

## Justice Committee

### Community Justice (Scotland) Bill

#### Written submission from the City of Edinburgh Council

This response is submitted after consultation with the multi-agency Edinburgh Reducing Reoffending Partnership.

**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 City of Edinburgh Council's response to the consultation on the future model for community justice in Scotland welcomed the proposal for local delivery of and accountability for community justice. The Bill establishes this principle and is welcome. The definition of community justice in the Bill, however, relates to "offenders" (post disposal), with insufficient regard to the potential for preventative work that has, for example, been a feature of the strategy for women offenders since 2012. The Bill would have been improved by a Whole Systems Approach to offending and reoffending, recognising the potential for partners to work together to divert people from criminality in the first place. This has been a principle established in the Willow Service, supported by Scottish Government funding for the last three years. As with many of the lessons of the Commission on Women Offenders, these principles can be applied to men as well as women.

1.2 The emphasis in the Bill on outcomes is welcome, but the requirements for partners to plan, report and deliver these outcomes are unclear. The list of partners in section 12 does not specifically include the Crown Office and Procurator Fiscal Service and there is no requirement on organisations outwith the stated partners to co-operate, only that all reasonable effort is made to secure the participation of such bodies. There is no reference to the third sector.

1.3 There is a great deal of detail in the Financial Memorandum on the funding arrangements for Community Justice Scotland, but little recognition of the resource requirements to support the strategic objectives of national and local planning. The current funding landscape for criminal justice social work is characterised by ad hoc and short-term funding. This has an adverse effect on long-term planning, sustainability and staff retention. A Whole Systems Approach would support a focus on long-term planning and resource transfer from custody to community justice. The recent decisions regarding the future of the custodial estate for women are an example of the potential for fresh thinking.

**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 seems unnecessarily narrow, related as it is to offenders: "persons who have at any time been convicted of an offence". As stated above, this contradicts the preventative aspirations of the Commission on Women Offenders and indeed the Christie Commission, as well as initiatives that have been supported by the Scottish Government since 2012 in relation to women offenders. At the other end of the continuum, the Bill makes no reference to the public protection or risk management aspects of community justice,

including the Multi Agency Public Protection Arrangements (MAPPA), which will be affected by the abolition of Community Justice Authorities.

**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 City of Edinburgh Council's response to the consultation on the future model for community justice in Scotland recognised the potential for national oversight to bring identifiable benefits in terms of national leadership, visibility and culture, but questioned whether a new and separate national organisation was the best way to achieve these outcomes.

3.2 There is potential in the Bill for the national body to support community justice outcomes at a local level through a national strategy, a national performance framework and the development of local outcome improvement plans. However, section 3 of the Bill allows Scottish Ministers to confer additional functions on, or transfer another person's functions to, Community Justice Scotland. Section 4 grants Community Justice Scotland a general power to do anything necessary or expedient to carry out its functions. Section 26 allows Community Justice Scotland to develop and arrange services at a national or local level. Taken together, there is potential for Community Justice Scotland to become a more directive and centralising body, which would be inconsistent with the aspiration that there should be local delivery of, and accountability for, community justice. Community Justice Scotland should be a "light touch" organisation, which should enhance and promote an equitable and supportive relationship between national and local agencies. It should add value by acting in an advisory capacity, disseminating good practice from around Scotland.

**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 out the expectation of wide participation in community planning. While the partners to community justice planning outlined in section 12 of the Community Justice Bill have a duty to co-operate in relation to community justice functions, the requirement beyond this group is to "make all reasonable efforts to secure the participation" of other community bodies in preparation of the plan. Much will therefore depend on the culture of partnership working established in each area. There is no mention of the third sector in the Community Justice Bill.

4.2 The Community Empowerment (Scotland) Bill makes provision for local outcome improvement plans and these will be in addition to community justice outcome improvement plans. Consideration should be given to integrating these 2 sets of plans as a way of mainstreaming community justice.

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

5.1 See response to question 3 above. Much will depend on how Community Justice Scotland interprets its role in relation to the national strategy, the national performance framework, and the outcome improvement planning process; whether it assumes additional responsibilities; and the extent to which any decisions regarding commissioning services at a national or local level take account of local needs and can demonstrate better value than local commissioning of services.

**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 Community Justice Scotland should provide national, professional and strategic leadership. In order to achieve this, it should have strong links to service user views, professional networks, communities/neighbourhoods and academia. Partnership working at a national level should be ensured, rather than just promoted. Legislation alone will not ensure this.

6.2 The focus on outcomes rather than inputs is welcome. In the development of a performance framework, there should be a clear focus on indicators that genuinely reflect positive outcomes and that are relevant to local arrangements, as well as nationally agreed priorities. The new arrangements should not cut across the achievement of local priorities and agreed outcomes, but should support the successful delivery of these. The sections in the Bill outlining the arrangements for community justice outcome improvement plans and performance reporting suggest that the balance might be more towards accountability to Community Justice Scotland, rather than a focus on local delivery and accountability.

6.3 Reference has already been made to the national commissioning of services in answers 3 and 5 above. Again, legislation will not of itself ensure that the correct balance is found between Community Justice Scotland and community planning partnerships.

**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. There is a great deal of detail in the Financial Memorandum regarding the funding arrangements for Community Justice Scotland. It recognises that there are additional burdens placed on local authorities for reporting and planning, and an obligation to provide information, advice and assistance to Community Justice Scotland. It recognises that there are costs related to engaging in the preparation and review of the national strategy for community justice, and in awareness raising and training of staff. It recognises that there are costs in the preparation and review of the performance framework for community justice.

7.2 Other than the transitional funding available for three years, there is an expectation that all of these costs should be accommodated within local authorities' existing responsibilities for improving community justice outcomes. This seems at odds with the very detailed financial planning for Community Justice Scotland.

7.3 There is reference in the explanatory notes to an innovation fund against which community justice partners would bid for monies to deliver improvement. It would be of concern if this fund were to be top-sliced from the Section 27 allocation to local authorities, which is already made up of a large number of short-term and ad hoc funding streams. The new formula for Section 27 funding under the new arrangements is yet to be agreed, and the delivery of the aspirations in the Bill is to an extent dependent on the resources available to local partners. There is no requirement in the Bill for partner agencies to bring resources to the partnerships, nor is there any provision for the transfer of resources from one part of the criminal justice system to another in order to achieve agreed outcomes, such as a reduction in imprisonment. The burden would therefore seem to fall on Section 27 funding.

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

8.1 This is a realistic timescale, although much will depend on the national strategy, performance framework and the funding formula being in place within the expected timescales. Work is already well underway in Edinburgh on the transition arrangements.

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

9.1 As above, the Bill could be improved by:

- a wider definition of community justice, which encourages early intervention and preventative work
- clarification of the role of Community Justice Scotland to support local delivery and partnerships, with a focus on a small and meaningful number of national outcomes
- a clear statement of the limitations of national commissioning of services
- recognition of the need to resource local authorities adequately to discharge the new responsibilities beyond the three year transitional funding.

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