficiency savings was the possibility of co-locating or merging the Prison and Probation Services.

Rather than solely focusing on ways of saving money, decisions of this nature should be taken with both as comprehensive an evidence base as possible and the principles of the Justice Vision clearly in mind. For example, merger decisions should be taken based on a full understanding of how each of the agencies concerned are currently operating within the context of the whole of public services and bearing in mind the perspectives of people who are expected to use them. In relation to the latter, it is important to consider that constructive relationships are a key driver for change in offending behaviour. In the context of the Justice Vision, it may become more appropriate to co-locate the Probation Service at the court building or with other social justice agencies, or to retain it as a separate service. While the Prison and Probation Services have similar functions in some senses, the mechanisms through which they seek to effect change in those they work with are very different and they have very different cultures and professional foundations. In addition, efforts to merge them in England and Wales have not had a positive outcome. National Audit Office reports may offer useful guidance on principles for taking decisions about estates rationalisation.¹⁰⁵

¹⁰³ This will be for prisoners who are unable to access the parole system and who have gained employment, training and have appropriate accommodation.

¹⁰⁴ Eaton, G & Mews, A. 2019) [The impact of short custodial sentences, community orders and suspended sentence orders on reoffending](#), Ministry of Justice

¹⁰⁵ See e.g. HM Comptroller and Auditor General (2017) [Managing the HMRC estate](#), National Audit Office. p.18

There are further opportunities for streamlining existing family justice and criminal justice processes both by gaining a better understanding of administrative data and through digitalisation. In doing so, it should be possible to find ways to make cost savings, which can then be usefully reallocated. As we noted above, it has not proven possible for us to identify comprehensive data about running costs for the justice system during the period of this Review. Nevertheless, the size of the legal aid budget relates to the sentencing regime and adversarial nature of the criminal and family systems, and prison and courts are typically expensive commodities, so dividends are likely to be greatest by reducing entry and re-entry into the justice system, particularly prison, and the type, volume and length of cases which are dealt with in court.

Examples of possible inefficiencies in administrative processes includes the paper system used by the police to produce prosecution papers to be sent to court which are then scanned to be sent electronically. The newly created Joint Emergency Services Control Centre (JESCC) has streamlined administration in one part of the justice system. However, we heard that the full benefits have not yet been realised and there are some unanticipated consequences which are placing additional burdens on the police.¹⁰⁶ Another option, which might take longer to realise benefits due to the legislative change required, could be extending the range of tools at the disposal of justice agencies and others to “administer justice”. This could potentially release resources from the legal aid budget, for example.

Another factor driving demand is the high public expectation of States agencies, particularly in relation to police presence and its role. We do not believe that meeting this kind of expectation is realistic within existing funding arrangements. Without either an increase in budget for justice agencies and wider justice transformation, or a strategic approach to reducing demands on the system in the longer term, difficult decisions will need to be made about prioritising resources for frontline justice agencies and it will be hard to achieve the Vision. In either case, it is likely that upfront transformation funding will be required to facilitate change towards a more preventative framework for justice policy, with financial benefits to the justice system and other agencies likely to accrue over the longer term.

We asked respondents to the survey to consider options for making savings or increasing revenue for criminal justice agencies to reinvest. The two most popular options chosen were “using more community-based sentences” and “decriminalising some offences”.

Data-driven approaches in the US

Justice reinvestment is a data-driven, evidence-based approach to improving public safety and health challenges by examining criminal justice spending and reallocating savings in a more cost-effective manner.¹⁰⁷ The aim is to invest in alternative strategies that are rooted in the community, hold offenders accountable and decrease crime, while also controlling costs. This might include, for example, increased substance addiction and mental health treatment capacity and more options for diverting people from the justice system, from courts and from prison. The approach, which has been adopted in more than 30 US states, relies on enhanced data collection, analytical capacity and creating a shared understanding of criminal justice issues.

¹⁰⁶ HMICPFRS report

¹⁰⁷ <https://csgjusticecenter.org/wp-content/uploads/2019/04/JRI-2-pager.pdf>

While the experience of US jurisdictions might appear to have little relevance to the justice system in the Bailiwick, many of the data-driven decisions about approaches to justice take place at county level. In some cases informal agreements have been brokered between law enforcement, prosecutors, and defence lawyers, with the support of politicians and the judiciary, to test alternative approaches, without the need to resort immediately to legislative change.

In the UK, the most well-developed data-driven approach to justice and other public policies is in Greater Manchester. We refer further to this in Chapter 3.

Law Enforcement has the best developed examples of data-driven approaches in the justice system. The recent introduction of THRIVE mentioned above is one example. Another is the possible introduction of civil measures, known as domestic violence protection orders and prevention notices (DVPOs¹⁰⁸ and DVPNs¹⁰⁹), the aim of which would be to improve the level of emergency protection provided to victims of domestic abuse noted in Chapter 1. This followed an evaluation of police data on domestic violence incidents to examine what impact the introduction of these measures might make should they be made available or whether they might simply duplicate existing support.

2.4.3 Staff recruitment, retention and training

Another crucial element of a successful strategy is having the right capacity and expertise to implement it. The recruitment, retention and training of staff were identified in all the workshops as barriers to achieving the Justice Vision. For example, we heard that vacancies can be challenging to fill; lengthy recruitment processes deter talent; there is limited scope for flexibility in salaries to attract appropriately qualified staff; budgets to enable justice agency staff to undertake development training are not sufficient; and, when small teams are already stretched, it can be challenging to release staff for training. Similarly, the size of the judiciary can limit their capacity to attend training to maintain their expertise without impacting on court sitting times. The States has recently approved an increase in budget for police recruitment, retention and training.¹¹⁰ There is an opportunity for a broader approach to be taken to optimising recruitment. For example, we found that people working in the justice system are not considered to be key workers for the purposes of existing affordable housing schemes. A further option proposed in the workshops was to make better use of existing, internal expertise. Succession planning was identified as a particular concern when the potential pool of expertise

¹⁰⁸ A domestic violence prevention order (DVPO) would enable the police and courts to act immediately following a domestic abuse incident. Where there is insufficient evidence to charge a perpetrator and provide protection to a victim via bail conditions, a DVPO may be used instead. This would seek to prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days, allowing the victim time to consider the options and get the support needed.

¹⁰⁹ A domestic violence protection notice (DVPN) would be a notice issued by the police to provide emergency protection to an individual believed to be the victim of domestic violence. This notice would contain prohibitions that effectively bar the suspected perpetrator from returning to the victim's home or otherwise contacting the victim.

¹¹⁰ <https://gov.gg/article/169724/States-Meeting-on-5-November-2019-Budget-and-Non-contributory-benefit-rates-for-2020> For example, there has been an increase in the BLE budget of £520,000 to facilitate pay increments which had not occurred for some time and to fund existing posts that had not been recruited to as a result of underfunding issues in previous years.

on island is relatively small. Seeking to address this has been a priority for the CfHA and it is important that it remains so as part of the framework for future justice policy.

The current justice strategy proposed the creation of online training opportunities for justice agency personnel, which has not yet happened. Workshop participants regarded training across the justice system on mental ill health and trauma-informed responses as essential. We understand that there is provision on island for training on the latter and that the Youth Justice Service, some of the Law Officers, Probation Service, and drug and alcohol teams have now taken part, with an invitation also having been extended to the police. The training has also been provided to other States services and we proposed earlier in this chapter that it is accessed by other legal professionals. Another gap we identified in the previous chapter relates to knowledge of communication and learning disabilities and we consider that training in procedural justice for people working across the justice system would also be worthwhile.

Conclusion: Existing justice policies do not incorporate the sort of financial planning that would be necessary to enable decisions to be taken about the relative merits of different options for spending on justice matters or to identify the extent to which it might be possible to release resources that are locked in the present system. A more strategic approach to prioritising resources is required to enable future transformation and implementation of any new strategy in accordance with the Future Guernsey Plan's focus on sustainable public finances.

Recommendation 14: Staff recruitment, retention and development and strong financial planning should be included as enablers under the new justice framework. This should include giving consideration to introducing a minimum number of days training entitlement annually for those working in the justice system, including the judiciary, and a justice sector training plan which reflects the strategic approach adopted.

2.5 Effective processes and use of evidence

One of the strategic commitments of the criminal justice strategy was effective processes and one of the enablers was evidence, to facilitate evidence-based decision-making about strategic priorities. These were identified by individual stakeholders and at the workshops as ongoing priorities which should be important parts of any future justice policy. This was recognised by the CfHA in its response to Phase One of the Policy & Resource Plan. It identified the need to develop and evolve current justice processes “so that they are better, faster, simpler and cheaper and we need to be proactive in considering new initiatives”.¹¹¹ This accords with the States of Guernsey's objectives for sustainable public finances and a focus on intelligent service delivery and innovation and the commitment to reviewing public services and customer service and to the programme of digitalisation. Nevertheless, there have been major issues with ICT infrastructure in the justice system and there is a limited existing capacity to make better use of evidence. It will therefore be imperative to secure political commitment to undertake long-term, multi-disciplinary transformational reforms as part of the future justice framework.

There are three prerequisites for realising these aims. The first is to understand how current processes are working and to define what “better” means in relation to the current and future outcomes of the system. The second is to devise a framework through which decisions could be

¹¹¹ <https://gov.gg/CHttpHandler.ashx?id=107767&p=0>

taken about the relative benefits of spending choices. For example, processes which are cheaper may not also be better, while processes which are faster might be more expensive in the short term but yield efficiency savings over time. We have described above ways in which data can be used to better understand how the system functions, where demands arise, internally and externally, and to ensure that there is transparency about justice system costs and outcomes for the public. Finally, once new initiatives are in place it will be important to evaluate them, refine them, and communicate what is effective.

The most significant barriers to achieving this were identified by workshop participants as limitations in data monitoring systems, ICT infrastructure and the capacity of agencies to capture meaningful data which is of use across the whole system. “Digital criminal justice” was identified as an objective in the 2013 criminal justice strategy but was not progressed due to resourcing. As we noted in Chapter 1, it has been challenging to review the effectiveness of the administration of various parts of the justice system in the absence of comprehensive data about the functioning of individual agencies or the system as a whole. Despite the best efforts of the agencies concerned, it has not been possible to assemble a comprehensive set of data on the characteristics of those involved in the adult and youth justice systems. This also makes it challenging to understand what impact the system is having on agreed outcomes.

Given that data-driven approaches have not been adopted to any great extent within the justice system to date, there is significant scope for improving the effectiveness of responses to justice matters by capitalising on the benefits of using data to adopt evidence-based and costed approaches within any new strategy. We explore below the potential benefits of adopting data-driven approaches in different parts of the justice system.

Those we consulted largely recognised the importance of data and other evidence for taking strategic decisions about the direction of policy and practice. Nevertheless, we heard that there are significant limitations to capitalising on this at present. A 2017 audit of data collected by agencies in the criminal justice arena established what data was already collected, how it was collected and what it was used for. This audit included the domestic abuse strategy, the prison, Law Enforcement, Probation Service, drug and alcohol strategy, the Greffe, the Office of the Children’s Convenor, and the Victim and Witness Support Service. The audit highlighted that reporting on performance indicators is largely a manual process for most services areas, requiring data to be extracted from various administrative databases. We have found that this is still largely true today. None of the justice services has dedicated data analysts; data collection typically forms a small part of an individual’s role. Accordingly, there is no central system that allows justice agencies to access or share aggregated data or to follow individual people through the system. There is also a lack of resources within existing budgets to fund an expansion in analytical capacity.

In addition to ICT systems, we heard during the workshops that information-sharing between agencies is a barrier; there is some fear among some States agencies about what can be shared, particularly in the light of data protection legislation introduced in 2018. The Register of Contact Details legislation will enable the States to collate and share data on individuals to overcome some of these limitations. We understand that there are also exceptions to the data protection legislation for law enforcement purposes in a separate regulation. In the UK, legislation related to crime and disorder provides for data-sharing to occur between justice and other agencies for the broader purposes of preventing crime.

Youth justice

As we identified earlier, there is currently little data in the public domain regarding the characteristics of children who become involved in the youth justice system in the Bailiwick or the impact of this involvement on their future prospects. Such data could be used in different ways to facilitate greater transparency of the Convenor system, for example, to raise public awareness of the backgrounds of children who are alleged to have committed crime and to identify whether optimum use is being made of the system.¹¹² While we have established that a large amount of data is available and a willingness to collate this, further work is required to bring together data held across justice agencies and Children's Services about children in the youth justice system, or adults who have a history of involvement in the youth justice system.

Adult justice

As we noted above, we sought to identify and collate data about the administration of justice by the police and courts. Some data is available, but it has not proven possible to use this to make recommendations about potential avenues for addressing inefficiencies. An indication of the potential benefits of understanding administrative data to make changes to justice processes comes from Law Enforcement, which has adopted a problem-solving policing model. Under this model, they use data from audits, police intelligence and community liaison to identify policing problems and produce plans to tackle them. They are starting to analyse the effectiveness of this approach and have recently adopted a new outcomes framework.

Social justice

Data can also facilitate broader decisions to be taken about public sector reform in relation to justice matters to seek to break the cycle of intergenerational offending. This could include how best to align activity under the future justice framework to the existing outcomes and priorities of the Future Guernsey Plan. For example, it may be worthwhile to estimate the cost to States services of people who engage with the justice system in various capacities to examine whether it would be cost-effective to target additional support, appropriate to their needs. We consider the Future Guernsey Plan priorities further in Chapter 3. Data about those involved in the family and criminal justice systems could be used to identify need, effect change and potentially adopt new approaches. For example, it should be possible to develop a shared understanding about how both crimes perpetrated in the Bailiwick and family breakdown links with the social circumstances, including social inclusion of those involved. This might include, for example, levels of social mobility, low pay and reliance on state benefits (in-work poverty), employability, parenting skills, quality of housing, neighbourhood nuisance and other forms of disadvantage, much of which can be intergenerational. We were told frequently that it would be possible to identify a number of families in the Bailiwick that were repeatedly engaged in the criminal justice system and that increasingly challenging cases were being seen in the family justice system reflecting the growing complexity of the family relationships involved. The extent to which these two populations overlap is not yet understood.

¹¹² Without revealing details which would enable individual children to be identified.

2.5.1 Use of technology

We found significant support among representatives of justice agencies for digitalisation of the criminal justice system. A digital strategy has been devised by the Royal Courts, and Law Officers are aiming to go paperless. Plans for other parts of the system are less developed. They are hindered by the ICT infrastructure available to the police in particular, which HMICFRS described as “among the worst we have seen” and in need of “major capital investment”.¹¹³ For example, the police lack access to key electronic systems and the prosecution paperwork they produce is largely done manually. This suggests that there is significant scope for realising financial benefits in the long term from addressing the costs and inefficiencies of paper-based systems through digitalisation, collaborative working practices and new technologies, including data science.¹¹⁴ Another issue raised with us is that the existing ICT systems for each justice system agency and institution are not currently joined up. The Royal Courts’ plans to commission an ‘end-to-end’ digital system have recently been scaled back.

Some further opportunities for digitalisation of court processes were raised with us, including electronic systems for dealing with petty debts and potentially driving offences. These are part of the longer-term plan for the courts. We discuss the potential opportunities for digital transformation under the public service transformation programme in Chapter 3.

Conclusion: Data limitations mean that it is not currently possible to direct resources on the basis of where they are most likely to have long-term impact on safety and security. The future justice strategy should be underpinned by effective administrative processes, ICT and other evidence which enable a data-driven approach to be taken to justice policy across government. There are currently insufficient resources provided to the CfHA for the CfHA team and individual justice agencies and institutions for ICT and staff to support such an approach.

Recommendation 15: Without a unified understanding of the purpose of the justice system, it is challenging to assess its existing performance. We propose that discussions in the next phase of the Review grapple with questions of what effectiveness should mean in the context of the future justice framework. As a starting point, data should urgently be collated and used better to understand the existing functioning of the justice system in order to examine the impact of legislation, administrative processes and other practices and evaluate their efficiency and effectiveness. In the longer term, comprehensive data should be used to drive decisions about spending and policy priorities.

Recommendation 16: The effective use of evidence in the future justice framework should encompass data about i) the administrative functioning of the system, ii) the characteristics, needs and views of people in contact with the system or at risk of being so, and iii) the impact it is having. It will also be reliant on the application of contemporary research evidence about what might prove effective in the Bailiwick context for achieving the strategic objectives as well as training to raise awareness of that evidence.

¹¹³ HMICFRS report

¹¹⁴ See examples in Police Foundation and CGI (2017) [Reforming justice for the digital age](#), London.

2.5.2 Complaints

One of the actions in the criminal justice strategy action plan was to establish complaints procedures for criminal justice service providers. There is a centralised complaints procedure for the States. In addition, processes are in place for the police, prisons and probation, although there is a varying degree of transparency about how these operate. To our knowledge, there is no monitoring of the operation of the justice agency complaints systems by the Committee for Home Affairs. The Police Complaints Commission provides independent oversight of investigations related to complaints about the conduct of police officers. An inspection by HMICFRS found the processes for complaints against the police to be generally robust, although there were delays in progressing complaints and some complainants were not receiving timely updates. The Royal Court of Guernsey also operates a system for complaints against the Offices of HM Greffier, HM Sheriff and HM Sergeant, and Bailiff's Chambers.¹¹⁵ Concerns were raised with us that some people do not feel it worthwhile complaining about issues with the justice system because they perceive that these issues will not be taken seriously or resolved satisfactorily. There was a feeling that even where there are independent complaints processes in place, the system (i.e. the States) protects itself. This relates to issues of public trust and procedural fairness which we raised earlier in this chapter. We return to complaints procedures in Chapter 3.

2.6 Communication

The CfHA identified that, to successfully deliver justice services, it needed to be accessible and responsive to the public and to deliver visible and tangible benefits in a manner in which the public can have confidence, and which adopts a culture of continuous learning and development.

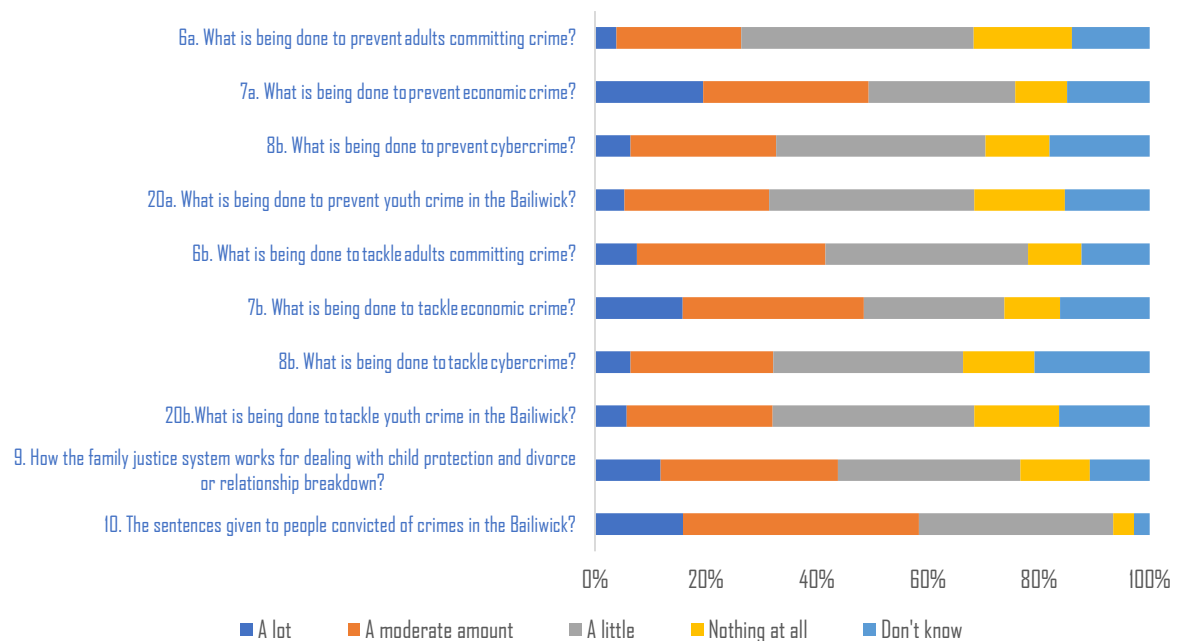
As we identified in Chapter 1, public confidence in justice agencies has increased overall. Nevertheless, as we also note in that chapter, trends in responses to the CfHA's Crime and Justice survey also highlight that public confidence that the justice system 'deals with cases promptly and efficiently' and 'is effective in bringing people who have committed crimes to justice have both decreased over the last five years. We heard during the workshops and in our discussion with representatives of the legal profession and justice agencies that the public tends to have high expectations of "moral standards" and of the legal system. This was also borne out in the survey we conducted for this Review. That survey also provides some useful additional information to be taken into account when considering how best to harness public support under the future justice framework.

The survey provides a snapshot of the range of public sentiment towards justice issues in the Bailiwick, some of which is very polarised. This illustrates that, if the proposals for the future justice framework are adopted, it may be necessary to seek to persuade some sectors of the community of the validity of the new approach. It is possible that some perspectives stem from a lack of knowledge about how the justice system currently works, suggesting that there is a need for greater transparency or publicity. Nevertheless, it is encouraging that those who responded to the public survey expressed interest in knowing more about what justice agencies were doing to prevent and tackle crime.

¹¹⁵ See <http://www.guernseyroyalcourt.gg/CHttpHandler.ashx?id=120936&p=0>

Public survey responses:

- Respondents on average knew “a little” about what is being done to prevent and tackle various types of crime in Guernsey.
- Knowledge about how the family justice system works was low, with a third of respondents answering that they “know nothing at all” or “didn’t know”.
- 58% of respondents knew “a lot” or “a moderate amount” about the sentences given to people convicted of crimes in the Bailiwick.
- The majority of respondents received the information they knew about the justice system from newspapers and social media.
- The majority of respondents are interested in or would like to know more about how the criminal justice system and family justice system work.
- 74% of respondents are interested in or would like to know more about what local youth justice agencies do.



The survey results illustrate the diversity of beliefs and values held by those who responded about the causes of crime and the most appropriate responses to it. We conducted further analysis of some of the responses about youth crime to give an indication of underlying factors which some of these perspectives might be based upon. Our analysis highlights that people’s views are considerably more nuanced than they might appear from the headline figures.

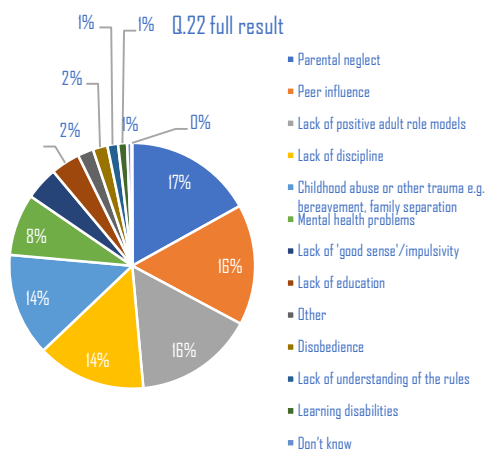
Case study: Differing perspectives about youth crime

Some 56% of respondents to question 17 of the survey strongly agreed or agreed with the statement “Children who commit crime should be punished”. In question 22 we asked respondents to select from a pre-identified list what they thought were the three main reasons young people commit crimes in the Bailiwick.¹¹⁶ We compared responses from the whole sample with those who answered

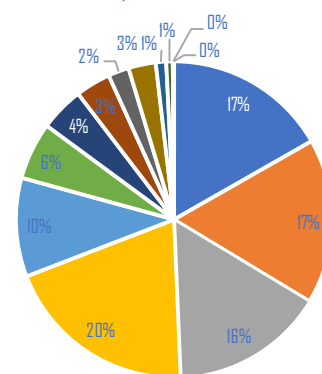
¹¹⁶ No analysis has been conducted about how weight of responses related to the question ordering

“strongly agree” or “agree” to question 17. The latter were more likely to attribute youth crime to “lack of discipline” (20% compared with 14%) and less likely to attribute it to “childhood abuse or other trauma” (10% compared with 14%) or to “mental health problems” (6% compared with 8%). They were equally likely to attribute youth crime to “parental neglect”, “peer influence” and “lack of positive role models”, each of which were in the top four reasons identified in the whole sample and sub-sample.

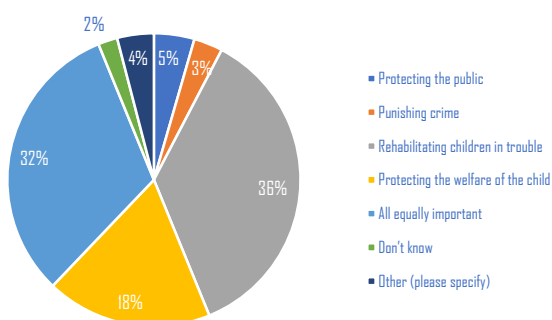
Interestingly, in response to question 23 – about the most important things the Children's Convenor and/or Courts should be trying to do when addressing offending by a child – those who strongly agreed or agreed that children should be punished were more likely to say that all the purposes identified were equally important (38% compared with 32%), just as likely to select “rehabilitating children in trouble”, and were only marginally more likely to have selected “punishing crime” as the single most important thing (5% compared with 3%). Nevertheless, they were less likely to have selected “protecting the welfare of the child” as the single most important thing (18% compared with 10%).



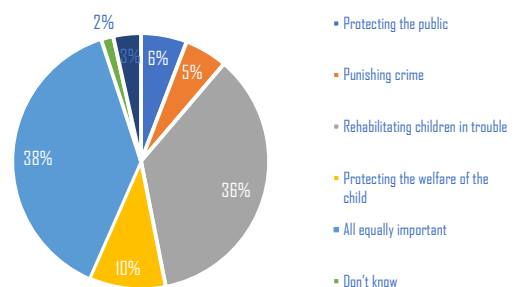
Q.22 as answered by those who agree that children should be punished (Q.17)



Q.23 full result



Q.23 as answered by those who agree that children should be punished (Q.17)



2.6.1 Engagement with the public

The CfHA has a dedicated Communications Officer, however, it is considered that there could be a more defined approach to public engagement by the CfHA. At times, significant attention is paid to concerns raised by individual residents while potentially important evidence regarding the needs or concerns of stakeholders or groups, who may not feel confident in engaging directly with the States and elected politicians, may be overlooked. The creation of a new justice policy provides an opportunity for greater direct engagement between the CfHA and justice agencies and the community, for example in setting objectives for the justice system, in promoting evidence of its impact and in fostering a better awareness of the justice issues facing the Bailiwick through public education and greater transparency. All stakeholders should play a role in this. The importance of this has been recognised by Law Enforcement which is seeking to increase avenues for public engagement. For example, they are upgrading their website and poster materials and plan to create crime prevention advice videos. They have recently established public consultative groups to get feedback from a broad spectrum of the public, through voluntary groups, societies and key community leads, across the Bailiwick. The aim is also to ensure the needs and priorities of the community are taken into account in planning for strategy and priorities.

One proposal from the workshops was the importance of telling positive news stories about the justice system and people involved in it. As we noted above, much of media coverage currently relates to perpetrators of crime and court outcomes. It was suggested that the communications officer currently employed by CfHA for the police could play a broader role in promoting positive work within the justice system, subject to capacity. The Royal Court has recently begun to publish some sentencing decisions and were additional resources to be found to establish a dedicated information and communications officer there would be an opportunity for a greater degree of accessible information to be provided to the public about how courts function and how decisions are made, for example, by publishing short summaries of cases and aggregated data about court processes and outcomes. Workshop participants also suggested that there is scope for encouraging local conversations about justice to support reintegration, reduce stigma and raise broader awareness of justice issues in the community. The survey we conducted provides a rich source of data on the perspectives of some citizens which can be built upon in creating a better understanding of the diversity of views about the justice system and those engaged with it.

Another means of public engagement is direct involvement in the system through volunteering or providing employment or education opportunities for people on community placement, release on temporary licence (day release) or post-release. There are also a range of existing opportunities for volunteering with the police and within the prison, including appropriate adults¹¹⁷, the Police Complaints Commission¹¹⁸, Independent Monitoring Panel¹¹⁹, Independent

¹¹⁷ The role of the appropriate adult is to safeguard the interests, rights, entitlements and welfare of children and vulnerable people who are suspected of a criminal offence, by ensuring that they are treated in a fair and just manner and are able to participate effectively.

¹¹⁸ See <https://gov.gg/PoliceComplaintsCommission>

¹¹⁹ See <https://www.gov.gg/IndependentMonitoringPanel>

Custody Visitors¹²⁰, and the Parole Review Committee¹²¹. There are also volunteers who work outside the formal system for example at the Victim Support and Witness Service and Caring for Ex-Offenders. We discuss in Chapter 3 potential mechanisms for improving public engagement and possible opportunities for greater involvement of volunteers under the future justice framework.

2.6.2 Engagement with service users and families

During our review we heard little about engagement with service users—complainants, victims, witnesses, parties in family law cases, alleged and convicted perpetrators—in developing justice policy at strategic or operational level. We heard feedback from representatives of victims’ organisations that there are systemic barriers to engagement with justice services. There is an opportunity for the future framework to include a workstream to address this as a social justice issue and provide space for service users and families to have not just a greater voice but routine engagement in decision-making about the design and implementation of policies and processes that affect them.

Our evidence also suggests that contact with the justice system could provide an opportunity for States agencies and the voluntary sector to work more broadly with families, i.e. in the family justice system, in prison and on probation. The perceived impact of poor parenting on youth crime was highlighted in the survey and suggestions were made for improving family support:

“Committees and agencies should work together with families at the Centre with one plan for a child/family across all involved.”

“I think the key is for the States to intervene with problem families at an early stage to try and avoid their children getting into trouble. Even if there are no grounds to remove the children from the family, the States need to provide advice and assistance to parents who are struggling bringing up their children i.e. showing them boundaries, discipline and respect for other people.”

“More intensive intervention at an early stage with families evidencing problematic behaviours.”

The need for such provision is recognised by CfHSC and the 1001 Critical Days Programme and forthcoming Strong Families initiative will create avenues to bolster support to parents at an early stage. We examine in-work poverty further in Chapter 3.

2.6.3 Engagement with professionals

Existing structures can result in tensions between political and professional boundaries. For example, concerns were raised with us about the prison governor having proposed that the prison should not receive people on short sentences, contrary to current practices. Questions like these are important strategically for a future justice framework which is financially sustainable and ought to be aired and considered in a transparent manner within a well-

¹²⁰ See <https://www.gov.gg/IndependentCustodyVisitors>

¹²¹ See <https://www.gov.gg/ParoleReviewCommittee>

functioning system. The nature of the community means that expert opinion about the potential direction of justice policy will frequently lie within the system itself. A key question for the next phase of the Review is how to facilitate open discussions about future justice policy and practice which include professional and civilian voices from across the community, including service users, members of the legal profession and senior leaders within justice agencies.

Conclusion: The transformation of justice policy provides an opportunity for much greater transparent dialogue with the public, including young people and those involved with the criminal and family justice systems. There is a need for ongoing work to understand public sentiment and for developing means to engage them in a new approach to community justice.

Conclusion: Transforming responses to justice will require politicians to communicate with the public and in some cases educate them about what constitute effective approaches, based on evidence.

2.7 Conclusion

In this chapter we have reflected on how justice policy could evolve in order to achieve the Justice Vision, building on the existing justice framework. We have identified that this review marks the beginning of a period of further reflection and outlined a series of questions which should form the basis of ongoing conversation. These include:

- Does the existing relatively retributive approach best serve the interests of justice, social justice and the long-term needs of the community?
- Should rehabilitation provided by the justice system be an end in itself or a means to an end?
- What other steps could be taken to rehabilitate people who have committed crime into the community?
- Is a justice system response necessary and likely to achieve social order and inclusion in keeping with the Justice Vision?
- Should a justice system response be necessary, is it proportionate and likely to achieve social order and inclusion in keeping with the Justice Vision?
- What should be the balance between different purposes of sentencing? Should there be an overarching purpose of i) the criminal justice system or ii) sentencing?
- How should the cultural change required within the justice system and across public agencies be fostered?
- How should strong variation in public and political opinion about how to achieve the Vision be addressed?
- Which aspects of maintaining social order should be the responsibility of individuals, the community and the government, and which aspects should be the responsibility of the justice system or other agencies?
- What are the reasons some people are not respecting the current rules/laws?
- Should the current laws be revised to reflect public opinion? If so, how?
- Why should people respect the rules if they feel like they are not being treated fairly in other aspects of their lives?

Recommendation 17: The key commitments in the future strategy should largely mirror those in the existing strategy, although the commitment to equality should be extended to include

inclusion. In implementing the future justice framework, sufficient resources should be made available to meet core commitments on governance, data, communications, well-functioning ICT systems, staffing and financial planning, which are integral to achieving the Justice Vision.

Chapter 3: How should we get there?

In this chapter, we make a series of far-reaching recommendations which together form a draft blueprint for a future justice policy in the Bailiwick embodying the ambitious Vision underpinning the existing strategy.

Several elements of the blueprint already exist, others build on existing commitments to transform other aspects of public policy, and some are entirely new. Creating a broader justice policy in the way we propose in this blueprint provides a unique opportunity for the Bailiwick to illustrate to the world what could be achieved in taking a genuinely integrated and inclusive approach to achieving justice and social order.

The workshops on the youth and adult justice systems examined the strategic approaches considered necessary by participants to achieve the Justice Vision. Those we consulted identified a set of strategic commitments, some of which were very similar to those in the existing strategy, as priorities for a future justice strategy. These included:

- an overarching cross-government, community-wide strategy encompassing justice and social justice issues;
- shared values and outcomes;
- effective cross-Committee governance and political leadership;
- effective communication and public engagement;
- effective processes, including monitoring;
- effective use of technology;
- effective use of evidence; and
- sustainable funding and strategic financial planning.

3.1 A cross-government, community-wide justice strategy

The future justice framework should be underpinned by the Justice Vision (as amended), a common set of performance indicators, clear reporting timeframes, realistic financial planning, an outcomes improvement plan and new or revised legislation. Activities should be determined by four overarching workstreams: PREVENT, DIVERT, CHALLENGE and RESTORE.

Two examples of partnership approaches in other social policy areas have been identified as helpful examples of cross-committee, community-wide strategies. Both of these also overlap with the likely scope of the future justice strategy.

Health and Wellbeing Strategy 2017–2020

The Health and Wellbeing Strategy is an example of a cross-committee, community-wide strategy, led by the Committee for Health & Social Care (CfHSC), which outlines how States agencies and others will work together towards better mental wellbeing for islanders across the Bailiwick and ensure that appropriate and effective treatment is available for those who need it.

The Strategy is clear that emotional wellbeing is the responsibility of all, including “our communities, businesses, voluntary sector, public sector, private practice and individual

citizens". It also notes that not all of that can or should be provided by the States, as it will range from informal and preventative actions between friends and neighbours and in local communities where people care for each other, to the more formal and specialist help that is appropriately provided or commissioned by the States of Guernsey.

The Children and Young People's Plan

The Plan sets out actions over a six-year period to deliver the key commitments and priority outcomes to meet the requirements of the Children (Guernsey and Alderney) Law, 2008. The aim is to create an integrated system providing the right help at the right time with the right outcomes for all children and young people. It has at its heart the transformation of service delivery so that the welfare of the Islands' children is more effectively promoted in partnership with their family and community. This has been reflected in a partnership approach at both political and agency level in the preparation of the Plan. Most crucially, the Plan has been developed in consultation with children and young people, their families, service providers and the wider community.

3.2 New or revised legislation

Implementing the various elements of the future justice framework is likely to require legislative change. The Committee *for* Home Affairs (CfHA) is overseeing a number of projects to implement new legislation, including the Parole Law, sexual offences legislation, and a review of domestic abuse legislation. The CfHA has also committed to a review of Police Law¹²² to modernise legislation to support delivery of Law Enforcement functions. Our recommendations –should they be adopted – would also result in changes to the Children Law for youth justice and family justice, sentencing legislation and domestic abuse legislation. Law Enforcement would also like to see prioritised what they regard as a critical need to review and update the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 and the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.

3.3 Sub-strategies

We propose here a series of sub-strategies to be included in the future justice framework. In line with the proposed governance framework for the overarching strategy, each strategy should encompass clear governance arrangements, including a management group, clear monitoring systems and key performance indicators (KPIs), quality assurance, and clear financial planning for staffing and other resource needs.

3.3.1 Restorative justice and alternative dispute resolution

We examined in Chapter 2 the potential role of restorative justice in balancing the range of outcomes reflected in the Justice Vision. The future justice framework should include restorative approaches and alternative dispute resolution as preventative and diversionary measures, as an alternative to formal justice measures, and alongside formal measures e.g. in prison or probation.

¹²² Billet D'État XII, 2008

The Policy & Resources Committee has recognised that alternative dispute resolution such as mediation in family law cases will “most likely significantly contribute to more timely determination and will negate the need to resort to the formal public or private processes set out in law”.¹²³ The Family Proceedings Advisory Service (FPAS) offers voluntary mediation as an alternative to a full court hearing when both parties agree to it. Concerns were raised with us about the perceived independence of FPAS staff conducting family mediation when they are also those who are responsible for safeguarding and promoting the interests of children and making recommendations to the court in cases of family breakdown or concerns for child welfare. While there are safeguards in place to prevent mediators also working on the same case in court, there is a perception that the confidentiality of the mediation process could be breached within the team.

As we noted in Chapter 2, the evidence we have gathered indicates that there appears to be significant, broader problem with public trust in States’ services and institutions which it is important to address as part of future justice policy. In order to ensure that there is recourse to independent scrutiny, we believe that there is merit in introducing an alternative dispute resolution approach in the resolution of complaints against the States when the processes for individual services have been followed but a satisfactory resolution for the parties concerned has not been reached.

Recommendation 18: The CfHA should lead an internal cross-committee review of the extent to which restorative justice and other forms of alternative dispute resolution are currently being used in Children’s Services, education and in family justice and criminal justice agencies, with whom and how, and the extent of existing expertise to deliver such approaches. The consultation on the Children Law could usefully include consideration of the merits of a state-funded, confidential, independent mediation service, alongside restorative justice services. The review should also examine public perspectives on the existing complaints systems for the States.

Recommendation 19: These reviews should inform the creation of a new restorative justice and dispute resolution strategy to be delivered across the Bailiwick. We propose that this strategy be centrally resourced with dedicated funding, coordinated by the Community Justice Commission.

3.3.2 Domestic abuse and sexual violence

Domestic abuse was ranked in our survey as the third most important issue impacting on society in the Bailiwick, with 37% of respondents choosing it. Over 50% of respondents thought that sentences for domestic abuse were too low. As we noted in Chapter 1, the CfHA is currently reviewing the domestic abuse strategy and is considering the merits of a violence against women strategy.

There is potential for the stigmatising effect of involvement in the justice system, including exposure to the media, to have a dampening effect on the reporting of domestic abuse and sexual violence. As we noted in Chapter 1, there is significant attrition once offences are reported which it is important to address. There is some evidence to suggest that these offences

¹²³ <https://gov.gg/CHttpHandler.ashx?id=119640&p=0>

are more prevalent in the Bailiwick than shown by police-recorded crime figures. Prosecution does not provide a solution for everyone. In addition to implementing existing plans to broaden the definition of domestic abuse, strengthen legislation to protect victims of domestic abuse and sexual violence through a wider range of civil and criminal measures, and introduce a sexual abuse referral centre, there is the potential to broaden the range of informal avenues of support available to victims who have not reported offences against them, including counselling. Given the island nature of the Bailiwick which results in victims of such offences having to continue living in close proximity to the perpetrators, it might be worth considering restorative justice approaches for domestic abuse, which would of course require safeguarding considerations to be paramount.

Recommendation 20: Action on domestic abuse and sexual violence must be given more prominence as an integral part of the future justice framework, within justice agencies and across government. The CfHA should consider broadening the scope of its proposed violence against women strategy to include all domestic abuse and sexual violence, rather than solely focusing on women and girls. In line with the direction of travel of broader justice policy, the emphasis should be on prevention and evaluating the impact of existing initiatives. This should incorporate a review of the funding, functioning and impact of the existing domestic abuse strategy.

3.3.3 Alternative sentencing

The CfHA has identified the potential introduction of alternative sentencing options as one of the outcomes of the Justice Review. Stakeholders have raised with us various alternative sentencing options to be explored, including:

- deferred prosecutions;
- deferred sentences;
- tagging (also known as electronic monitoring) as a standalone community order;¹²⁴
- mental health and substance misuse treatment orders;
- community (problem-solving) courts; and
- peer courts for children.

The scope of the Sentencing Review should be broad enough also to consider alternatives to sentencing, once more is understood about the existing operation of the justice system, the nature of demands placed upon it and the cost implications of the existing sentencing regime.

It is likely that the Health and Justice Review will make recommendations about sentencing and diversionary options for drug and alcohol-related offending. We do not wish to pre-empt the findings of this review but have made indicative proposals related to potential interventions for substance misuse within our recommendations for the broader direction of travel for future justice policy.

Recommendation 21: We welcome the CfHA's prioritisation of scoping alternative sentencing options. There is significant potential for additional and alternative approaches to the existing sentencing regime. The scoping should form part of the proposed Sentencing Review, also

¹²⁴ Research evidence suggests that this has limited impact on reduction of future offending. See, for example, What Works Centre for Crime Reduction [systematic review](#)

taking into account any relevant recommendations from the Health and Justice Review. This in turn should inform the development of a new sentencing strategy which should become a priority workstream under the future justice policy framework.

3.3.4 The criminal records regime

The CfHA is reviewing the vetting and barring regime. The long-term detrimental impact of criminal records on future prospects was raised with us by representatives of all justice agencies and by public health professionals. Another issue raised is how engagement with the Child, Youth and Community Tribunal is recorded and disclosed. A personal example of the impact of the criminal records regime was reported in the survey by someone who as a youth had been to court and received convictions for minor traffic offences:

“I tried to join the Army but these went against me as they were court appearances, whereas had this been in the UK I would have had points and therefore been okay.”

The CfHSC Health and Justice Review is examining the detrimental impact of criminal records on employability, for example for possession of small amounts of drugs. It was recognised that this could result in people resenting the system and their lives becoming gradually “out of control”. The Portuguese model of decriminalisation is within the scope of that review.¹²⁵ Other options for reducing the number of adults affected by criminal records they received as youths include greater diversion of children from the justice system, changing legislation governing the length of time such records can be taken into account, and changing the regime for disclosure of offences committed by children and young adults to potential employers. Specific measures that could be taken to address this issue are deferred prosecutions and sealing youth criminal records.

Recommendation 22: As part of the Committee’s review of vetting and barring legislation, there is scope for a broader examination of the current statutory framework for the criminal records regime, particularly in relation to the impact on people who have committed relatively minor crime as children and young adults.

3.4 Existing priorities within the Future Guernsey Plan

There is significant potential to ensure that justice policy objectives become fully integrated across government with a much more overt emphasis on social justice. Several of the States of Guernsey’s existing priorities, set out in the Future Guernsey Plan, offer opportunities to embed initiatives to contribute to building social order and enhancing the safety and security of the Bailiwick.

3.4.1 The Children and Young People’s Plan

One of the core strands of activity under the future justice framework is prevention. The Children and Young People’s Plan already has a significant focus on this, which is welcome and provides a strong foundation for future action. However, at present, it is not possible to predict and examine the longer-term impact of these initiatives on demand on the justice system. It would be possible to do this within the existing performance framework by broadening the

¹²⁵ Portugal decriminalised all drugs in 2001.

indicators to include, for example, trends in entry into the youth justice element of Convenor system, gaining criminal records, appearance at court and entry to custody for children. In addition, it would be helpful to understand more about the longer-term quality of life outcomes for those who have been in contact with the social care and justice systems as children, for example, through the health and wellbeing survey or a longitudinal study.

Review of the Children Law

The CfHSC consultation on the operation of the Children Law provides a welcome opportunity to gather a broader range of stakeholders' views about the substantial aspects of the Law which relate to family justice and the Convenor system

The operation of the Convenor system

As we noted in Chapter 2, we propose that the consultation examines the operation of the Convenor system with regard to the treatment of children who are alleged to have committed crime, addressing the subjects we identified as having been raised with us as matters to review.

The operation of the family justice system

As we noted in Chapter 2, some options for reform of the family justice system and the operation of FPAS have already been considered by the CfHA. This includes the possibility of legislation for mandatory mediation prior to accessing the family justice system for relationship breakdown. We propose that, in addition to examining family law provisions within the Children Law under the planned review, an in-depth independent review of the family justice system is required. We consider that this is necessary to review broader issues relating to the current approach which is largely adversarial in nature, court-based, costly to the public purse in terms of legal aid costs and, most importantly, may result in unnecessary detrimental impact on the children and other parties concerned.

Corporate parental responsibility

Our evidence suggests that a broader perspective could be considered in relation to corporate parenting. For example, the evidence on neuroscience related to the development of maturity means that it might be helpful to consider the needs of young adults as well as children in relation to social care. In addition to transitional arrangements for those leaving Children's Services, this could include children leaving the Child and Adolescent Mental Health Service (CAMHS), and children moving from youth justice to adult services (prison and probation). The focus of Children and Young People's Plan outcomes are currently understandably on children. Greater understanding of the impact of preventative and diversionary services, and on the costs and benefits of early intervention, could be achieved by extending the performance framework to capture long-term outcomes, on adulthood as well as childhood. As we identified in Chapter 2, the long-term impact of the off-island placement scheme on outcomes for children and young people, some of whom are now in the justice system, warrants particular attention.

Conclusion: We welcome consideration of the operation and outcomes of the family justice system by the Court Users Group and of related aspects of the Children Law on children in the CfHSC review.

Recommendation 23: As part of the review of the processes and systems set out in the P&R plan, particular consideration should be paid to the availability of mediation and the possible benefits for child welfare of introducing mandatory mediation or other dispute resolution procedures prior to accessing the family justice system for relationship breakdown. The creation of a family justice strategy should be a future workstream of the justice strategy.

Conclusion: *Outcomes for children involved in the youth justice system are not currently included in the Children and Young People's Plan.*

Recommendation 24: The emphasis on prevention in the Children and Young People's Plan should be maintained and linked more explicitly to justice policy. The Plan's performance indicators should include some specifically directed towards the reduction of youth crime and contact with the formal justice system. The CjHSC should consider tracking outcomes for children leaving care and children who have been involved in the youth justice system into adulthood.

Access to positive activities

One of the priority outcomes of the Children and Young People's Plan is for children and young people to be healthy and active. The aim is to raise awareness of the benefits of activity and increase participation in sport in school.

We engaged with children involved with the Youth Commission as part of the consultation who raised boredom and a lack of access to affordable activities as potential factors in youth offending. Our evidence also suggests that it would be prudent to review whether the right balance is struck within the law in relation to the use of moped scooters from age 14. We heard that permitting this can provide young people with freedom to access activities but can also potentially give greater opportunity for them to engage in risky behaviours. Just under half of joint referrals to the Convenor and HM Procureur in 2017 were for motoring offences (46%, compared to 68% in 2016.)

In 2018, the Government scored low on its commitment to promoting and facilitating physical activity opportunities for children.¹²⁶ The Be Active initiative was established to increase activity as part of the implementation of the Children and Young People's Plan. It proposed the introduction of a Guernsey Activity passport to facilitate access to a range of activities.¹²⁷ The Health Improvement Commission has led specific initiatives to increase activity including the Ready Set Ride programme (an early years initiative to give young children confidence and skills in riding balance bikes), the Living Streets WOW challenge (encouraging children to walk, cycle or scoot to school), continued support of the Daily Mile and conducting a study of physical activity in schools. The study found that 71% of primary and 57% of secondary pupils said that they were physically active for at least 60 minutes on 4 or more days in the week before the survey.

Conclusion: *Structured recreation activities for children can provide a diversion from crime at times when they may be otherwise unsupervised, i.e. after school, at weekends and during*

¹²⁶ According to an international scorecard, Guernsey scored D which means it was succeeding with 27–33% of children.

¹²⁷ <https://www.gov.gg/CHttpHandler.ashx?id=118054&p=0>, March 2019 Newsletter

school holidays. These can be particularly beneficial for those who may not perform highly at school and risk low self-esteem and/or alienation.

Recommendation 25: The future youth crime strategy should include a focus on increased access to affordable physical and other constructive activities for children and young people. The scope for increasing access to such activities for children and young people at risk of offending should be assessed jointly by the Health Improvement Commission and the Sports Commission and used to inform the introduction of the proposed Guernsey Activity passport.

Recommendation 26: Restorative justice or another form of reconciliation process should be the priority approach for repairing social harm experienced by people who were sent off island to be looked after as children, some of whom may now be adults.

3.4.2 Economic development policy

Another priority of the States of Guernsey is to create a strong, sustainable and growing economy. As we noted in the previous chapter, there is some recognition of the need to address in-work poverty in future and research to inform this is under way. In Chapter 2, we highlighted the importance for future justice policy of examining the links between crime and poverty and seeking to disrupt intergenerational crime.

The Committee *for* Economic Development (CfED) launched a long-term strategy for Guernsey's economy in 2018.¹²⁸ The CfED drew attention in the accompanying policy letter to an agreement by the States that "a strong economy is essential to maintain high rates of employment, low rates of unemployment and a diverse range of well-remunerated jobs"¹²⁹ and that "without a strong economy the States will not have the revenue necessary to pursue social welfare programmes or invest in vital public services and infrastructure". Inclusion and in-work poverty are not currently featured in this strategy, despite there being evidence of these challenges in the Bailiwick. The planned work by the Policy & Resources Committee should seek to address this.

The strategy identifies a need to increase the size of Guernsey's economically active population. We were not able to determine within the timetable of the Review what work has been undertaken on this. The relationship between crime and reliance on social security, social housing, or levels of unemployment are also not an explicit consideration in the strategic plans of the Committee *for* Employment and Social Security (CfESS). In the 2017 cohort, 38.8% (80) were unemployed at the time of assessment by Probation and 29.1% (60) were frequently unemployed. There is scope for examining the extent to which those involved in the criminal justice system or with prior experience of it could become more economically active. This could be achieved for example by reviewing the impact of the criminal records regime on employability and using prison day release for the purposes of paid employment and attendance at further education.

¹²⁸ <https://www.gov.gg/CHttpHandler.ashx?id=113298&p=0>

¹²⁹ By the end of 2017, registered unemployment in Guernsey had fallen to its lowest level since 2009/10 and the total number of people employed or self-employed in Guernsey (adjusted for seasonal changes) had increased to the highest level on record.

In addition, as we noted in Chapter 2, the range of economic inequality can have a greater impact on crime than inequality per se. Consequently, there are risks to promoting economic growth without also addressing structural issues related to the costs of living. The concept of inclusive growth seeks to minimise these risks by promoting the achievement of economic growth as well as reductions in inequality and increases in living standards.

Conclusion: To achieve the ambition to create a strong, sustainable and growing economy, it will be important from a social justice perspective to ensure that this benefits everyone in the community. There is a risk that promoting economic growth without also addressing income inequality, social mobility and in-work poverty will widen the economic divide within the community and undermine efforts to reduce crime and family breakdown.

Recommendation 27: The long-term strategy for economic growth should acknowledge the risks to the community of promoting such growth at the expense of inclusion. We understand that the Policy and Resources Committee is actively considering prioritising action to tackle living standards and promote inclusive growth.

3.4.3 Transforming education and improving education outcomes

As we noted in Chapter 1, there is potential for education reforms to have a significant impact on inclusivity in the long term. There is an opportunity for education priorities to become more explicitly linked to achieving justice by building community cohesion and building a responsible, understanding and inclusive society. Schools could also play a role in the prevention and diversion parts of the future framework, which would include examination of the impact of exclusion policy and processes including the role of the School Attendance Service. There is also a need to consider how to address the needs of older children and young adults who will not benefit and whose education and employability may be detrimentally affected by the legacy of the previous system. We also noted in Chapter 1 an opportunity for the prison to be incorporated into plans for transforming adult education.

Recommendation 28: There is an opportunity under education reforms to build an inclusive system to reduce the likelihood of poor outcomes for children who are not fully engaged in the education system, including involvement with the justice system and exclusion. This will require significant cultural change, which should not be underestimated. There is also a risk that the scale of the reforms and the size of new schools will militate against the overarching aims, which must be carefully considered during implementation.

Recommendation 29: The CfHA should undertake an audit comparing education provision for people in prison with that available in the community. Future transformation of the higher education system should seek to include people in custody and give them access to a wider range of learning (either virtually or in person).

3.4.4 Future model of care

The CfHSC has acknowledged a need to be responsive to trends that emerge in the criminal justice system in relation to public health. We identified in Chapter 2 that there is an equal need to be responsive to trends in the family justice system. It has not been possible for us to determine in detail within the timetable of the Review how the Partnership of Purpose and Future Model of Care potentially intersects with future justice policy. We are aware that a

successful amendment to the Future Guernsey Plan in June 2019 has demonstrated the States' collective commitment to addressing identified gaps in primary and secondary mental health services. It is recommended that as part of this workstream specific consideration should be paid to the relationship between mental health services and the justice system. We consider that it is important that sufficient information is gathered so to measure the impact that current interventions are having on individuals and to inform future service developments. For example, there is an opportunity for joint strategic needs assessments to consider the health and wellbeing of those in contact with the criminal justice and family justice systems. This could include the use of indicators related to current or previous interaction with these systems, which would provide a robust baseline against which to measure progress in improving the links between health and justice.

While there will always be challenges providing sustainable and affordable mental health services in a small jurisdiction with low volume and often high complex work, the recent publication of the "Your Voice: Experiences of Bailiwick Mental Health Services" identified a mental health system working hard to support people. Its observations in respect of the need for services to be more joined up are aligned to the feedback we received, and efforts should be made to improve communication amongst stakeholders. We note that Recommendation 16 of the Mind Survey was that mental health-specific training and development for professionals from all sectors who regularly have contact with people with mental health services should be provided. We consider that such a recommendation should be prioritised and would provide opportunities for various agencies to share their practical experiences so to inform the development of services.

Recommendation 30: We propose that the outcomes for the future justice framework are aligned with existing Partnership of Purpose objectives and the overarching themes of the Future Guernsey Plan as far as possible.

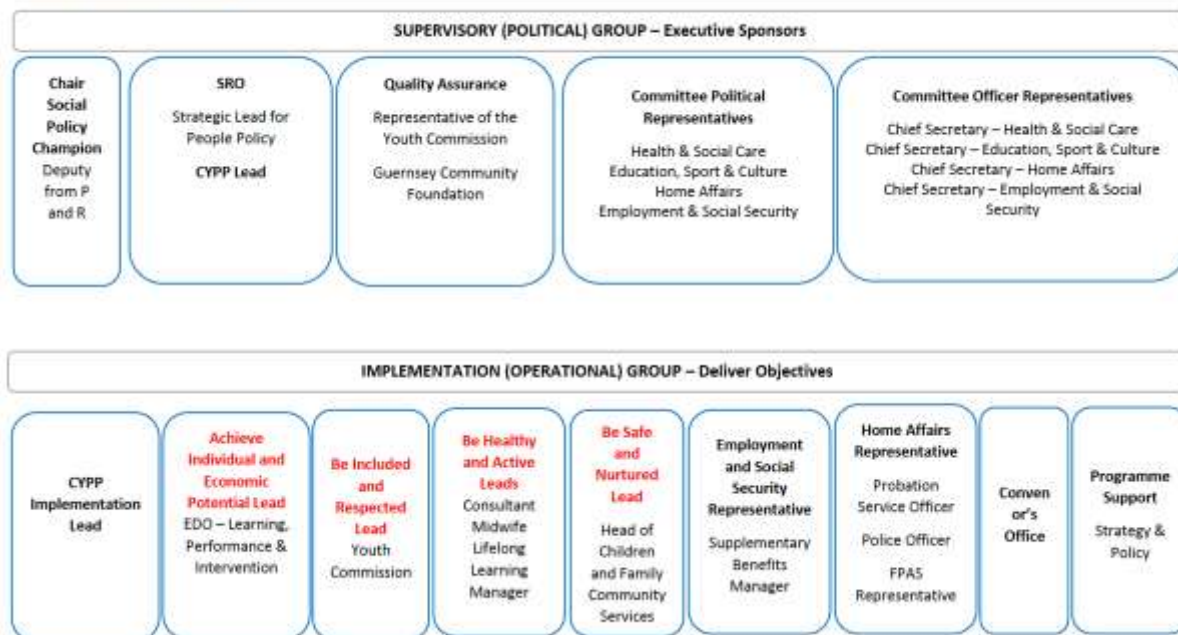
We have also identified potential for integrating justice policy with other Future Guernsey Plan priorities, notably disability, equality and inclusion, housing strategy and the Supported Living and Ageing Well Strategy (SLAWS).

3.5 Effective cross-committee governance arrangements

We make several proposals to ensure the effective governance of future justice policy, which will require complex cross-government working arrangements to ensure a partnership approach to further improve community justice outcomes. We have reviewed other examples of cross-committee governance arrangements and have identified three examples we propose form the basis of structures for driving the implementation of the future justice framework: the Children and Young People's Plan, the Health Improvement Commission and the Islands Safeguarding Children Partnership.

The Children and Young People's Plan framework

CYPP Organisational Structure



The Health Improvement Commission

The Health Improvement Commission was established in 2018 as an independent body to bring together public, private and third sectors in the health field. Its purpose is to help raise awareness, encourage healthy lifestyle choices and take proactive steps to improve islanders' general health and wellbeing, mentally and physically. The Commission focuses on the operational delivery of health improvement services and works with Public Health Services on the implementation of some of its strategic priorities, including the drug and alcohol strategy. The funds previously allocated to these strategies by the States of Guernsey were transferred to the Commission, along with an additional £250,000 per annum of matched funding depending on what the Commission is able to raise.

Islands Safeguarding Children Partnership

The Islands Safeguarding Children Partnership (ISCP) is a multi-agency committee with representatives from the public, private and voluntary sectors. It was given legal status in the Children Law. Its main purpose is to enhance the safety of children and young people in the Islands through promoting effective coordination and cooperation between agencies providing services to children and families. The role of each agency within the partnership is clearly defined. There is a governance committee and several formal sub-groups, one of which looks at individual cases and another which coordinates learning from serious case reviews.

Both the Children and Young People's Plan and Health Improvement Commission arrangements have in common multi-level governance structures and a comprehensive outline of roles and

responsibilities of the key bodies and personnel involved.¹³⁰ We propose that each of these features are included in the framework for future justice policy. There is also scope for cross-system reviews of individual cases involved in the adult criminal justice system to identify lessons about how various States services have engaged with them which would not be visible purely by looking at administrative data.

In relation to governance structures, as noted in Chapter 1, the governance of the justice system is complicated by the fact that different parts of the system must operate with different degrees of independence. For example, the police, prison and probation should be operationally independent. Since the governance review, the CjHA has sought to strengthen understanding about the respective responsibilities of justice agencies and politicians. For example, a protocol has been developed between the Committee and the Head of Law Enforcement. We suggest that similar protocols are drawn up for Prison and for Probation. A proposal to improve clarity about the operational responsibilities of justice sector agencies and of other States services was given at the workshops to overcome siloed approaches to justice matters. One way to address this would be to formalise respective roles and processes by codifying them in service level agreements. However, the creation of a clear outcomes framework and action plan stemming from the justice strategy with oversight from the operational implementation group may prove sufficient. Should that not be the case, the idea of formal codification of processes raised in the workshops could be revisited.

More complicated is the importance of preserving the independence of judicial and prosecutorial decisions and maintaining the functioning of the courts free from influence of other parts of the system and the States. The Judiciary, Law Officers and HM Greffier must maintain distance from policy and other decisions which makes it a challenge for them to engage in matters related to justice reform. On the other hand, the fact that they are instrumental in justice processes means that in order for the reforms to embed effectively a mechanism must be found to include within future governance arrangements a means for them to be informed of and where appropriate engaged in implementation. The Court Users Group is an example of informal operational collaboration working well in practice to improve the administration of justice. Nevertheless, we do not consider that this will be sufficient to drive change of the nature which would be required to achieve the Vision. We propose that working arrangements between agencies and institutions in the justice system are formalised by establishing a Board to support both the necessary change in justice processes, services and institutions which will stem from the proposed reforms and to facilitate greater insight into the functioning and impact of the system. Clear protocols could be drawn up to outline the mandate of the group and demonstrate the nature of each stakeholders' involvement. The Criminal Justice Boards in England and Wales include representatives of the judiciary and the prosecution service. These institutions could have observer status, for example, which would enable them to be party to any discussions related to challenges to the proper administration of justice within their remit and potential solutions.

The recently introduced arrangements for civil service support to Committees in the form of Strategic Leads represents an opportunity to align future justice policy across all Committee, provided that the respective roles are agreed and clearly defined.

¹³⁰ See the Children and Young People's Plan and CfHSC responsibilities related to the Health and Wellbeing Plan, for example.

3.5.1 A mechanism for broader community ownership of justice matters

The Health Improvement Commission delivers a means of engaging with the public and taking decisions about implementing strategic priorities with a range of contributors with an element of independence from government and politics. The creation of a similar body, a Community Justice Commission, would play a role in promoting new ways of thinking about justice matters by providing politically independent, impartial advice to relevant Committees and States institutions, based on up-to-date research evidence. For example, it could provide evidence-based advice about the efficacy of short prison sentences or the relative merits of alternative sentences, as well as advice on potential trade-offs such as neighbourhood policing versus border control. This would provide a means of preserving the independence of existing justice agencies and institutions. The Commission could also commission community justice services and provide a public education and consultation function.

We propose that the Commission should play other functions including:

- holding a database (anonymised) to enable robust, long-term evaluation and transparent, independent assessments of how the policies, agencies and approaches under the justice framework are working, with whom and with what impact;
- conducting population surveys and public consultation about community justice matters;
- delivering active public engagement and education initiatives, for example “You be the Judge”;
- engaging service users in the co-production of new services;
- undertaking robust, long-term evaluation of the impact of community justice initiatives;
- delivering restorative justice and mediation services in partnership with, but independent of, the formal justice systems; and
- hosting coordinators of existing core justice-related sub-strategies (i.e. domestic abuse), voluntary sector providers and volunteers, and future new strategies which we propose in this report.

There is potential for Committees to elect up to two non-voting members to support the implementation of policies. For example, the Committee *for* Education, Sport and Culture has co-opted an additional member to provide additional expertise for its education reforms.

Recommendation 31: To support the future justice framework, we recommend a source of independent evidence assessment is created to provide Committees with advice to support their decision-making about new initiatives that might be adopted to meet strategic priorities. We propose that a Community Justice Commission is established to perform this and other strategic functions, including oversight of a range of community justice initiatives which are not part of the formal justice system.

Recommendation 32: The CjHA could consider electing a non-voting member with relevant expertise to support and champion the implementation of the justice strategy and give consideration to them chairing both the cross-government supervisory group and the Community Justice Commission.

3.5.2 Strategic political leadership to drive change and foster cultural transformation

Implementing a shared vision requires supporting frameworks and workstreams that work across policy boundaries. Although the proposals above – and recent structural changes to the staffing of support to Committees – will provide the foundation for this, implementing a strong vision also requires imaginative leadership to drive change while bringing together different, sometimes disparate, parts of the community.

Broad political leadership will be required to build support for a community justice approach. This will include, for example, promoting the need for early intervention and for limiting exposure of children to the damaging effects of crime and disorder (which can include the justice system itself) as potentially the best means of keeping crime rates low. It will also be important to articulate why the justice system should not necessarily be seen as the default or most effective response to justice issues and how the resource envelope will necessarily impact on justice priorities. In promoting the Justice Vision, the message should be reinforced that the Bailiwick is largely safe and secure: there is a very low chance of being a victim of personal crime; the biggest issue detection-wise is border security and there are other issues which pose a potentially greater threat, for example cyber security. A culture is needed, within individual agencies and in the system as a whole, which acknowledges that a justice system response may not be the most effective response in terms of long-term safety and security.

Recommendation 33: We propose that, in the next phase of the Review, the CfHA focuses on building support for the Vision, working across Committees to set and communicate strategic direction and broker support and resources for a broad-based transformational strategy, and monitoring its implementation.

3.5.3 Brokering a whole-system approach

The CfHA's current justice strategy priorities are set out in its Delivery Plan 2019-2022,¹³¹ the strapline to which is "Using all available resources to build and protect a safe, just and tolerant society". This is a useful emphasis which should underpin the Committee's strategic approach to implementing the justice strategy in brokering both additional resources and the best use of available resources across government, to seek to build a whole-system approach to reducing demands on the justice system and enhancing community safety. In order to use cross-government public funds and other resources to best advantage, including through cooperative and flexible working practices, the CfHA must develop a comprehensive understanding of demands on the justice system, the extent to which they originate from within or outside the system, and the related costs.

Greater Manchester Combined Authority cost-benefit analysis model

Greater Manchester has devised a model for identifying the fiscal, economic and social value of project outcomes and identifying which public agencies see this benefit. Cost-benefit analysis has become a central element in the development of business cases for new and innovative ways of working in the locality across different areas of government. The model is used to understand the value for money provided by an intervention, particularly in terms of the use of taxpayers' money and the extent to which new delivery models might generate savings and improve outcomes compared with business as usual. The model also enables the

¹³¹ <https://www.gov.gg/CHttpHandler.ashx?id=120147&p=0>

wider economic case or public value to be articulated, quantifying economic benefits that accrue to individuals and businesses, and social benefits in terms of improved individual health and wellbeing. The model can quantify the return on investment and, where this is calculated as positive, how long it will take before the benefits start to outweigh the costs.

Related to this is the importance of ensuring that justice agencies and existing and new community justice initiatives are sufficiently funded to have the desired impact. Another strategic priority for the Committee should be to identify current and future resource requirements and to include within the justice strategy a long-term strategic approach towards both recruitment, retention and skills and infrastructure, buildings and equipment.

Recommendation 34: The future justice framework should include a clear statement about leadership strategy. A key role for the CfHA should be to seek to harness all available resources across government and to create a framework for future justice policy so that these are deployed in a manner which maximises cross-government capacity to build and protect a safe, just and tolerant society. Committees should work together to design, develop and deliver coordinated services that will improve outcomes for people with justice experience and promote cultural change. Achieving the Vision will require significant additional resources for transformation and transition in order to create future justice policy which represents value for money in the long-term.

3.6 Effective processes and effective use of technology

Two of the existing priorities within the public service reform plan are digitalisation and performance. These should become a significant workstream under the future justice framework in order to meet the commitments to effective and efficient processes and communication.

3.6.1 Digitalisation

The Bailiwick's public service transformation agenda includes redesigning public services to deliver them digitally where possible. A primary aim is to reduce the civil service by 200 posts. While it has been emphasised that this specific programme does not include teachers, nurses, law enforcement officers, social workers or other public sector workers, digitalising aspects of the administration of justice is not explicitly ruled out. We have heard during the course of our Review that Law Enforcement and the courts would benefit most from a strategic focus on the potential to develop more efficient processes through digitalisation. There is therefore an opportunity for these services to be given consideration to work at an early stage with the strategic partner, Agilisys, appointed by the States to modernise IT systems and improve the delivery of public services through the adoption of digital technology, under a 10-year, £200m programme.

Digitalisation is a strategic priority detailed in the business plan for the Offices of HM Greffier, HM Sheriff and HM Sergeant and Bailiff's Chambers. There is an opportunity to capitalise on the existing plans for upgrading information management systems and making better use of ICT. While HM Greffier rightly should have no role in monitoring the effectiveness of the system for its own purposes, the courts hold data which is crucial to the Committee's better understanding

of justice processes and outcomes. The current programme is an opportunity to ensure that the data collated maximises potential for greater transparency about how the system operates.

As we identified in Chapter 2, there is potential to go further than the current plans if a new approach were to be adopted to understanding the administration and use of the justice system and taking steps to reduce demands on it as much as possible. HM Courts and Tribunals Service in England and Wales is implementing a large-scale digitalisation programme to transform some aspects of the administration of justice. In the Bailiwick, not enough is yet understood about the existing system to enable decisions to be made about where digitalisation of processes for administering justice could add value or save costs. There is existing software (Spider) to enable more timely data monitoring within and across justice agencies, including at the court. The States' digitalisation programme should include consideration of the potential application of data science, including modelling, to data-driven decision-making to facilitate the use of justice reinvestment approaches.

Recommendation 35: Justice policy should be prioritised under the public service digitalisation programme to fully realise the benefits of facilitating data-driven decisions during the implementation of the justice strategy and reduce inefficiencies in the existing system. While some of this work is underway, we propose that this should include exploring the potential long-term cost benefits of an end-to-end digital system for the justice system. Further investment in ICT is also urgently needed.

3.6.2 Performance

There is an urgent need to create an overarching performance management system for the justice system and wider justice policy. This should be prioritised in the next stage of the Review. The CfHA (and wider government) should in future be taking strategic decisions based on a fuller understanding of the potential impact to the system.

Recommendation 36: The CfHA, in partnership with other Committees, should develop a comprehensive dataset to facilitate understanding of the current demands on the justice system (criminal and family) for the purpose of making evidence-based decisions about future justice policy which will improve outcomes for people. This should involve collating data held within the adult and youth justice systems on those who have contact with it and linking this to data held by other parts of government about education, housing, benefits, income and health. CfHSC should be responsible for collating data on children in the youth justice system.

Orkney has recently undertaken a community justice needs assessment incorporating data on the nature of the crime problem and an audit of existing statutory and community agencies providing relevant services.¹³² We have collated some of the data required for such an exercise during our Review. Collating data about the justice system should be a collective endeavour, including through the Law Officers and Greffe, which play important roles in justice processes. Political direction may be required to take this forward.

¹³² <http://s3.spanglefish.com/s/34034/documents/community-justice/community-justice-needs-assessment-v.1.1.1.pdf>

The CfHA must be properly resourced to enable it to monitor and report on justice policy outcomes. This will also require justice agencies, Law Officers and the court to collate additional information which in turn will require additional funding and staff for data collection and monitoring capacity – for example, this could include data analysts embedded in agencies and the creation of a Director of Justice Policy Performance along with additions to the policy team to improve analytical capacity and the ability to conduct more internal review. This will also require data that is collected by other Committees to be collated and shared by them with CfHA. This may require additional resources for other social policy functions, notably CfHSC regarding children involved in the youth justice and Convenor system.

Examples of effective performance monitoring in the Bailiwick

Public health

Public health strategies are becoming well established, with embedded performance monitoring enabling a systematic approach to improving health and wellbeing in the Bailiwick. This is being done through:

- prioritising prevention and early intervention, which will achieve change for the greatest number of people at an affordable cost;
- championing approaches that support individuals, families and communities in taking responsibility for their own health and wellbeing; and
- working with partners across government, non-government and private sectors to make certain that public health is included in all policies.

Cross-committee engagement and support are needed to embed a “health in all policies” approach to create a positive environment for health. Monitoring against KPIs is embedded into reporting on the progress of individual strategies which form part of the Policy and Resources Health and Wellbeing Priority.

The public health team is producing a public health outcomes framework which will become a central repository for data published in all public health work areas. The framework will show health indicators considered to be important for the future, despite data to evidence them not yet being available. The aim is to make this available to the public online as the go to place for public health information. A health intelligence team has been established to collate, monitor and analyse data.

Children and Young People’s Plan

The Children and Young People’s Plan uses Scoreboard software to monitor all objectives and KPIs, with a live data-tracking system across Committee areas. This software is available across the States.

Recommendation 37: Implementing a data-driven approach to justice policy will require an increase in resources and capability within the CfHA and individual agencies both for ICT systems and analytical capacity. Building a data-driven whole-system approach to understanding the demands placed on the justice system will facilitate decisions about the future prioritisation of resources to reduce the long-term costs of the justice system. A business case for a community justice intelligence team should be made to the Policy and Resources Committee early in the next phase of the Review.

3.7 Shared values and outcomes

We identified in Chapter 2 an overarching Justice Vision to underpin the future justice framework. We also proposed a set of principles which could give effect to that Vision during the next phase of the Review. As was the case with the Children and Young People's Plan, we propose that further consultation is undertaken to devise a set of shared values and outcomes to be delivered in partnership by States agencies and the community.

3.7.1 An overarching outcomes framework

There is increasing interest in the potential of place-based approaches to social problems in the UK and some parts of the US. The most well-developed example of a whole-place approach to justice is Scotland where justice is integrated within a broader framework for improving outcomes across the nation.

In June 2018, Scotland launched a national performance framework. The most recent version comprises 16 national outcomes and 81 national indicators which are broad measures of national wellbeing, covering a range of economic, health, social and environmental indicators and targets. The framework identifies how government agencies contribute directly and indirectly to each of the outcomes.

Examples of the overarching outcomes which might relate to justice and social order are:

- We have tackled the significant inequalities in Scottish society.
- We have improved the life chances for children, young people and families at risk.
- We live our lives safe from crime, disorder and danger.
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.
- Our young people are successful learners, confident individuals, effective contributors and responsible citizens.
- Our children have the best start in life and are ready to succeed.

There is already a set of overarching outcomes which the Future Guernsey Plan aspires to and which could form the basis of a future cross-Committee outcomes framework within which justice outcomes could sit. A start has been made on devising a comprehensive social policy outcomes framework, identifying the contributions made by each Committee and related agencies. This sets out three high level outcomes directly related to justice including "staying and feeling safe", "attitudes are more positive and inclusive" and "maximise people's capability to choose, act and accomplish". These fit well with the aspirations of the Justice Vision. The framework also currently identifies indirect links between justice and other outcomes "achieve economic wellbeing" and "better community cohesion". These links should be articulated more fully.

Ideas about more specific justice outcomes raised with us during our consultation include:

- Ensure justice responses are proportionate, just (procedurally fair), effective and promote rehabilitation;

- Use prison only where necessary to address offending or to protect public safety, focusing on recovery and integration;
- Focus on prevention and early intervention;
- Improve the community's understanding of and participation in community justice;
- Improve health and wellbeing in justice settings, focusing on mental health and substance misuse;
- Reduce the harm that offending causes; and
- Promote social inclusion and active citizenship.

Under the health outcomes framework, a set of joint outcomes have recently been agreed to monitor the impact of the Children and Young People's Plan. Some relevant key performance indicators for community justice are already in existence, for example within the Children and Young People's Plan and the Health and Wellbeing Strategy.

Conclusion: Achieving justice and social justice will require justice outcomes to be linked to a range of other outcomes under the Future Guernsey Plan including, for example, reduced health inequality, fewer people accessing health and social care services, a skilled and capable workforce, every child having a nurturing and supportive start in life, community cohesion, and economic wellbeing.

Recommendation 38: Once there is a solid understanding of the existing impact of the justice system, the CfHA should work with partner Committees to agree a set of overarching outcomes which encapsulate the Vision and work alongside KPIs to drive cross-committee activity to fulfil it. This should include identifying what existing outcomes should form part of the justice outcomes framework and what new outcomes might be required. Justice outcomes should be integrated within a broader outcomes framework covering the outcomes outlined in the Future Guernsey Plan. Once a baseline has been established, a justice outcomes improvement plan should be drawn up to prioritise cross-Committee activity under the new justice framework.

3.8 Effective use of evidence

While we have advised that further intelligence is required which will provide a better indication of the outcomes of existing justice-related programmes and practice, the information gathered during the course of this Review indicates that the Bailiwick would benefit from the introduction of some new evidence-based community justice programmes. We propose a series of mechanisms be introduced to build compliance, create a shared sense of social order and achieve broader cross-government and community responsibility for justice matters.

3.8.1 Partnership approach to managing people with complex needs

The pressing demands on Law Enforcement and the gap in supervision arrangements after release from prison for adults who have served custodial sentences of less than 12 months¹³³ urgently need to be resolved. The Committee has considered a business case for extending probation supervision to those who have served less than 12 months in custody. Similar reforms in England and Wales introduced in 2014 have not had positive outcomes on rates of reoffending

¹³³ Unless they have received both a prison sentence and a probation order

or imprisonment.¹³⁴ Indeed, the Government has since considered abolishing short custodial sentences for non-violent offences. The criminal justice strategy has an outstanding action for the police to implement an integrated offender management (IOM) scheme, which we propose warrants further consideration, bearing in mind that in England and Wales different types of initiatives have now been developed, with a similar purpose.

IOM schemes provide a cross-agency response to crime and other forms of social disorder involving people facing complex issues and/or multiple disadvantage which bring them into contact with the criminal justice system. This can include persistent offenders and/or drug misusers and/or people who have housing/employment/health and mental health problems. Those affected are identified, managed and supported jointly by agencies working in partnership to provide an individualised response to the challenges presented. Participation is voluntary.

Since these schemes were established in England and Wales, there has been a growth in broader services to provide comprehensive support to people with complex needs.¹³⁵ IOM and complex needs services have shown success in reducing reoffending and reducing resulting costs on the criminal justice system and other agencies involved in providing crisis care. This must be a partnership endeavour and could provide a voluntary solution to providing challenge and support to people leaving custody as well as those in the community who frequently come into contact with the police for anti-social behaviour, low-level offending and mental health problems.

Another option being explored is for mental health nurses to work jointly with emergency services, including in the control centre, which is the practice in the Isle of Man.

We found that there is recognition by Law Enforcement and the public health team of the potential economic benefit of keeping people with mental ill health and addictions out of the criminal justice system, yet they often do not meet the threshold for existing mental health services. The partnership nature of such an initiative presents challenges for funding. As we identified in Chapter 2, there are not sufficient resources within criminal justice agencies, as they are currently operating, to facilitate changes in practice of this nature. Existing options for cross-government funding include making a business case for additional resources, pooled funding arrangements and “budget trading”.

Mobilising resources across Committees

The use of pooled budgets in the Bailiwick is in its infancy. Views on the merits of pooled budgets are mixed. While it has been welcomed by HSC who provide 90% of the pooled budget for MASH, reservations have been expressed by other agencies that they feel they have been asked to reallocate existing budgets to co-fund each new initiative or post even where there may not be tangible benefits for the agencies concerned. This concern about the use of shared budgets, and the limited resources already available to the justice system to cope with demands placed on it, means that we are not convinced that this is a solution either

¹³⁴ See for example Justice Select Committee (2011) [The role of the probation service](#), London

¹³⁵ See for example Revolving Doors Agency (2015) [Comprehensive services for people with complex needs](#), London

for this particular proposal or more broadly for achieving the level of transformation required to achieve the Vision.

Another example of innovation in directing resources across government towards preventative initiatives is the introduction of free contraceptives for under-21s, a key tenet of the current Sexual Health Strategy. While this was a CfHSC initiative, it was funded through the Guernsey Health Service Fund which is overseen by CfESS. The success of this intervention is being measured by monitoring teenage pregnancy rates. As well as the costs associated with pregnancy and birth, under-18 conceptions can lead to poor outcomes in the longer term, including socio-economic deprivation, mental health difficulties and lower levels of educational attainment.¹³⁶

A business case should be made for additional funds (for all agencies involved) to enable this new service to be established and operate for two years.¹³⁷ This should include an estimate of the potential future cost savings for individual agencies and across government stemming from reductions in demand. The benefits of developing a model which is capable of providing support and intervention to people at risk of engagement with the justice system but who do not meet the threshold for adult safeguarding or other social care services should be considered as part of the business case.

Conclusion: There is an urgent need to address both the demands on police time from people with mental health problems or other social issues and the lack of statutory support and supervision for people leaving custody after serving prison sentences of less than 12 months¹³⁸. This should not solely be the responsibility of Probation or the Law Enforcement.

Recommendation 39: An integrated community justice team should be established, based on the Integrated Offender Management team and providing comprehensive services for complex needs models, with partnership between public health, social care, housing, Law Enforcement and Probation. A business case should be made to the Policy & Resources Committee for the necessary additional funding to be provided for each agency to contribute personnel and deliver support services.

3.8.2 Community problem-solving courts

As we noted in Chapter 2, Bailiwick courts play an adversarial role in the criminal justice system and media coverage of court cases can be perceived as stigmatising and interfering with the fair administration of justice and future prospects of rehabilitation. There is potential for existing courts to be adapted to introduce a greater element of focus on judicial involvement in the ongoing progression of cases, both sentenced and unsentenced. Such courts enable the complexity of the circumstances of the offending behaviour to be addressed while also maintaining an emphasis on personal responsibility. The progress of the individual in dealing

¹³⁶ Guernsey and Alderney Sexual Health Strategy 2017–2023; the KPI is a 50% reduction in under-18 conceptions by 2023 to eight conceptions per 1,000. It has been estimated that, for every £1 invested in contraception, over £11.09 is saved.

¹³⁷ The Home Office created [toolkits](#) to facilitate invest to save calculations.

¹³⁸ Post custodial supervision has been provided in some cases by combining short custodial sentences with probation orders under the Probation Law 2019

with factors which contribute to their offending is reviewed through regular reporting back to court, with representatives of each of the agencies involved – for example, housing, education, or mental health or substance misuse treatment – reporting back on progress too. In this way the progression of the sentence becomes part of a constructive, ongoing relationship through which both individuals and States services can be transparently held accountable to the court. This would require legislative provision to enable sentence reviews, also known as judicial monitoring, as well as additional sentencing options and additional resources.¹³⁹ Some courts facilitate judicial monitoring pre-sentence with the option for prosecution not to proceed should it be judged no longer warranted due to the progress of the individual (known as deferred prosecution).

Community problem-solving courts operate in various international jurisdictions and typically operate out of existing courts. They bring together the authority of the court with the services necessary to reduce family breakdown or further criminality and improve outcomes in terms of rates of compliance and reoffending.¹⁴⁰ Such courts vary in type – each specialising in tackling a different target group – and share several key features, including:

- collaborative intervention and supervision;
- accountability through judicial monitoring;
- a procedurally fair environment; and
- a focus on outcomes.

The Centre for Justice Innovation in the UK summarises the international research evidence on different types of court as follows:

- There is strong evidence that adult drug courts reduce substance misuse and reoffending. They are particularly effective with offenders who present a higher risk of reoffending. The evidence on juvenile drug courts suggests they have either minimal or harmful impacts on young offenders.
- The evidence on family treatment courts and family drug and alcohol courts is good. It suggests that they are effective in reducing parental substance misuse and can reduce the number of children permanently removed from their families.
- The evidence on mental health courts is good. High-quality international evidence suggests that mental health courts are likely to reduce reoffending, although they may not directly impact offenders' mental health.
- The evidence on the impact of problem-solving domestic violence courts on outcomes for victims, such as victim safety and satisfaction, is good. The evidence on their ability to reduce the frequency and seriousness of a perpetrator reoffending is promising. This is encouraging when set against the lack of other effective options for reducing reoffending by perpetrators of domestic violence.
- There is promising evidence to support the application of the key features of problem-solving courts to two specific groups of offenders where they have identified multiple and complex needs: female offenders at risk of custody and young adults.

¹³⁹ An example of this is section 178 of the Criminal Justice Act 2003 in England and Wales under which permission has been granted by the Secretary of State for Justice for selected courts to use the powers despite this section not yet having been enacted.

¹⁴⁰ See Bowen, P. and Whitehead, S. (2015) [Problem-solving courts: an evidence review](#). London: Centre for Justice Innovation

Recommendation 40: The independent Sentencing Review should examine the scope for the introduction of community problem-solving courts which put judges at the centre of rehabilitation as well as improve public safety outcomes by ensuring broader accountability for individuals and public services.

3.8.3 Family engagement

Another potential opportunity for improving community cohesion and social order is to capitalise on the role of families where they can act as pro-social influences. Maintaining family ties is known to have a beneficial impact on reducing future offending. There is scope for work on this to be included in the implementation of the rehabilitation and resettlement strategy—which includes a pathway on family and social support—and under the new Strong Families programme. For example, this could include enhancing provision for ensuring that the children and families of prisoners are able to maximise contact with their parents/relatives, where appropriate, and ensuring that families are actively engaged in sentence planning as part of the work of the Probation Service, in collaboration with Children’s Services. The greater use of restorative approaches, including family group conferences by the Convenor and in prevention and early intervention programmes could also usefully be explored.

Recommendation 41: The rehabilitation and resettlement strategy should include dedicated work on family engagement under the family and social support pathway. Scope for joint activities with Children’s Services could usefully be explored as part of this.

3.8.4 Networks to build community cohesion and improve public safety

There is evidence that community initiatives which build networks of support can provide opportunities for reintegration which can reframe people’s identity, improve community cohesion and prevent future offending. We summarise some examples below which would broaden the range of rehabilitative and restorative initiatives identified as necessary in Chapter 2.

Mental health and substance misuse recovery networks

Recovery networks are based on evidence that recovery pathways are initiated and enhanced by positive social networks and the underlying changes in social identity that are associated with the transition from stigmatised and excluded groups to positive and pro-social groups.¹⁴¹ While these generally focus on substance misuse, this model can also be applied to build social capital to support desistance from crime more generally.¹⁴² A study by UK charity KeyRing illustrated the benefits of combining recovery networks with therapeutic and practical support in maintaining housing tenancies and abstinence from substance misuse.¹⁴³

¹⁴¹ <http://shura.shu.ac.uk/14272/3/Edwards%20-%20Best%20et%20al%20-%20Recovery%20networks%20and%20community%20connections%20%28AM%29.pdf>

¹⁴² <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/06/Academic-Insights-Best.pdf>

¹⁴³ https://www.keyring.org/uploaded_files/1101/images/Recovery%20Network%20evaluation%20-%20Emerging%20Horizons.pdf

abandofbrothers

Charity organisation, abandofbrothers, uses a rites of passage approach to the rehabilitation of men in the criminal justice system. They recruit and train a community of older men from all walks of life to act as mentors, coaches and stewards of the young men's development towards successful pro-social attitudes and lives. This model received the Queen's Award for Volunteering in 2015. Their most recent evaluation showed an 80% reduction in severity and frequency of offending.¹⁴⁴

Circles of support and accountability

Circles of support and accountability seek to prevent sexual abuse and build safer communities by working in partnership with the police, Probation, local multi-agency public protection arrangements and child protection professionals to monitor and support sex offenders in the community.¹⁴⁵ Groups of between four and six fully trained and professionally supported volunteers regularly meet with a person with a history of sexual offending for a period of between a year and 18 months.

The high levels of social stigma attached to sexual offending mean that perpetrators are often shunned by family, spouses, friends and other support networks, but social isolation increases the risk of future crime. Circles of support and accountability have been proven as an extremely effective way of enhancing public safety by minimising alienation and supporting reintegration.

Recommendation 42: Avenues for funding a range of community-based groups providing support to people involved in the justice system, with a particular focus on creating supportive networks to build social capital and improve public safety should be explored by the Community Justice Commission. Consideration could be given as to whether the seized asset fund could be used to support some of these initiatives.

3.9 Effective communication and public engagement

The third priority of public service reform is customer-focused services. Our survey illustrated the importance of understanding and addressing the views of the whole community in determining the direction of future justice policy and in ensuring widespread support for its implementation. As we noted in Chapter 2 this should include meaningful ways of incorporating the views of a range of service users. The survey suggests that overall the community is supportive of a broader conception of justice policy than anticipated by some stakeholders. It also highlights that, if the Government wishes to adopt such an approach, there is another group of people, with strongly held views, who will need to be taken along with any new direction for future justice policy. There were several proposals for improving public engagement within the criminal justice action plan which should remain priorities for the future justice framework.

The Community Justice Commission should explore ways to promote greater public awareness of the activities of the justice system and wider justice policy. This could mean engaging the community in nominating projects for community service and providing plaques to publicise completed projects. Another approach could be the promotion of positive news stories about people who have been diverted or stopped offending.

¹⁴⁴ See <https://abandofbrothers.org.uk/about-us/our-aims/>

¹⁴⁵ See <https://www.circles-uk.org.uk/about-circles>

In the UK, the You be the Judge initiative enables the public to examine real-life court cases, hear the facts of the case, and the aggravating and mitigating factors, then decide the sentence.¹⁴⁶ They then get to see how this sentence compares to the one handed out by the judge in the real case. This promotes greater awareness of existing judicial practices and how this relates to perceptions of proportionality of sentencing. Transparency of data about the outcomes of justice policy and about the nature of people involved in the justice system would promote better public understanding of the breadth of justice issues facing the Bailiwick. Finally, the initiatives we propose above for promoting greater community cohesion will provide more opportunities for volunteering.

Efforts to foster the cultural change required by the Vision would benefit from the involvement of schools and the Youth Commission to work with children to ensure that they understand the principles of social justice and community cohesion and what it should mean for all children. For example, affordable activities, freedom from social harm, tolerance, inclusion, as well as rights and responsibilities which are typically addressed in citizenship education. The Youth Commission could help to promote inclusion by ensuring that representatives consult widely amongst their fellow pupils to gather a range of children's perspectives about the drivers of crime and other forms of social disorder in the Bailiwick.

3.9.1 Overseeing a robust complaints system

The Committee should ensure that there is a clear and responsive complaints system, with transparent processes in place for each justice agency and institution. Their role should focus on ensuring that complaints processes are properly administered, engendering public trust in these systems, and monitoring high level trends, rather than the nature of the individual complaints themselves.

Recommendation 43: The future justice framework should include a communications strategy, with funding for the Community Justice Commission to undertake public information and public engagement work. The CfHA should also have a dedicated communications officer to provide a function across all justice agencies. Complaints processes for each justice agency should be published on the CfHA's website.

¹⁴⁶ See for example <http://ybtj.justice.gov.uk/>

Appendices

Appendix 1: Methodology of the Review

In order to assess the progress that has been made in implementing the strategy and the question of “where we are now?”, the Review team has:

- sought to collate and analyse already available quantitative information about the administration of the justice system, the costs of running it and the people involved with it;
- held a workshop with data leads from core criminal justice agencies to examine available data which could be drawn together better to understand the functioning of the system;
- collated and analysed publicly available data in annual reports;
- supported the commissioning of bespoke data from Law Enforcement and Probation on a cohort of people involved in the criminal justice system;
- held focus groups with service users involved with the prison and the probation service and with two groups of young people at the Youth Commission;
- sought the views of the CfHA and principal justice institutions, focusing primarily on criminal justice and family justice agencies, about current strategic and operational priorities and their progress in delivering the strategy and any challenges encountered through stakeholder meetings and written submissions;
- sought the views of representatives from public health, education, Children’s Services, employment and social security, and the Criminal Bar and invited engagement with all relevant Committees;
- traced the links to social policies initially identified and reviewed current related strategies; and
- consulted the public on their views of the current system.

In order to assess the question “where do we want to get to?”, the Review team has (in addition to the above):

- identified existing programmes and initiatives across the three phases of intervention (prevent, challenge and restore) in terms of their evidence-based potential to add value and transform service delivery;
- held workshops on the youth and adult justice systems to consider the Justice Vision and other priorities for future justice policy, how it might be achieved and how any potential barriers might be overcome; and

In order to assess the question of “how should we get there?”, the Review team has (in addition to the above):

- identified existing and alternative policy levers to potentially deliver the future justice framework.

Recommendations

Recommendation 1:

A future justice strategy should seek to build on the foundations laid by the Criminal Justice Strategy 2013–2020 and ensure that the action plan remains live as a meaningful driver of progress.

Recommendation 2:

The achievement of justice outcomes would benefit in future from greater clarity about the contribution that other departments should make towards them.

Recommendation 3:

The future justice strategy should be underpinned by the revised Justice Vision, which should be used more prominently to describe the intended future direction of policy. The implications of the Justice Vision for the level of transformation to justice policy which may be required will entail careful consideration when devising, seeking support for, and implementing a new justice framework. This will require ongoing reflection by politicians, members of the legal profession, criminal justice agencies and other public services, as well as further public debate.

Recommendation 4:

The proposed principles for the future justice framework should apply to both the family and criminal justice systems.

Recommendation 5:

In preparation for the future justice framework, a review should be undertaken of the formal and informal diversion measures currently used in the justice system, along with scoping of alternative or additional measures which could be introduced either within the existing legal framework or by amending legislation.

Recommendation 6:

A review should be undertaken to examine in detail the wider processes and procedures in respect of children who are alleged to have committed offences as part of a report into outcomes for children in the short, medium and long term, including the length of time that they are in the justice system. This review should examine the operation of the Children Law for children alleged to have offended, the merits of the current dual-track approach, the potential for, and desirability of, greater diversion from formal justice measures, and whether any further legislative change might be required. The review should also consider the appropriateness of the age of criminal responsibility and whether some Children Law youth justice provisions should be extended to young adults.

Recommendation 7:

We propose that an independent analysis is commissioned of sentencing practices and factors taken into account in decision-making, including offending history and aggravating and mitigating factors for adults, young adults (aged 18–25) and children (aged under 18). The CfHA should use this evidence to establish a baseline and in future monitor sentencing trends for different types of offence, including how sentences and sentence lengths compare for different types of offence and by different characteristics.

Recommendation 8:

An independent review of sentencing legislation and sentencing outcomes should be a priority for the next phase of the Justice Review. The Review should examine the purposes of sentencing, existing sentencing regimes, and potential additions or subtractions to the options available to the courts, and make recommendations to the States about potential legislative change. This need not entail creating a more prescriptive sentencing framework with the potential to curtail judicial discretion. The States should set the direction for future justice policy by clarifying, eventually in legislation, what the prevailing purpose of the criminal justice system should be to best realise the Justice Vision. This will require political and public debate which recognises the existing tensions between sentencing goals, the diversity of public attitudes, and the current culture of the system.

Recommendation 9:

The review of youth justice provisions in the Children Law should be separate from, but aligned with, the wider review of sentencing policy. The review should consider how to ensure that responses to youth crime are focused on improving future behaviour and life chances in accordance with the Justice Vision. Any resulting activity should be included within the Children and Young People's Plan.

Recommendation 10:

We propose that equality and inclusion should be included as overarching commitments in the future justice framework. The framework should adopt a broad interpretation of the term "justice", integrating action to deal with justice and social order issues related to crime and family breakdown within wider structures to tackle real or perceived social injustices within the Bailiwick. This should take account of the impact of a lack of social capital on achieving community cohesion. Future strategic approaches towards achieving justice in its broadest sense should therefore seek to address related issues of social inequality, including poverty and class-based discrimination. This will require careful consideration of the implications of adopting a social justice approach for the current 'traditional' purposes of the justice system.

Recommendation 11:

The Committee *for* Home Affairs should consult on and agree with other responsible Committees a definition of social justice for the Bailiwick.

Recommendation 12:

The principles of procedural justice should become part of the commitment to equality and inclusion in the new justice framework. This may require training across all justice agencies and institutions.

Recommendation 13:

We propose that mainstream States agencies should in future be responsible for addressing social policy issues within the justice system by default. As well as facilitating better integrated provision for people involved in the justice system, it will also promote the cultural change necessary to ensure that the social justice element of the Vision is realised.

Recommendation 14:

Staff recruitment, retention and development and strong financial planning should be included as enablers under the new justice framework. This should include giving consideration to

introducing a minimum number of days training entitlement annually for those working in the justice system, including the judiciary.

Recommendation 15:

Without a unified understanding of the purpose of the justice system, it is challenging to assess its existing performance. We propose that discussions in the next phase of the Review grapple with questions of what effectiveness should mean in the context of the future justice framework. As a starting point, data should urgently be collated and used better to understand the existing functioning of the justice system in order to examine the impact of legislation, administrative processes and other practices and evaluate their efficiency and effectiveness. In the longer term, comprehensive data should be used to drive decisions about spending and policy priorities.

Recommendation 16:

The effective use of evidence in the future justice framework should encompass data about i) the administrative functioning of the system, ii) the characteristics, needs and views of people in contact with the system or at risk of being so, and iii) the impact it is having. It will also be reliant on the application of contemporary research evidence about what might prove effective in the Bailiwick context for achieving the strategic objectives as well as training to raise awareness of that evidence.

Recommendation 17:

The key commitments in the future strategy should largely mirror those in the existing strategy, although the commitment to equality should be extended to include inclusion. In implementing the future justice framework, sufficient resources should be made available to meet core commitments on governance, data, communications, well-functioning ICT systems, staffing and financial planning, which are integral to achieving the Justice Vision.

Recommendation 18:

The CfHA should lead an internal cross-committee review of the extent to which restorative justice and other forms of alternative dispute resolution are currently being used in Children's Services, education and in family justice and criminal justice agencies, with whom and how, and the extent of existing expertise to deliver such approaches. The consultation on the Children Law could usefully include consideration of the merits of a state-funded, confidential, independent mediation service, alongside restorative justice services. The review should also examine public perspectives on the existing complaints systems for the States.

Recommendation 19:

These reviews should inform the creation of a new restorative justice and dispute resolution strategy to be delivered across the Bailiwick. We propose that this strategy be centrally resourced with dedicated funding, coordinated by the Community Justice Commission.

Recommendation 20:

Action on domestic abuse and sexual violence must be given more prominence as an integral part of the future justice framework, within justice agencies and across government. The CfHA should consider broadening the scope of its proposed violence against women strategy to include all domestic abuse and sexual violence, rather than solely focusing on women and girls. In line with the direction of travel of broader justice policy, the emphasis should be on prevention and evaluating the impact of existing initiatives. This should incorporate a review of the funding, functioning and impact of the existing domestic abuse strategy.

Recommendation 21:

We welcome the CfHA's prioritisation of scoping alternative sentencing options. There is significant potential for additional and alternative approaches to the existing sentencing regime. The scoping should form part of the proposed Sentencing Review, also taking into account any relevant recommendations from the Health and Justice Review as well as potential alternatives to sentencing. This in turn should inform the development of a new sentencing strategy which should become a priority workstream under the future justice policy framework.

Recommendation 22:

As part of the Committee's review of vetting and barring legislation, there is scope for a broader examination of the current statutory framework for the criminal records regime, particularly in relation to the impact on people who have committed relatively minor crime as children and young adults.

Recommendation 23:

As part of the review of the processes and systems set out in the P&R plan, particular consideration should be paid to the availability of mediation and the possible benefits for child welfare of introducing mandatory mediation or other dispute resolution procedures prior to accessing the family justice system for relationship breakdown. The creation of a family justice strategy should be a future workstream of the justice strategy.

Recommendation 24:

The emphasis on prevention in the Children and Young People's Plan should be maintained and linked more explicitly to justice policy. The Plan's performance indicators should include some specifically directed towards the reduction of youth crime and contact with the formal justice system. The CfHSC should consider tracking outcomes for children leaving care and children who have been involved in the youth justice system into adulthood.

Recommendation 25:

The future youth crime strategy should include a focus on increased access to affordable physical and other constructive activities for children and young people. The scope for increasing access to such activities for children and young people at risk of offending should be assessed jointly by the Health Improvement Commission and the Sports Commission and used to inform the introduction of the proposed Guernsey Activity passport.

Recommendation 26:

Restorative justice or another form of reconciliation process should be the priority approach for repairing social harm experienced by people who were sent off island to be looked after as children, some of whom may now be adults.

Recommendation 27:

The long-term strategy for economic growth should acknowledge the risks to the community of promoting such growth at the expense of inclusion. We understand that the Policy and Resources Committee is actively considering prioritising action to tackle living standards and promote inclusive growth.

Recommendation 28:

There is an opportunity under education reforms to build an inclusive system to reduce the likelihood of poor outcomes for children who are not fully engaged in the education system,

including involvement with the justice system and exclusion. This will require significant cultural change, which should not be underestimated. There is also a risk that the scale of the reforms and the size of new schools will militate against the overarching aims, which must be carefully considered during implementation.

Recommendation 29:

The CfHA should undertake an audit comparing education provision for people in prison with that available in the community. Future transformation of the higher education system should seek to include people in custody and give them access to a wider range of learning (either virtually or in person).

Recommendation 30:

We propose that the outcomes for the future justice framework are aligned with existing Partnership of Purpose objectives and the overarching themes of the Future Guernsey Plan as far as possible.

Recommendation 31:

To support the future justice framework, we recommend a source of independent evidence assessment is created to provide Committees with advice to support their decision-making about new initiatives that might be adopted to meet strategic priorities. We propose that a Community Justice Commission is established to perform this and other strategic functions, including oversight of a range of community justice initiatives which are not part of the formal justice system.

Recommendation 32:

The CfHA could consider electing a non-voting member with relevant expertise to support and champion the implementation of the justice strategy and give consideration to them chairing both the cross-government supervisory group and the Community Justice Commission.

Recommendation 33:

We propose that, in the next phase of the Review, the CfHA focuses on building support for the Vision, working across Committees to set and communicate strategic direction and broker support and resources for a broad-based transformational strategy, and monitoring its implementation.

Recommendation 34:

The future justice framework should include a clear statement about leadership strategy. A key role for the CfHA should be to seek to harness all available resources across government and to create a framework for future justice policy so that these are deployed in a manner which maximises cross-government capacity to build and protect a safe, just and tolerant society. Committees should work together to design, develop and deliver coordinated services that will improve outcomes for people with justice experience and promote cultural change. Achieving the Vision will require significant additional resources for transformation and transition in order to create future justice policy which represents value for money in the long-term.

Recommendation 35:

Justice policy should be prioritised under the public service digitalisation programme to fully realise the benefits of facilitating data-driven decisions during the implementation of the justice strategy and reduce inefficiencies in the existing system. While some of this work is underway,

we propose that this should include exploring the potential long-term cost benefits of an end-to-end digital system for the justice system. Further investment in ICT is also urgently needed.

Recommendation 36:

The CfHA, in partnership with other Committees, should develop a comprehensive dataset to facilitate understanding of the current demands on the justice system (criminal and family) for the purpose of making evidence-based decisions about future justice policy which will improve outcomes for people. This should involve collating data held within the adult and youth justice systems on those who have contact with it and linking this to data held by other parts of government about education, housing, benefits, income and health. CfHSC should be responsible for collating data on children in the youth justice system.

Recommendation 37:

Implementing a data-driven approach to justice policy will require an increase in resources and capability within the CfHA and individual agencies both for ICT systems and analytical capacity. Building a data-driven whole-system approach to understanding the demands placed on the justice system will facilitate decisions about the future prioritisation of resources to reduce the long-term costs of the justice system. A business case for a community justice intelligence team should be made to the Policy and Resources Committee early in the next phase of the Review.

Recommendation 38:

Once there is a solid understanding of the existing impact of the justice system, the CfHA should work with partner Committees to agree a set of overarching outcomes which encapsulate the Vision and work alongside KPIs to drive cross-committee activity to fulfil it. This should include identifying what existing outcomes should form part of the justice outcomes framework and what new outcomes might be required. Justice outcomes should be integrated within a broader outcomes framework covering the outcomes outlined in the Future Guernsey Plan. Once a baseline has been established, a justice outcomes improvement plan should be drawn up to prioritise cross-Committee activity under the new justice framework.

Recommendation 39:

An integrated community justice team should be established, based on the Integrated Offender Management team and providing comprehensive services for complex needs models, with partnership between public health, social care, housing, Law Enforcement and Probation. A business case should be made to the Policy & Resources Committee for the necessary additional funding to be provided for each agency to contribute personnel and deliver support services.

Recommendation 40:

The independent Sentencing Review should examine the scope for the introduction of community problem-solving courts which put judges at the centre of rehabilitation as well as improve public safety outcomes by ensuring broader accountability for individuals and public services.

Recommendation 41:

The rehabilitation and resettlement strategy should include dedicated work on family engagement under the family and social support pathway. Scope for joint activities with Children's Services could usefully be explored as part of this.

Recommendation 42:

Avenues for funding a range of community-based groups providing support to people involved in the justice system, with a particular focus on creating supportive networks to build social capital and improve public safety should be explored by the Community Justice Commission.

Recommendation 43:

The future justice framework should include a communications strategy, with funding for the Community Justice Commission to undertake public information and public engagement work. The CfHA should also have a dedicated communications officer to provide a function across all justice agencies. Complaints processes for each justice agency should be published on the CfHA's website.

Annexes

Annex 1: The structure of the Committee *for* Home Affairs



Annex 2: The roles of criminal justice agencies, institutions, and other relevant bodies

Bailiwick of Guernsey Law Enforcement (BLE) combining both the police force and the border agency, BLE provides policing services throughout the Bailiwick dealing with reports of crime across the islands and protect the Bailiwick's borders, tackling drug trafficking, economic crime, money laundering, serious and organised smuggling and immigration.

The Office of the Children's Convener oversees the Child Youth Community Tribunal. The Children's Convener will investigate a case initially and decide whether to refer it on to the Tribunal.

The Child Youth and Community Tribunal (CYCT) offers children and young people in need or in trouble the opportunity to have their case heard outside of the Court. Tribunal members decide what action is required in the best interests of the child.

The Youth Justice Service aims to stop young people offending and re-offending. Its role is to ensure the welfare of young people and to protect the public.

The Guernsey Legal Aid Service can provide access to free or reduced cost legal advice in criminal and civil cases if you could not otherwise afford an Advocate.

The Guernsey Prison keep in custody people who have been sentenced to custody by the Courts, including those who are awaiting trial and sentencing, in a safe, decent, and secure environment. Their mission is to address the causes of their offending behaviour and prepare them for release. The Prison holds males, females, young people, children and vulnerable prisoner with varying security categories. It is the only facility suitable for long-term detention in the Bailiwick.

[The Family Proceedings Advisory Service](#) work for the courts to safeguard and promote the interests of children and young people involved in Family court proceedings and ensure that a child's views are represented.

[The Probation Service](#) manage offenders in the community including those on Community Service. They provide reports to the Court and to the Parole Review Committee containing detailed assessments about a person's risk and release plans. Probation officers deliver interventions including the Sarnia Programme, for perpetrators of domestic abuse and the sex offender treatment programme. Interventions are delivered in both the community and prison settings.

[The Law Officers of the Crown](#) provide an independent and objective prosecution service for the Bailiwick and provide a range of legal services for the Crown, the States of Guernsey and Alderney and Chief Pleas.

[Her Majesty's Greffier](#) is the Clerk of the Royal and Magistrate's Courts and Registrar of the Guernsey Court of Appeal. The Greffier or a Deputy Greffier attend all court hearings and keep the records of the court. HM Greffier is also the registrar of births, deaths and marriages.

[Her Majesty's Sheriff & Sergeant](#) is responsible for collecting orders made by the Court. HM Sheriff is also responsible for issuing summons and enforcing judgements.

[The Parole Review Committee](#) make decisions on applications from prisoners for early release on licence, with the potential of recall to prison for non-compliance.

[The Independent Monitoring Panel](#) make unannounced visits to the Guernsey Prison reporting on the conditions of the accommodation and treatment of prisoners.

[The Independent Custody Visitors](#) make unannounced visits to the detention facilities to ensure that detainees are treated properly and report on the conditions of detention and operation of the custody suite.

[Criminal Justice Substance Service](#) target those within the criminal justice system who would benefit from addressing substance misuse issues.

[Multi-Agency Public Protection Arrangements \(MAPPA\)](#) share information to manage the risk of sexual harm and/ or serious violence presented by identified individuals across the Bailiwick.

Multi-Agency Risk Assessment Conference (MARAC) share information to manage the risk of domestic abuse incidents by identified individuals across the Bailiwick.

[Multi-Agency Support Hub \(MASH\)](#) share information to protect children at risk from harm or, of coming into contact with the criminal justice system.

[Drug & Alcohol Strategy](#) provides a framework around which both statutory and voluntary agencies work together to reduce the harm caused by drug and alcohol misuse in the Bailiwick.

[Child and Adult Mental Health Service \(CAMHS\)](#) is a specialist mental health service which assesses and treats young people with emotional, behavioural or mental health difficulties.

[Domestic Abuse Strategy](#) provides a framework around which both statutory and voluntary agencies work together to reduce the incidence and impact of domestic abuse across the Bailiwick.

[Islands Safeguarding Children Partnership \(ISCP\)](#) is a multi-agency committee with representatives from public, private and voluntary sectors. Its main purpose is to enhance the safety of children and young people in the islands through promoting effective co-ordination and co-operation between agencies providing services to children and families.

[School Attendance Service](#) work closely with schools, children and their families to support and encourage all children and young people to take full advantage of the opportunities available through education.

[Youth Commission](#) build relationships and provide various activities for children and young people in order to support the development of their social, physical and emotional wellbeing. This includes activates like the Prince's Trust, Youth Forum, Playscheme and run youth centres across the Bailiwick.

[The Guernsey Bar](#), members of the Guernsey Bar are Advocates of the Royal Court. Advocates are lawyers that provide legal services and represent clients in courts and tribunals across the Bailiwick.

[Victim Support & Witness Service](#) is an independent charitable organisation offering free and confidential support to victims and witnesses of crime and their family and friends.

[Safer](#) provide a range of services for victims of domestic abuse including the Independent Domestic Violence Advisor, Young People's Domestic Violence Advisor and moving on counselling services. They also manage the Women's Refuge.

[Caring for Ex-Offenders](#) work with people coming out of prison to help them in resettlement.

[In-dependence](#) (previously Drug Concern) provide free and confidential advice, delivering community recovery programmes and counselling and supporting families affected by drugs, alcohol and gambling.

Glossary

ACEs - adverse childhood experiences

CAMHS - Child and Adolescent Mental Health Service

CfED – Committee *for* Economic Development

CfESS – Committee *for* Employment & Social Security

CfHA – Committee *for* Home Affairs

CfHSC - Committee *for* Health & Social Care

CJSS - Criminal Justice Substance Service

CYCT - Child, Youth and Community Tribunal

CYPP – Children and Young People’s Plan

DA – Domestic Abuse

DVIs - Domestic Violence Injunctions

DVPNs - Domestic Violence Prevention Notices

DVPOS - Domestic Violence Protection Orders

EU – European Union

FPAS – Family Proceedings Advisory Service

GBA – Guernsey Border Agency

GPs – General Practitioners

HMICFRS – Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services

ICT – Information and Communication Technology

IDVAs. - Independent Domestic Violence Advisors

IMO - Integrated Offender Management

ISCP – Island Safeguarding Children Partnership

JESCC - Joint Emergency Services Control Centre

JSNA - Joint Strategic Needs Assessment

KPIs / KPI – Key Performance Indicator(s)

MAPPA - Multi Agency Public Protection Arrangements

MARAC - Multi-Agency Risk Assessment Conference

MASH – Multi Agency Support Hub

PHSE – Personal, Social, Health and Economic education

PPACE – Police Power and Criminal Evidence

SARC - Sexual Abuse Referral Centre

SARS - Suspicious Activity Reports

SLAWS - Supported Living and Ageing Well Strategy

SSSO – Suspended Sentence Supervision Order

THRIVE - Threat, Harm, Risk, Investigation opportunities, Vulnerability of the victim and the Engagement level required to resolve the issue

UK – United Kingdom

US – United States (of America)

YJS - Youth Justice Service