

# Learning and Innovation Workshop

## Alternatives to Custody: Making Effective Use of Electronic Monitoring

*Newbattle Abbey College, Dalkeith, Midlothian*  
*18 February 2016, 10am-1pm*

This Learning and Innovation Workshop, part of an ongoing Scottish Government consultation on the future of electronic monitoring (EM) in Scotland, was chaired by **Dr Andrew Wooff**, Lecturer in Criminology at Edinburgh Napier University. Dr Wooff explained his background in researching custody in England and Wales, and his interest in developing alternative measures which could improve desistance and reduce the use of custody. Times of fiscal austerity and a concern with reducing reoffending make EM a particularly timely issue. EM is potentially a promising way to promote desistance, especially if it's supported with other supervisory measures, but there are also challenges to do with increased workload and the danger of net-widening. The Chair opened the workshop and introduced the speakers: **Arlene Stuart**, Community Justice Operational Unit, Scottish Government; **Bruce Milne**, Social Work Scotland; and **Vicky McNeice**, G4S.

### The Future of Electronic Monitoring in Scotland

#### “What should the Scottish approach be to electronic monitoring?”

As **Arlene Stuart** explained, electronic monitoring has been growing organically in Scotland for some time. After several pilots during the 1990s, it was rolled out nationally in 2002 to monitor

RLOs. In 2006, electronic monitoring was introduced as part of Home Detention Curfew (HDC) for short-term prisoners (sentences under four years), which could last up to four and a half months. HDC was extended in 2008 to long-term prisoners, and to last up to six months.

Now the Scottish Government intends to increase the use of EM to reduce reoffending and promote desistance. The vast majority of the current EM caseload is made up of Restriction of Liberty Orders – currently at their highest ever level, following awareness-raising work over the last year or so – and Home Detention Curfews. At present the CPO doesn't include movement restrictions as a condition of first instance (although they are rarely imposed for CPO breach); one question under consideration by the government consultation is whether to alter the CPO so that movement restrictions can be imposed.

However, since 2002 there has been little discussion of how EM should be used, or of what Scotland's particular strategy for EM should be. Although in some ways similar to England and Wales, Scotland's situation is very different to some other comparable European countries. With this in mind, the consultation on the future direction of electronic monitoring in Scotland was set up in September 2013, with a working group (comprising some of the foremost academic and practitioner experts in the field) which published its response in October 2014.

The drivers for major criminal justice reform in Scotland include most

#### EM Average Caseload January 2016

RLO	610
HDC	275
Parole Licence	12
MRC	4
CPO Breach	1

importantly a high imprisonment rate (more than double that of the Scandinavian countries), which is widely known to have immense economic and social costs. A large proportion of Scottish imprisonment is made up of short sentences. These have a reoffending rate roughly twice that of community sanctions, which are instead built around normalisation and support. EM could potentially be used in place of short custodial sentences, and to support community sanctions – including by helping people on community sanctions to avoid situations and relationships which might lead to further offending.

The ‘ministerial vision’ articulated by Michael Matheson, Cabinet Secretary for Justice, is one of less reliance on imprisonment (especially short

**“Some people have never been integrated into communities in the first place”**

sentences), increased use of community sentences and support for integration and rehabilitation. The intention is to support desistance and reduce reoffending, in line with the wider prevention agenda; community justice interventions are important opportunities for preventive work, although this is necessarily secondary rather than primary prevention.

Among the reforms underway to deliver the Cabinet Secretary’s vision is a consultation on the presumption against short sentences, which considered whether to extend this presumption and whether a more radical review might be required. This consultation finished in December and the results are currently being analysed. The Government is also continuing to ensure robust community sentences are available and working on how to build public and sentencer confidence in them, while also developing alternatives to remand and short sentences through an improvement project underway in three pathfinder sites (Paisley, Hamilton and Dundee). The Ministerial Group on Offender Reintegration and Access to Services has been established, while the redesign of Scotland’s community justice system is to come fully into force on 1 April 2017.

Alongside these developments, the Electronic Monitoring in Scotland Expert Working Group was set up in 2013, to report to the Cabinet Secretary in spring 2016. So far the Group has identified several key areas for progress:

- EM as a tool for rehabilitation and integration.
- Integration of EM with mentoring and support.
- Using EM to help reinforce the presumption against short custodial sentences.
- Extended use of EM to support bail (rather than using remand). Northern Ireland uses it this way, as does much of Europe, but Scotland does not. It could also be used to support short-term leave from custody etc. (This may be a role for GPS as opposed to RF technology).
- A role for EM in the women’s custodial estate, perhaps as a supportive tool in the new community-based institutions.
- Communicating the benefits of EM to partners, stakeholders, and the public.
- Guidelines for dealing with breach and non-compliance – ensuring consistency, but taking a person-centred, individualised approach.
- Technology – the Government has committed to using new GPS tagging technology, which can provide accurate tracking of the tag in nearly any location. (The current RF systems can only detect whether a tag is or isn’t close to the monitoring unit.) Other technologies such as transdermal alcohol monitoring are also being considered.

**“Do not get hung up on the technology”**

There are several important considerations for the expansion of electronic monitoring. Among CJSW reports in 2013/14 there

were very few recommendations of RLOs (only 1.9%). It has been established that EM is more effective when combined with supervisory support than on its own, and in general there has been scepticism about the value of 'standalone' EM. The technology is now highly developed and can be used flexibly to aid desistance and potentially give respite to crime victims as well. EM is not a panacea, and it cannot stop offending by itself, but there is scope to make more and better use of it in Scotland.

The Chair thanked Arlene and opened the floor for brief questions.

*Is it possible to make EM a condition of a CPO Conduct Requirement?*

No – EM restrictions were disconnected from supervision-based community sentences when the CPO was introduced. A similar effect can be achieved by imposing an RLO concurrently with – but separately from – a CPO. This may be making sentencers less willing to use EM, so the Working Group is considering whether EM should be incorporated into the structure of the CPO.

## Criminal Justice Social Work and Electronic Monitoring

Bruce Milne, Development Manager for Criminal Justice at Social Work Scotland, described his long-term interest in EM, dating from when he was working in Aberdeen, one of the EM pilot areas in the 1990s, when he overcame initial scepticism and defensiveness to realise its potential value. However, uptake of EM by CJSW has remained low across Scotland, so Bruce asked his contacts in social work about the obstacles to greater involvement of social work with EM. There's a wide variety of practice across the country, between sheriffs and among CJSW staff (within as well as between teams). There is a sense that EM "doesn't readily always come to mind" in the way that CPOs do. Bruce also found confusion within CJSW about how proactive social workers can be in recommending RLOs – this is also affected by sentencers' own expectations of how CJSWs will make recommendations. This issue needs to be addressed, and CJSWs must be able to have confidence in their assessments and the support of bodies like Social Work Scotland.

CJSW staff also described a concern that recommending EM more often could lead to up-tariffing and make sentences more complex – putting people on concurrent CPO and RLO sentences where otherwise the sentencer

**"I think EM has a huge role to play in the justice system."**

might have chosen a CPO alone. There's a need to build confidence about how EM can be used and in CJSW recommendations to court. Bruce described inconsistency in links between social work offices and EM providers – while some have very good communication with providers, others are only in occasional contact. The technology has developed significantly since its introduction, as Bruce saw on a recent visit to G4S.

The current system in which EM isn't available to sentencers as a standard CPO requirement (and is usually used as part of the separate RLO sentence) has created a separation between EM and other parts of the community punishment system, which hinders attempts to make proper use of it (although of course EM is not a panacea).

**"It's not going to work without us. We play a unique, integral part in bringing EM forward"**

CJSW clearly has a role to play in the successful development of EM in Scotland, but the technological progress will continue with or without the involvement of CJSW. CJSW has a crucial role to play in shaping the future of EM, which will in turn be a major influence on

the future development of CJSW. There's a huge opportunity to use EM to reduce the use of short custodial sentences, and CJSW must play an active role in shaping the development of EM, including (crucially) through robust assessment. The risk assessment instrument LS/CMI could be used to support an assessment, and identify areas in which EM could be helpful. The starting point must be for CJSWs to have confidence in their assessments, and for that confidence to be shared by sentencers as well. The potential value of EM should be assessed for all community disposals. A person-centred and outcome-focused approach must take into account what value EM can have for service users. There is also the potential for more creative use of movement restrictions, including GPS tracking, which furnish opportunities for prevention but also for support, and for improving risk management practice.

Each court report should include an assessment and, where appropriate, a recommendation for EM. This will probably require a major conversation with sentencers in Scotland. LS/CMI could be an opportunity to take a more dynamic approach both to criminogenic and to wider prosocial needs, and there's currently work in progress to identify elements in LS/CMI which could be used to structure decisions over whether or not to use EM.

**“We need to totally rethink what we think EM can do.”**

Criminogenic needs will continue to determine offender supervision needs. The standalone RLO is sufficient only to restrict movement, and most supervisees have highly complex criminogenic needs; therefore, EM needs to function as part of an integrated supervision and case management plan. Court reports should therefore go beyond simply recommending the use of EM to explain how it could be useful.

A focus on what EM can do for CJSW clients, whether standalone or as part of a package of supervision measures, is key to developing the use of EM to support and reinforce prosocial behaviour. There should be clear routes to and through EM, with assessments of its value for particular offences and situations, and which agencies are involved in providing support. Although it's clear that EM is more successful when combined with support, this support needn't necessarily come from local CJSW, or be confined to CPOs. There could be an opportunity to use EM for bail monitoring and combine this with support from voluntary organisations, particularly as resource implications for local authorities must also be considered.

EM is not just an “extra layer” for CPOs – it's crucial for it to be used positively to assist people and support those who don't succeed in complying with community sentences, and to support the presumption against short prison sentences. The Chair thanked Bruce for his presentation and introduced the next speaker.

## G4S Electronic Monitoring Equipment Demonstration

Vicky McNeice, Research and Development Officer, G4S, gave a demonstration of G4S electronic monitoring equipment and the procedure for installing it. The two key components of the standard system are the Home Monitoring Unit (HMU) – a telephone-like device that monitors the tag and reports back (usually via mobile networks) to the G4S office – and the tag or Personal Identification Device (PID). The installation procedure begins when G4S officers arrive at the property. First, they verify the identity of the sentenced person, then secure permission from the premises holder to install the EM equipment. Then the officer conducts a ‘prosthetic check’, tapping the sentenced person's foot on the floor to ensure their leg is not a prosthesis. The tag is fitted to the left ankle by

default, in order to avoid catching on bicycle chains (and to avoid bicycle chains being used as an excuse for tampering with the device). A 'skin test' is conducted on the sentenced person's leg, then the ankle is measured and an appropriate strap selected. The officer determines the best location for the HMU within the property – as central as possible, in an appropriate location (avoiding children's bedrooms etc.) and audible in all areas of the property – and plugs it into a wall socket. The HMU costs around 1p worth of electricity per day, which is reimbursed at the end of the order. A fitting tool is used to attach the strap to the tag, which is fitted with a small gap between the strap and the ankle. Further tests are conducted on the tag: a tug test to check the integrity of the strap and a waterproof test in which the client runs their bath ankle-deep and submerges the tag. These are also intended to demonstrate to the client that water damage will not be accepted as an excuse for damage or removal of the tag. Straps are strong, but can be snapped in case of severe accidents such as a strap catching on heavy machinery. The strap doesn't stretch beyond about 5% of its length. They have a fibre optic cable running through them and are tamper evident of all types of damage.

Once the tag is fitted, officers walk the client all around the property to check the range and connection to the HMU (which is also intended to forestall excuses for breaching the tag restriction). Officers are in constant communication with the G4S monitoring office for this time, and the office confirms their connection to the HMU by calling into the box once installation is complete, which also demonstrates the system to the client. At the touch of a single button on the HMU, the client can contact the G4S monitoring centre, which is staffed 24 hours a day. Because of this, staff at the monitoring centre often get phone calls at night requesting support, but – not being social workers – the staff are unable to provide that support and can only refer people to their designated social workers. In 'standalone' RLO cases this requires G4S staff to attempt to track down the individual's previous case worker, which is not always successful.

The HMU can detect when it's moved or unplugged, and tamper evident tape is also placed over the socket – clients must contact G4S if they need for whatever reason to move the unit. The device has a backup battery capable of keeping it activated for around 40 hours in case of power cuts or the electricity supply being cut off. If necessary, a new fully-charged HMU can be swapped in every couple of days by G4S staff.

The box is programmed to call into G4S over landline or mobile networks and pass on data from its tag status checks; if the HMU is unable to call in, perhaps due to temporary mobile network unavailability, a 'missing signal' is recorded at the office. The HMU also stores tag information which can be retrieved asynchronously if the property has no phone coverage at all. Although home visits after midnight are avoided, G4S staff can still check on individuals who are reported as missing by visiting the local area and using short-range tag detection devices. One problem is that the use of the Answer 1571 service can block communications between the HMU and G4S. Where this service is in place, G4S will ask the premises holder to remove it; if necessary, a dedicated landline can be installed for the HMU but this may entail a few weeks' delay.

In cases where an absence signal appears to have been caused by a particular position or something obscuring the tag, G4S staff recreate the original scenario with the client on the tag to attempt to reproduce the problem. In cases where a genuine breach is determined by G4S to have occurred, this is reported back, rather than staff challenging the tag wearer directly. The Chair thanked Vicky for the demonstration, and opened the floor to general questions for all the speakers.

## Questions and Answers

### *What social work support is available for people coming out on HDCs?*

SPS are now employing Throughcare Support Officers (TSOs), who work to support people before and after release, including release on HDC. TSOs also serve as advocates for ex-prisoners in their engagement with services in the community and help them to seek out advice. The TSO programme has been a major success, especially when combined with third-sector mentoring schemes. Some prisons, such as HMP Grampian, combine the HDC and TSO teams, while others use separate systems. The Electronic Monitoring in Scotland Expert Working Group is considering the ways in which this type of HDC support could become more a “matter of course”, more person-centred and more consistently provided. Because people on HDC have tags, they remain in contact with the justice system which means in some ways they’re an easier group for social work to engage with.

*For most prisoners, post-release throughcare is voluntary. How can we convince more of them to engage with it?*

More than 70% of short-term prisoners don’t take up their voluntary throughcare, which indicates a serious need to promote it. The increased uptake for TSO support is encouraging, and SPS are also using case studies and videos to show how TSOs can help people leaving prison. The TSO scheme at HMP Edinburgh has been particularly successful – and the scheme has been helpful to prison officers as well, as TSOs can witness first-hand the difficulties experienced by people leaving prison.

Although all ex-prisoners are entitled to voluntary throughcare from local authorities, this is not always consistent across areas, which is a problem partly to do with the costs to local authorities.

### *Resettlement processes*

The examples from Community Integration Pilots in Scotland show that proactive engagement within the prison improves engagement with the prisoner both before and after liberation.

*Imprisonment has risen over the last 20 years in most European countries, as in Scotland – what other means could there be of reducing imprisonment?*

Imprisonment fell by 2% over the last year, which is potentially encouraging but clearly insufficient, particularly since offending and reoffending rates have fallen in Scotland and across the Western world. One possible option would be to extend the presumption against short-term prison sentences; in Scotland this has to be balanced against the independence of the judiciary but elsewhere in Europe there are much more definite guidelines on this.

Raising awareness and confidence about community penalties is important, including confidence among CJSW staff to recommend these sentences. This should be matched by a shift in the balance of justice funding – this has already started, with money from the SPS budget used to support transitions and community-based support for women offenders, and is intended to continue.

Confidence among sentencers is key. There has been significant interest in this issue from Justices of the Peace, who have the power to impose prison sentences of up to thirty days but make very little use of it. They have also expressed significant interest in the DTTO II programme, currently available in some areas (including Edinburgh) but not nationwide. This plays into a further issue to do with pilots or pathfinder projects – they are valuable for developing practice, but it’s important to

**“That confidence factor is really, really key”**

make sure that projects are properly evaluated, their lessons learned and (where appropriate) that they're rolled out nationally with the right resources to make a difference. Moving forward with integration and rehabilitation will require making sure that 'what works' is in place in the community and universally available. Delivery must respect different conditions in different areas, but should work towards the same universal outcome. Funding for CJSW should reflect that outcome focus.

The Community Justice (Scotland) Bill, which passed Stage 3 very recently, will legislate nationally determined common outcomes for community justice. For the first time, there will be legislation underpinning the new National Strategy for Community Justice. The strategy will support the further growth and development of community justice in Scotland, which is intended (alongside other changes to penal policy) to rectify Scotland's high rates of imprisonment.

### **“The only thing that limits electronic monitoring is imagination”**

Progress in this area will also require changing the way in which we think about custody. There needs to be recognition of the importance of communities when discussing community

justice, and the term “alternatives to custody” is in some ways quite unhelpful, as it implies custody is a default option where it should be a last resort. There's uncertainty among sentencers about what to do with people who breach CPOs and similar orders, although they're well aware that imprisonment doesn't work – the national conversation about custody, including within the media, has to be reframed.

This is taking place in the context of an ongoing culture change within SPS, towards an approach which sees prisoners as assets. If the reforms to the women's custody system work, there may be an opportunity to extend them to male prisoners as well.

*It's necessary to “take the public with us”, and there's encouraging work around community engagement in HMP Edinburgh. But is there a value in short-term custodial sentences, in terms of giving communities some respite from prolific low-level offending, particularly as releases are often unfortunately timed?*

There is a sense of a real need for this kind of respite in some cases, including for victims (although it might be beneficial to move away from referring to 'victims', similarly to how we're moving away from referring to 'offenders', and develop a wider sense of the ways in which crime affects people). However, EM could be highly valuable in helping provide this type of respite, especially as GPS technology could be used actively to monitor a wider range of aspects of EM compliance, not just negative (i.e. restrictions-based) but positive (such as attendance at particular programmes). Sentencers and CJSW staff are developing more creative ways to use EM and other incentives to support community sentencing.

## Breakout Discussion

The Chair closed the Q&A with the speakers and opened the small-group breakout discussion. The feedback from the discussions was passed after the Workshop to the Scottish Government for consideration as part of the EM consultation; below are extracts from the discussion, which focused on three main questions.

### **1. How could you envisage using and/or modifying existing forms of EM to support desistance-friendly outcomes?**

- *Extend to youth justice – encourage family buy in*

- *Bereavement release?*
- *Strengthening the presumption against short sentences*
- *EM for bail/supervised bail to prevent introduction to prison for people*
- *Lack of appropriate accommodation a huge barrier for the use of EM*
- *Needs to be a unified approach to supporting the increased use of EM e.g. prisoner absconding or someone reoffends on bail/community supervision*
- *Support for people on EM – peer/community supporter to encourage compliance – employer/businesses – would need GPS – to allow attendance at College/work etc. or curfew times organised around activities*

## **2. How would you envisage using EM as part of an alternative to a short custodial sentence?**

- *Need to consider EM re. young people – secure care settings/community sentences*
- *Need to use GPS to encourage being in particular places with particular people, and not in others, pro social behaviour*
- *Consequences for breach? Not necessarily prison – as well as incentives, including days of liberty from restriction*
- *For local use – national policy and guidelines needed as a foundation – including for sentencers*
- *Specialist accommodation to support people in conjunction with EM*
- *Constructive routes to channel their creativity – meaningful jobs, opportunities*
- *Providing structure to offenders day – more than restricting movement*
- *Giving feedback to offenders of appropriate places to be at set times*

## **3. What do you need locally to support you to implement what you have heard and thought about today?**

- *Move from custody to community – ensuring that activities, including education, continue to be delivered in the community*
- *Third sector role in providing individual and family support – resources to do this*
- *Early release legislation – opportunity*
- *Positive press – facts/case studies*
- *Public/family awareness of EM*
- *Do we need lead organisations to manage/deliver support packages – linked to mentoring provision. Including CJSW or 3rd Sector. Including training for providers*
- *Judicial training – creative use of EM*

## Next Steps

The Chair closed the breakout discussions and thanked everyone who participated. He mentioned also that Professor Mike Nellis (University of Strathclyde), a major academic expert on EM and a member of the Working Group, had produced a short draft paper on EM on which he would welcome feedback. Attendees were welcome to take a copy and email Professor Nellis to give him their feedback ([mike.nellis@strath.ac.uk](mailto:mike.nellis@strath.ac.uk)). The Chair handed over to Arlene for closing remarks.

Arlene thanked everyone for coming and emphasised that the feedback from the breakout discussion would all be used. The Electronic Monitoring in Scotland Expert Working Group is due to make its report to the Cabinet Secretary for Justice after the election – it's crucial for that report to be informed by practitioner knowledge and expertise, and there's the potential for this to make a

real difference to communities and people's lives. Continued feedback after the Workshop is very welcome. The questions in the Q&A sessions were well thought out and brought out interesting issues around making links with communities and the experiences of different people involved in the system, which is valuable to developing a person-centred approach. The Scottish Government believes that EM has a real role to play in reducing reoffending, promoting desistance and giving communities respite from crime, but the consultation aims to determine how that role would work. There's also a growing need for advocacy, including among justice practitioners in communities.

At the Electronic Monitoring in Scotland conference, held in Perth in August 2015, people were asked to put themselves forward as 'champions' for electronic monitoring. So far 21 people have signed up from a variety of agencies, including 10 from CJSW. This means not all local authorities yet have their own EM champion, so people interested in getting involved should contact Cheryl or Susan. There will be more opportunities for discussing the development of EM in Scotland at other local events which will be taking place in various parts of Scotland over the following months. Arlene thanked everyone for their input, on behalf of the Scottish Government.

Fiona Young (Chief Officer, LBCJA) thanked everyone who attended the Workshop. The next Lothian and Borders CJA Learning and Workshop will be on **Thursday 19<sup>th</sup> May**, and will focus on welfare and benefits.

## Glossary of Abbreviations

CPO	Community Payback Order
EM	Electronic Monitoring
GPS	Global Positioning System
HDC	Home Detention Curfew
HMU	Home Monitoring Unit
LS/CMI	Level of Service/Case Management Inventory
MRC	Movement Restriction Condition
PID	Personal Identification Device
RF	Radio Frequency
RLO	Restriction of Liberty Order
TSO	Throughcare Support Officer