

Justice Committee

Community Justice (Scotland) Bill

Written submission from Glasgow Community Justice Authority

The Glasgow Community Justice Authority (GCJA) supports the call for evidence on the Community Justice (Scotland) Bill, having engaged with the consultation process over the past two years. Our submissions can be accessed at:

- <http://www.gov.scot/Publications/2013/07/7507/downloads>
(*Redesign of Community Justice*)
- <http://www.gov.scot/Publications/2014/10/9125/downloads>
(*Future Model for Community Justice*)

Having carefully considered the Bill and accompanying documentation, we are not convinced that the published proposals will deliver better outcomes or improve governance, accountability and leadership.

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. As critical, if not more critical than the Commission report was the Audit Scotland report, *Reducing reoffending in Scotland* (2012), which was prepared with a specific focus on community justice. The Commission referred to the “cluttered landscape” of community justice, while Audit Scotland referred to a “complex landscape”. Adopting these shared concerns as barriers to effective planning and service delivery, the complexity of the system presented within the Bill leaves substantial concerns that the foundations for another complicated arrangement are being laid.

1.2. There is no evidence that structural reform in itself guarantees better outcomes for any policy area. For example, the achievements of the Whole System Approach for Young People (reducing reoffending and the prison population) were delivered via robust partnership working and a systemic shift to early intervention and prevention, not structural reform.

1.3. Key partners are excluded in the design presented with the Bill, most notably COPFS (Crown Office and Procurator Fiscal Service). In fact the Commission highlighted the importance of sentencing, suggesting that the partnership needs to be wider than the Bill portrays.

1.4. Little mention is made in the Bill’s accompanying documents of the Commission on the Future Delivery of Public Services (Christie Commission), however it is this vision which would truly transform outcomes across the justice system, including community justice. In particular there is nothing in the Bill which will underpin the decisive shift to prevention which is required.

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

2.1. No, however the Policy Memorandum repeats the definition from the 2014 consultation, which provides a more rounded focus on Community Justice and reflects better the fuller opportunities of Community Planning leadership:

“The collection of agencies and services in Scotland that individually and in partnership work to manage offenders, prevent offending and reduce re-offending and the harm that it causes, to promote social inclusion, citizenship and desistance”

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. The creation of Community Justice Scotland (CJS) will not in itself guarantee improvements. The multi-dimensional design within the Bill risks creating the “cluttered landscape” criticised by the Commission on Women Offenders in their assessment of the current arrangements. CJS will not have ultimate accountability for any improvements. Nationally, accountability will remain with the Cabinet Secretary for Justice, and locally with defined Community Justice Partners.

3.2. Audit Scotland identified (2012) that as strategic planning bodies, CJAs have experienced difficulties gaining sufficient leverage to drive improvements on the ground. CJS will have greater difficulties in this respect, given the absence of any local presence or relationships.

3.3. CJS will be reliant on the quality of performance information gathered by partners, and on its own analytical capacity and expertise. The Scottish Government is leading the development of a new national Performance Management Framework (as yet unpublished), but it remains challenging to meaningfully measure community justice outcomes. This is certainly challenging at CPP level and even more so at neighbourhood level where the Glasgow CPP is focusing its Area Planning. We are not yet confident that CJS or Community Justice Partners will be operating within a strong community justice performance framework.

3.4. We are also concerned that the stated, and unexplained, opposition to TUPE from the existing CJAs and allied staff (including Training and Development Officers) is undermining existing community justice experience from future arrangements.

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. No. It remains unclear why there is a complete disconnect between CPPs and defined ‘Community Justice Partners’ within the Bill (paragraph 76 of the Policy Memorandum):

“It is expected therefore that CPPs and community justice partners will consult each other when preparing their respective outcome improvement plans”

4.2. While embedding service delivery within local planning is welcome, the proposed arrangements are concerning. If CJAs are to be disestablished in favour of a new local model, it makes sense to fully integrate arrangements into CPPs, which deliver against the wider policy context, or run the risk of an even more *cluttered landscape*.

4.3. Given that CJAs are being disestablished following criticism of our leadership, governance and accountability arrangements, it is disappointing to see that there will now be no single point of contact in this respect at a local level, something which could be achievable through CPPs.

4.4. From a strategic perspective, the suggestion that in preparing the plan for the area, community justice partners must “*have regard to*” the Local Outcomes Improvement Plan produced by the CPP (Section 18(1)(a)(iii) of the Bill) is a weak linkage. It is only through the thorough integration of planning that the benefits of Community Planning and a joined-up approach can be realised, and the *cluttered landscape* avoided.

4.5. Whilst some named ‘Community Justice Partners’ are active within CPPs, and should find engagement straightforward, in practical terms being named as a ‘Community Justice Partner’ will create significant challenges for others. This includes the Scottish Prison Service, who currently have no apparent structure to actively participate in 32 different governance arrangements.

4.6. There is no explicit mention in any of the documents of the Crown Office and Procurator Fiscal Service who are *essential* partners in delivering better community justice outcomes, nor is there distinct reference to Health and Social Care integration arrangements. These are serious omissions which should be rectified.

4.7. While we acknowledge the commitment not to “change the boundaries at this time” for MAPPA arrangements, we are concerned that local disjoint between CPPs and Community Justice Partners as drafted within the Bill present a future risk to the coherence of good, public protection planning.

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

5.1. No. While the new model had been described as a local model, supported by a national assurance and improvement function, the Bill is unclear how this balance will be achieved.

5.2. There is also a significant resource inequity between the proposed national body (budget £2.2 million) and the local arrangements for Community Justice Partners (to be delivered within existing budgetary and staffing arrangements). This further undermines the opportunity for balance.

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?

6.1. This question groups a range of issues. ‘Leadership’ and ‘planning’ are different functions, and ‘consultation’ is different than ‘accountability’. In the Bill and

accompanying documents these terms are used interchangeably and are not defined, adding to poor clarity in the drafting.

6.2. Structural reform does not guarantee improvement. The extent to which people can work together around shared outcomes is a more significant predictor. There are assumptions through the Bill that effective partnerships can be created through a change in governance and reporting arrangements, when the evidence suggests partnerships are more reliant on good relationships and a history of joint working which builds communication and trust.

6.3. We have particular concerns about the lack of any stated role for either Elected Members or the third sector. Both have played key roles in driving forward local and national community justice improvements. We do not support any assertion that consulting with 'community bodies' will in any way be equivalent to active membership of Elected Members.

6.4. We are concerned at the explicit references to communication lines to COSLA , without regard to local authorities operating outwith COSLA.

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. No. The most substantial resource challenge for community justice is that the vast majority of resources for offender management are held in the custodial and court side of the system – in Christie Commission terms, resourcing 'failure demand'. We know from Audit Scotland (*Reducing reoffending in Scotland (2012)*), that while just over £100 million is spent on Community Justice, the estimated direct annual cost from re-offending is £3 billion. Community Justice redesign presents an opportunity to shift investment towards prevention and away from reaction to failure.

7.2. The opportunity is also greater than cost savings. It is an opportunity to focus on individuals not supported within current arrangements. Within Glasgow there are approximately 4000 individual returns annually to the community from prison, with the vast majority (in excess of 97%) individuals completing short sentences, with no statutory throughcare support. Through Government and local investment, new services are beginning to support these individuals. The arrangements within the Bill potentially undermine this local planning and affect individuals going through the justice system, their families and their communities.

7.3. With financial arrangements still in development, it is unclear whether the disadvantages of the existing system as highlighted by the Commission on Women Offenders, Audit Scotland and the Christie Commission will be resolved, such as an inability to identify unit costs; perverse incentives to maintain people in the system; and a lack of strategic commissioning approaches. None of these difficulties require structural change to be resolved, but there is a risk that the proposed developments move us no further from responding to failure demand.

7.4. We were disappointed to see reference to an "Innovation Fund" to which partners would need to bid (paragraph 109, Financial Memorandum), a distraction from local commissioning planning.

7.5. The Commission on Women Offenders proposed a joint Board between the national Community Justice Service and the Scottish Prison Service (National Community Justice and Prison Delivery Board). This proposal should be considered for Community Justice Scotland to enable more needs-led resourcing and strategic commissioning.

7.6. The opportunity costs of structural reform are absent from the Financial Memorandum, but will be significant given the 5 year transition period from 2012-17 followed by development time for the new arrangements to bed in.

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

8.1. No. The lack of clarity within the Bill (already highlighted) makes it challenging to appreciate the destination of redesign planning, let alone the pace of development required to reach that destination. The timeframe to reach where we are now has been at a slower pace than would be ideal, and we are concerned outstanding matters within the Bill will add yet more time.

8.2. CJAs were established in shadow in April 2006 with full duties following in April 2007. Just five years later, in April 2012, the Commission on Women Offenders concluded that whilst *“Some of the recommendations set out in the earlier parts of the report could be implemented within the existing systems, ... we concluded that to deliver the very best outcomes ..., a radical transformation of the existing structural and funding arrangements, and associated working practices, is required.* (p80) This recommendation has been followed by an extremely protracted redesign process, already stretching to three years, with almost two years to go.

8.3. During this lengthy change period it has been challenging for our Board, staff and partners to remain focused. We have continued to make strong progress, however it is worth considering how much more progress might have been made without the distraction and resource drain of redesign so predominantly on the agenda over such a length of time.

8.4. We believe that there are challenges around moving to the new arrangements by 1 April 2017, but we would not support any further delay.

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

9.1. Redefine ‘community justice’ to fully reflect the broader understanding and opportunities.

9.2. Place explicit duties on CPPs to integrate local community justice arrangements into the robust system of CPP governance and reporting, rather than setting up a loose grouping of ‘Community Justice Partners’ as a parallel arrangement outwith CPPs.

9.3. Specify clear roles for Elected Members and the Third Sector in the new arrangements.

9.4. Amend references to COSLA to reflect the current alignment of local authority groupings.

9.5. Specify that 'Scottish Ministers' includes both the Scottish Prison Service and Crown Office and Procurator Fiscal Service (COPFS).

9.6. Include a commitment to adequately resource CPPs, reflecting the local requirements for the anticipated improvements.

9.7. Amend references to an Innovation Fund which would require direct bidding.

9.8. Consider the Angiolini Commission's proposal for a joint Board for Community Justice Scotland and the Scottish Prison Service.

9.9. While there is a helpful reference to an Equalities Impact Assessment (paragraphs 137-150, Policy Memorandum), this is an area which should be kept under review for the duration of developments, and re-assessed at regular intervals.

Glasgow Community Justice Authority
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