

Finance Committee

Community Justice (Scotland) Bill

Submission from Lothian & Borders Community Justice Authority

Response

Lothian and Borders CJA is one of eight Community Justice Authorities. It covers the 5 local authority areas of the City of Edinburgh, Midlothian, East Lothian, West Lothian and the Scottish Borders.

1. *Will the proposals in the Bill transform the community justice system in the way envisaged by the Commission on Women Offenders in its 2012 report, such as addressing the weaknesses identified in the current model, tackling reoffending and reducing the prison population?*

1.1 The Angiolini Commission (2012) identified that no one organisation had overall responsibility, there was no shared vision, that there was fragmentation and short term funding, and that there was no systematic measurement of outcomes. Audit Scotland's review (2012) also highlighted ways in which the system needed to be improved in relation to clear and shared objectives to reduce reoffending, that those working to reduce re-offending had appropriate powers, that there was clear accountability and a mechanism to promote collective responsibility for reducing re-offending, that arrangements promoted and supported what worked in reducing re-offending and allowed flexible service delivery, and that there was a more co-ordinated and strategic approach to working with the third sector.

1.2 The creation of a national strategy and outcomes framework goes some way towards addressing the issues identified - though their creation alone will not ensure, clear and shared objectives or systematic measurement of outcomes.

1.3 The Bill does not adequately address the issues identified by the Angiolini Commission or Audit Scotland in relation to overall responsibility and appropriate powers. Though CPPs would be the mechanism to promote collective responsibility for reducing re-offending the Bill does not mention them, though they are mentioned in other legislation. Though there are eight designated community justice partners, no one organisation locally has overall responsibility. If support and leadership is provided for partnership working locally in relation to community justice, yet this role is not made explicit, resources may not be allocated for this contribution. The rationale for the selection of each of the CJ partners as listed in the bill may be inferred, such as the anticipated contribution of health agencies to addressing health inequalities and facilitating access to care, but is not explained.

1.4 Bill does not address prevention and early intervention which is evident in the definition of an offender. This will hamper efforts to reduce re-offending and reduce the prison population.

1.5 The Bill makes little mention of the contribution of the third sector.

2. *Are you content that the definition of ‘community justice’ in the Bill is appropriate?*

2.1 The definition of community justice in the Bill focuses on offenders rather than offending and the definition of offenders as “persons who have at any time been convicted of an offence” does not allow for a greater focus on prevention and early intervention in line with the recommendations of the Christie Commission. At the same time, the definition does not clearly identify the public protection and risk management aspects of community justice.

3. *Will the proposals for a new national body (Community Justice Scotland) lead to improvements in areas such as leadership, oversight, identification of best practice and the commissioning of services?*

3.1 Community Justice Scotland will be required to work across 32 areas and with multiple agencies, building and maintaining constructive relationships, maintaining oversight of planning, implementation and analysis of outcomes including identification of best practice, driving improvement and addressing under performance. This will be a significant challenge.

3.2 The Bill indicates that existing accountability lines for individual community justice partners would remain. The main mechanism described by which CJS would engage with community justice partners around performance improvement is in its assessment of performance and recommendations for improvement action. There will be a need for further discussion about how CJS would support performance improvement locally and nationally.

3.3 How will the specific contribution of CJS to outcomes improvement nationally be assessed?

3.4 In carrying out commissioning, CJS will need to ensure that there is coherence with local commissioning decisions, which may be challenging to ascertain (see 3.1 above).

4. *Taking into account the reforms set out in the Community Empowerment (Scotland) Bill relating to Community Planning Partnerships, will Community Justice Partners have the powers, duties and structures required to effectively perform their proposed role in relation to community justice?*

4.1 The Community Empowerment (Scotland) Bill sets a helpful foundation for ensuring that there is wide participation in community planning. However, the Community Justice (Scotland) Bill makes little mention of engagement and involvement of the third sector or to the role of elected members, only to

community bodies or persons that community justice partners consider appropriate (18) (b) (ii) (iii).

4.2 It does not identify CPP responsibility for providing leadership to or delivering community justice.

4.3 The relationship between Community Justice Outcome Improvement Plans and Local Outcomes Improvement Plans, as described in the Community Empowerment Bill, needs to be further clarified. It is not explained how these will be integrated or aligned including the reporting requirements.

5. Does the Bill achieve the right balance between national and local responsibility?

5.1 Further clarification would be needed about expectations on the roles and responsibilities of the designated partners locally, especially given that some are regional or national bodies, the means by which Community Justice Scotland would support or drive improvement locally and how their own performance would be assessed.

5.2 Ensuring that local partners/partnerships have adequate resources to undertake the activities set out in the Bill is also important.

6. Will the proposed reforms support improvement in terms of:

(a) leadership, strategic direction and planning?

6.1 Improvements in leadership, strategic direction and planning could be anticipated locally and nationally under this model. However, locally it will depend on the commitment and engagement of partners, not just those designated, and nationally will depend on how effectively Community Justice Scotland functions and acceptance of their role by local partners. It may depend on the division of responsibilities between Community Justice Scotland and Scottish Government. The engagement of key stakeholders and partners, whose role is not described in the Bill, namely third sector partners, Crown Office and Procurator Fiscal Service and elected members will also be critical. It will also depend on the quality and timely publication of the national strategy and outcomes framework.

(b) consultation and accountability?

6.2 It will depend on how well consultation is carried out including who is consulted.

6.3 See 3.2. There are 8 designated partners with no identified lead agency locally. Clarification is needed about how Community Justice Scotland itself would be assessed in relation to the fulfilment of its functions nationally.

(c) partnership and collaboration?

6.4 The Bill identifies partners, assuming partnership and collaboration will follow. The roles and responsibilities and organisational arrangements of the designated partners differ. Some will find it difficult to fully engage locally. There are key partners that need to be identified and roles clarified: the third sector and Crown Office and Procurator Fiscal Service.

(d) commissioning of services and achieving best value for money?

6.5 There is little detail about when commissioning would be carried out locally or nationally, in particular, how Community Justice Scotland might negotiate and agree with 32 areas, services that may be commissioned across areas to achieve better value for money or how sufficiently robust information on service needs, quality and outcomes would be forthcoming to allow value for money to be given proper consideration. Unit cost calculations are being undertaken as one component but this has been a difficult exercise with wide variation. The work on a new funding formula is at a relatively early stage and it will affect commissioning ambitions.

7. Are the resources, as set out in the Financial Memorandum, sufficient to transform the community justice system in the way envisaged by the Commission on Women Offenders in its 2012 report?

7.1 Section 27 funds are currently allocated by Community Justice Authorities to support community justice delivery. These are not included in the Financial Memorandum. The impact on distribution of S27 monies of the new funding formula under development as part of the redesign is unknown at this time. It is also not known if future funding arrangements will address issues of fragmentation and short term funding highlighted by the Angiolini Commission.

7.2 Without the functional analysis carried out, it is difficult to comment on whether the budget of £2.2m for Community Justice Scotland is an appropriate figure or not.

7.3 It is clear that the funding provided for up to 3 years to local partners of £1.6m to support the transition to the new arrangements is much needed in terms of enabling partnership development and planning. It is difficult to see how funding of these functions could be absorbed by partners after the initial 3 year funding period. There are concerns that the under-funding of CJAs as outlined in the Audit Scotland report would continue under the new model.

8. Is the timetable for moving to the new arrangements by 1 April 2017 achievable?

8.1 Local partners are progressing with the establishment of the necessary governance and planning arrangements. The timetable is also dependent on completion of a number of critical national deliverables which must also be fit for purpose and acceptable to stakeholders i.e. the national strategy, performance framework and funding formula, with associated guidance.

9. Could the proposals in the Bill be improved and, if so, how?

9.1 Ensure the definition of 'community justice' focuses on offending and references prevention, early intervention, risk management and public protection.

9.2 Further clarify expectations on designated partners locally including responsibility for local leadership.

9.3 Further clarify how Community Justice Scotland would support outcomes improvement locally and be accountable nationally for the discharge of its own responsibilities.

9.4 Make explicit the role of CPPs in relation to integrating local community justice arrangements into CPP governance and reporting.

9.5 Specify the roles for Elected Members, the third sector and COPFS in the new arrangements.

9.6 Include a commitment to resourcing CPPs beyond the initial 3 years, reflecting the demands on the local planning and delivery model.