



An Roinn Dlí agus Cirt
Department of Justice

Request for Tender for Research Services

An exploration of the use of short custodial sentences and community service orders as part of the review of the Criminal Justice (Community Service) (Amendment) Act 2011



Request for Tender for Research Services

Applications for tenders must be returned to research@justice.ie by **5pm Irish time on 6th July 2022**

Section 1. Background information and invitation to tender

1.1 The Department of Justice

The Department of Justice's mission is to make Ireland a safe, fair and inclusive place to live and work. It is responsible for the security of the State and our communities, oversight and reform of An Garda Síochána, access to justice and providing a Courts Service, management of immigration, updating our criminal and civil laws and a range of other regulatory services.

The Department's Statement of Strategy 2021 – 2023 can be found here: [Department of Justice Statement of Strategy 2021 – 2023](#)

1.2 Background to the Tender

[The Criminal Justice \(Community Service\) \(Amendment\) Act 2011](#) (henceforth referred to as the 2011 Act) is ten years old and is now due for review. The purpose of the 2011 Act is to help encourage a greater use of community service orders for people convicted of minor offences. It places a requirement on Judges when considering the imposition of a sentence of 12 months or less to consider the alternative sanction of community service first.

According to figures provided by Irish Prison Service, of the 89,445 committals which occurred between 2012 and 2021, 58,624 committals were for a period of 90 days or less demonstrating that those in receipt of short sentences continue to account for a significant proportion of prison population.

This research will form a key component of the overall review of the 2011 Act.

1.3 Research aims

The overall aim of this research is to identify the impact of the 2011 Act in terms of custodial sentences and community service, and to examine causes for the continued use of short custodial sentences of 12 months or less, and the possible underutilisation of community service orders.

This research is intended to explore both (1) existing literature on this topic and (2) the views of the judiciary on the use of the 2011 Act.

The research should provide insights into:

- What barriers, perceived and real, may exist to the ordering of community service?
 - What may be done to remove barriers to the ordering of non-custodial community service in appropriate circumstances, while respecting judicial independence?
1. The key research questions to be answered through the rapid evidence review are:
 - 1.1. The impact of the use of short custodial sentences (12 months or less) on offender management and recidivism.
 - 1.2. The impact of the use of community service orders on offender management and recidivism.
 - 1.3. What learnings can be taken from other jurisdictions on the use of community service as an alternative to short custodial sentences for people convicted of minor offences?



2. The key research questions to be answered through the interviews are:
 - 2.1. the perceived benefits and limitations of short custodial sentences
 - 2.2. the perceived benefits and limitations of community service
 - 2.3. the impact of the 2011 Act on the daily work of the judiciary, and what changes, if any, have been made to their approaches to sentencing, in practical terms or in terms of their general approach
 - 2.4. what, if anything, would lead the judiciary to opt for community service over short custodial sentences on a more regular basis;
 - 2.5. perspectives of the judiciary on public opinion of the sentencing patterns of first time offenders and repeat offenders convicted of minor crimes deserving custodial sentences of 12 months or less, or of community service; and
 - 2.6. the familiarity of the judiciary with information or research relating to offender management, levels of recidivism, and the impact of community service or short custodial sentences on offender behaviour.

1.4 Research Methodology

The first stage of the research should be a rapid evidence assessment of the relevant literature on the use of community service and the use of short custodial sentences of 12 months or less on offender management and recidivism.¹ The review should cover evidence and literature published from 2005 to 2022. The articles reviewed should be in English, within peer reviewed journals and government/agency publications. If other research and/or data sources are to be included, it should be clearly stated in the proposed methodology and a rationale provided, along with a clearly stated approach as to how they will be dealt with.

The tenderer will be required to outline the approach that is proposed to be taken in undertaking this work in the attached submission form. In doing so, the following key questions must be addressed as part of the response to the review of literature:

- What the key search terms will be
- What academic databases or other sources will be used to sample from
- The process for deciding which articles to include for the review and which to exclude
- The data recording process (essentially, what are the key data points you will record for each study such as author, year of publication, what type of study, evaluation type and its strength)
- The process that will be used to assess the quality and methodological rigour of the articles

In-depth interviews with members of the judiciary practicing in the District Court will then be conducted. The Department of Justice will work with the successful researcher(s) to ensure the necessary engagement. The tenderer should outline their proposed approach to the interviews including:

- The recommended number of interviews
- Any other proposed sampling criteria including location (regional spread)
- Interview approach and proposed areas for discussion
- Any other relevant details

1.5 Research outputs

A written report including the findings of the rapid evidence review and the qualitative interviews with clear conclusions addressing all research questions outlined above is required. A draft report is to be submitted to the Department for review and comment by key stakeholders prior to the finalisation of the report.

The target audience for this research include: The Minister for Justice, the Department's Criminal Justice Policy Function, criminal justice agencies, the judiciary, and the research community.

The Department's report template and style guide will be provided to the successful tenderer.

¹ Please see previous work conducted by the Department in this area:
https://www.justice.ie/en/JELR/An_Evidence_Review_of_Recidivism_and_Policy_Responses.pdf/Files/An_Evidence_Review_of_Recidivism_and_Policy_Responses.pdf



A presentation of the report findings may also be required.

1.6 Timeframe and Budget

The Department is eager that the tenderer will be ready to start as soon as possible and asks that tenderers specify how soon they would be in a position to commence the work. Duration of the tender will be no more than twelve months after the awarding of the tender.

The estimated budget for this study is €25,000 (excluding VAT).

Please see section 4 for a breakdown of the selection criteria.

Section 2. Instructions to Tenderers

2.1 Format of tenders

Tenderers should complete and submit the application form. Tenders submitted in formats other than the application form will not be considered.

2.2 Compliant tenders

To better ensure compliance with the tendering process, tenderers should read this document in full including Section 5 'Terms and conditions'. If a tenderer fails to comply in any respect with the requirements of this paragraph, the Department reserves the right to reject the tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- Seeking written clarification from the tenderer;
- Seeking further information from the tenderer; or
- Waiving a requirement, which in the Department's view, is non-material or procedural.

Tenderers are required:

1. To submit all documentation which this Request for Tender (RFT) requires to be submitted with their tender;
2. To conform to and comply with all instructions and requirements set out in this RFT;
3. To submit the statement required under Appendix 1;
4. Not to alter or edit this RFT in any way.

2.3 Submission of tenders and closing date for application

Completed application forms must be sent by email to research@justice.ie with subject line "Sentencing Research Request for Tender".

Completed application forms must be received no later than **5pm Irish time on Wednesday 6th July 2022** (the 'tender deadline'). Application forms received after the tender deadline will NOT be considered.

Section 3. Queries and clarifications

All queries related to any aspect of this RFT must be directed to research@justice.ie. The Department reserves the right to issue or seek written clarifications. The Department reserves the right at any time before the tender deadline to update, cancel or amend the information contained in this document and/or to extend the tender deadline. Participating tenderers will be informed of any such clarification, amendment or extension by email.



Section 4. Evaluation of tenders and award of contract

4.1 Criteria for award of contract

The contract will be awarded out of a total of 100 marks on the basis of the most economically advantageous tender as identified in accordance with the following criteria:

- Have a proven and demonstrated track record of undertaking similar research and have worked collaboratively with other government Departments/agencies. (35)
- Feasibility of the approach suggested (20)
- Ability to deliver key outputs on time (10)
- Cost – broken down to show description of costs, justification for proposed costs and best use of resources (35).

Award of the contract to the highest ranked tenderer (as determined by the above paragraph) will be conditional upon the tenderer submitting the following evidence in respect of the tenderer (including any subcontractor as applicable) to the extent not already provided, within seven days of request by the Department (i) a Declaration in the form attached at Appendix I and (ii) all or any of the supporting documents specified in the section on 'Format of tender'.

The Department does not bind itself to accept the lowest priced of any tender. This RFT does not constitute an offer or commitment to enter into a contract. No contractual rights in relation to the Department will exist unless and until a formal written contract has been executed by or on behalf of the Department.

The tenderer will be required, if necessary, to outline and agree the approach which it proposes to take to the research with the members of the Department's Research Advisory Group/Research team.

4.2 Payment conditions

- i. All prices quoted must be all-inclusive of all expenses anticipated inclusive of VAT. The VAT rate(s) where applicable should be indicated separately.
- ii. Tenderers must confirm that all prices quoted in the tender will remain valid for three months following the tender deadline.
- iii. Payment for the delivery and implementation work will be on foot of appropriate invoices. Invoicing arrangements will be agreed with the successful contractor, following the award of contract.
- iv. The provisions of the Prompt Payment of Accounts Act 1997, as amended or revised, and the European Communities (Late Payment in Commercial Transactions) Regulations, 2002 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.

4.3 Taxation requirements

It will be a condition of any contract pursuant to this RFT that the successful tenderer shall, for the term of such contract, comply with all applicable EU and domestic tax laws. Tenders are referred to www.revenue.ie for further information. Prior to the award of any contract arising out of this RFT, the successful tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Department. By supplying these numbers, the successful tenderer acknowledges and agrees that the Department has the permission of the successful tenderer to verify its tax cleared position online.

4.4 Subcontractors

Tenderers should note that where a tenderer is relying on the capacity of other persons or entities (for example subcontractors) for the purposes of fulfilling any of the award criteria set out below, it must ensure that each such person or entity, when requested by the Department, will submit proof, to the satisfaction of the Department, that it will place the necessary expertise at the disposal of the tenderer.



If a tenderer does not, upon request by the Department, provide evidence which is considered by the Department as sufficient to demonstrate the fulfilment by any subcontractor on whose capacity the tenderer relies of the award criteria (or any one of them) in accordance with this RFT, it shall be excluded from further participation in this tender process unless it replaces the subcontractor with one which meets all relevant requirements of this RFT. Any such replacement cannot affect the price submitted.

Section 5. Terms and conditions

5.1 Liability and warranty for tender information

While every effort has been made to provide comprehensive and accurate information in this request for tender, the Department does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT and may wish to consult their legal advisers as appropriate.

5.2 Data protection

With effect from 25 May 2018, a new Europe wide data protection regime has come into place under the General Data Protection Regulation (GDPR). The GDPR significantly increases the obligations and responsibilities for organisations and businesses on how they collect, use and protect personal data. All data will be processed in accordance with GDPR and relevant data protection law. Applicants are required to comply with the requirements of data protection legislation and the General Data Protection Regulation (GDPR).

5.3 Tendering costs

All costs and expenses incurred by tenderers relating to their participation in this RFT shall be borne by the tenderers exclusively.

5.4 Confidentiality

All documentation, data, statistics and information furnished by the Department to tenderers during the course of this RFT:

- i. are furnished for the sole purpose of replying to this RFT only;
- ii. may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Department;
- iii. shall be treated as confidential by the tenderer and by any third parties (including subcontractors) engaged or consulted by the tenderer; and
- iv. must be returned immediately to the Department upon cancellation or completion of this RFT if so requested by the Department.

5.5 Publicity

No publicity regarding this RFT or any contract pursuant to this RFT is permitted unless and until the Department has given its prior consent to the relevant communication.

5.6 Ownership

Ownership of any reports or material produced relating to any contract awarded as a result of this RFT rests with the Department.

5.7 Copyright and publication

Copyright of any reports or material produced shall rest with and be assigned to the Department. The Department shall have the right to publish, or not as the case may be, and to disseminate the report in both its original and in a modified form, without further reference to the tenderer. The tenderer will not be entitled to further payment if this occurs. The tenderer and the individual researchers will be entitled to be credited with the work that they have done on this project in any publication.



5.8 Registrable interest

Any registrable interest involving any tenderer or subcontractor and members the Department, members of the Government, members of the Oireachtas, or employees and officers of the Department and their relatives must be fully disclosed in the tender or, in the event of this information only coming to the notice of the tenderer or subcontractor after the submission of a tender, must be communicated to the Department immediately upon such information becoming known to the tenderer or subcontractor.

The terms 'registrable interest' and 'relative' shall be interpreted as per section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at www.irishstatutebook.ie. The Department will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a tenderer from this RFT or terminating any contract entered into by a tenderer.

5.9 Anti-competitive conduct

Tenderers' attention is drawn to the Competition Act 2002 (as amended, the '2002 Act'). The 2002 Act makes it a criminal offence for tenderers to collude on prices or terms in a public procurement competition.

5.10 Freedom of information

Tenderers should be aware that, under the Freedom of Information Act 2014, information provided by them during this RFT may be liable to be disclosed.

Tenderers are asked to consider if any of the information supplied by them in their tender should not be disclosed because of its confidentiality or commercial sensitivity. If tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, tenderers must, when providing such information, clearly identify the specific sections of their tender containing such information and specify the reasons for its confidentiality and commercial sensitivity.

5.11 Conflicts of interest

Any conflict of interest or potential conflict of interest on the part of a tenderer, subcontractor or individual employee or agent of a tenderer or subcontractor must be fully disclosed to the Department as soon as the conflict or potential conflict is or becomes apparent. In the event of any actual or potential conflict of interest, the Department may invite tenderers to propose means by which the conflict of interest might be removed. The Department will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a tenderer from this tender process or terminating any contract entered into by a tenderer.

5.12 Withdrawal from the RFT process

Tenderers are required to notify the Department immediately by email to research@justice.ie if they decide to withdraw from the RFT process.

5.13 Insurance

The successful tenderer shall be required to hold for the term of the contract the appropriate level of insurance cover in order to carry out work associated with this project.