

Justice Committee

Community Justice (Scotland) Bill

Written submission from Police Scotland

The responses to the nine specific consultation questions are as follows:

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 re-offending and reducing the prison population?*

The proposed arrangements may enable Community Justice Partners to collaborate effectively in achieving agreed local outcomes including addressing currently identified weaknesses in providing focus and scrutiny of their efforts to agreed standards. These weaknesses however must be highlighted in the Community Justice Outcome Improvement Plan and as such should be a main focus of the initial strategy set by Community Justice Scotland.

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

Police Scotland would generally agree with the definition provided, but would encourage the inclusion in the wording of any future community-based sanction or disposal, as recommended in the Women Offenders report, for example Composite Bail Orders.

It may have been stronger if there was some mention of preventing and reducing crime and offending. Advocacy groups for people who have offended do not like them to be defined as offenders.

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?*

The proposals if correctly implemented with appropriate staffing and resources can lead to such improvements. It is essential that partners at local and national level engage in the transition arrangements to ensure that the National Strategy and Performance Framework are fit for purpose and that local Community Justice Improvement Plans are correctly focused and are both challenging and achievable. Police Scotland considers that a single body, with strategic and operational responsibility enhances the likelihood of successful working and reduces opportunities for inter-agency tensions to affect service delivery. There is wide scope for Ministerial influence over how CJS will work, and more detail would be helpful.

Adjustments to the Bill may be beneficial in these areas:

- There is no stated requirement for Scottish Ministers to consult CJS when drawing up the “nationally determined outcomes” (Section 15 – National

performance framework). There is a lack of detail in terms of outcomes and indicators, however early engagement by Police Scotland may provide the opportunity to contribute to the setting of these, which will assist in managing the impact of delivering on them.

- The outcome improvement planning is an important aspect of the process, however the Bill (Section 17) does not seem to determine who leads on the preparation of the Community Justice Outcomes Improvement Plans. The section only states the Community Justice partners for the local authority area must develop them, but does not attribute accountability to any one partner. Given it is a plan for each local authority area, the key responsibility may lie with the council. Local areas can set additional outcomes to the national ones, to reflect local circumstances, and this may lend itself to council leadership.
- A similar absence of stated lead responsibility exists in Section 20, for the preparation and publication of the annual report.

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?*

While it is essential to have effective local arrangements is also desirable to have a degree of consistency in structure across the country to allow good practise to be shared and to make arrangements coherent for national agencies such as the police. The structure should not be specified in the Bill but should be developed in the transitions working groups being facilitated by Scottish Government and agreed in consultation with all Community Justice Partners. They should also be formally reviewed after one year to ensure they are fit for purpose.

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

Ministers appear to retain wide influence over CJS and the sharing of responsibility will require careful consideration. Section 7 – Directions and guidance - includes the requirement for CJS to comply with a ministerial direction on the exercise of it's' functions. This may contribute to the development of tension between what CJS, Criminal Justice partners and Community Planning Partnerships consider appropriate and what the Minister directs. This may affect the perception of localism of CJS activity.

The balance of responsibility arises in other sections of the Bill and are worthy of further consideration, to ensure the localism of activity meets locally identified needs.

- Local outcome improvement planning must have regard to Scottish Ministers guidance (Section 21).
- CJS must comply with a Scottish Ministers direction to comply with a requirement to deliver on a particular service (Section 26 (6)).
- Scottish Ministers can commit CJS resources to deliver research/good practice/ education and training (Section 29 (3)).

- CJS must submit its' corporate plan for approval by Scottish Ministers, mindful that the Scottish Government aren't obliged to produce a strategy until after the plan is presented and approved (Section 9). There is no statutory requirement for Scottish Ministers to consult CJS specifically when drafting the initial strategy, although such consultation must take place on any future review/revision of the strategy.
- It is not clear how financial implications will be resolved.

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

- (a) leadership, strategic direction and planning?
- (b) Consultation and accountability?
- (c) Partnership and collaboration?
- (d) Commissioning of services and achieving best value for money?

It has the potential to do all of these things if the implementation is carefully planned and supported. Relationships particularly in relation to performance management between those with local and national accountability need to be respectful and supportive.

The proposals include appropriate duties to consult and provide for effective local and national accountability both jointly and individually on Community Justice Partners.

The specific statutory partners are based around local authority areas (Section 12) and this emphasises the focus for link at local policing level. It is of interest that all partners are specified by organisation, with the exception of Police Scotland, where the partner is specified as ' the chief constable of the Police Service of Scotland'. There may not be a material difference, but some clarification would be helpful on why the Chief Constable is named as the partner, rather than the SPA Board or the local police commander. The Scottish Fire and Rescue Service is noted for comparison.

Effective Partnership and collaboration will be necessary to achieve outcomes.

National oversight and pursuit of innovation can help facilitate improved commissioning of services and value for money.

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?*

The proposed arrangements may enable Community Justice Partners to collaborate effectively in achieving agreed local outcomes including addressing currently identified weaknesses in relation to Women Offenders. It is noted that additional resources are available to support the transition whether these will be sufficient to complete transformation in all areas is doubtful. However areas experiencing challenges should be identified in the reporting and scrutiny processes and consideration given to:

- affording more time;
- applying innovation, learning and development for other areas; or
- other targeted support or interventions.

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

Yes if all community partners engage with the transitional arrangements and recognising that this date represents the beginning of the new arrangements.

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

The relationship between Community Justice, Criminal Justice and Youth Justice could be better explained.

What is the role of the Lord Advocate in relation to Community Justice Scotland and Crown Office Procurator Fiscal Service with Community Justice Partners? Should they not be a Community Justice Partner?

There is no reference to the Scottish Police Authority and it may be that the relationship between the SPA and Community Justice Scotland needs to be considered, in order to clarify how organisational accountabilities would function given the responsibilities placed on the Chief Constable in the CJ Bill.

This appears primarily to be an enabling piece of legislation, with much of the detail to follow in Regulations that this Bill, if enacted, will allow ministers to make. The Bill would benefit from the inclusion of greater detail about what CJS will do rather than delaying this until after enactment, for example the intended model could be put on a statutory footing by including it in the Bill.

The Bill is rather vague in a number of areas in what it may require Police Scotland to do, although the new body, Community Justice Scotland, is required to consult the police as a partner, prior to implementing any of its functions. This consultation will provide a valuable and necessary opportunity for the police to influence this at a national level.

There is a requirement (Section 5) for Police Scotland to “comply with any reasonable request from Community Justice Scotland to provide information, advice, assistance ...”. Experience suggests that it is not always straightforward to provide information that constitutes “a reasonable request”, and further definition or exemptions would be helpful. There is a strong likelihood of significant demand for data from the Criminal Justice business area within Police Scotland, in relation to what happens after a person enters the criminal justice system. Requests may seek further detail on a combination of crime types, offender details and victimisation – only some of which is already currently centrally collated for reporting purposes. There is scope for significant challenges for Police Scotland to collate data, both in scale and nature. Further ICT work may be required to develop the necessary reporting structures for the data that may be requested. This would put a burden on local and national departments in addition to specialist analysts.

Conclusion

Police Scotland is broadly supportive of the Bill and the provisions within, particularly in respect of measures to provide improved victim support and assistance.

Police Scotland
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