

## Justice Committee

### Community Justice (Scotland) Bill

#### Written submission from NHS Scotland

NHS Health Scotland is a national health board working with public, private and third sector organisations to reduce health inequalities and improve health. Our role is to work with others to put into action knowledge about what works, and does not work, to reduce health inequalities and improve health. Our 2012–17 corporate strategy '**A Fairer Healthier Scotland**' sets out our vision of a Scotland in which all of our people and communities have a fairer share of the opportunities, resources and confidence to live longer, healthier lives.

**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?**

The proposed Bill contains several tangible responses to criticism of barriers raised by the Commission and Audit Scotland on CJA function and accountability. The emphasis on outcomes focus, measurability of impact and local accountability is particularly welcome. Driving improvement, fostering innovation and addressing quality are fundamental approaches which have been tested well in parallel within Alcohol and Drug Partnerships and these also share a national performance measure on reducing offending related to substance use. The national learning from this work should therefore be considered and the tools and resources these partnerships deploy adapted for the new Community Justice Scotland agency in order to operationalise the national performance framework outlined in the draft Bill.

There is less clarity on how the new national agency will mitigate against the likely high variance in performance, the potential for inconsistency in local delivery models and what powers of influence or enforcement it may possess. A key gap is noticeable in reference to COSLA which no longer has representation from all Scottish local authorities. The inclusion of the Scottish Prison Service as a key partner is a welcome development but also risks variance as not every local authority hosts an SPS or private establishment, notwithstanding the duty of care to their local residents.

Statutory arrangements for delivery of offender management and desistance appear a clear focus but there is little emphasis on prevention of offending. The potential to enact the recommendations of the Commission on Women Offenders (CWO) is unclear as the proposed Bill is non-specific to the complex needs of this population or the intent to reduce, rather than disperse these individuals.

While the inequalities which drive offending behaviour are acknowledged, the role which NHS Boards and their partners can play in improving health and wellbeing and contributing to prevention is overlooked. The opportunity to strengthen the relationship between health and justice policy, ensure consistency of approach, encourage diversion from prosecution and community alternatives to custody, to

promote joint delivery of services and to ultimately reduce both offending and reoffending should be emphasised. The public health and health improvement opportunity for mutual benefit and positive outcome has been clearly articulated at national level by Scottish Public Health Network<sup>1</sup> papers, publications and engagement.

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

The proposed definition of Community Justice appears to be clear but is however narrow. It defines statutory and operational arrangements of delivery and accountability but the scope could be widened beyond a sole focus on offenders to include remanded detainees, justice and support for families and victims who can be equally critical a reduction in reoffending. The narrowness of the definition also overlooks the strategic and preventative role Community Justice can have which indirectly impacts on reducing inequalities and improving health and wellbeing. The needs of women offenders, for example and the complexity of the inequalities which drive their offending behaviour are not acknowledged, despite the opportunity to specifically meet the recommendations of the CWO. In view of the proposed model of local delivery, these links to the wider context of community planning could be acknowledged and strengthened.

The definition also narrowly focuses only on those individuals sentenced, whereas Community Justice partners have significant opportunity to work with police, courts and the judiciary prior to sentence to ensure early interventions, diversion and referral to specialist services or liaison with statutory and voluntary community services to address the social and behavioural drivers of offending behaviour such as mental health problems, trauma and substance use.

## **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 proposed national body will be essential to mitigate against inefficiency, to reduce duplication of effort and to reinforce best practice and standards of delivery. Several tools and levers will be required to enable this action<sup>2</sup>, however and rather than generating these solely, again comparable activity in Community Planning developed nationally to support Alcohol and Drug Partnerships could be useful to adapt or refine:

<sup>1</sup> Health Improvement in Prisons (ScotPHN 2013)

[http://www.scotphn.net/projects/previous\\_projects/health\\_improvement\\_in\\_prisons](http://www.scotphn.net/projects/previous_projects/health_improvement_in_prisons)

Offender Collaborative Report, Healthier People, Safer Communities (2014)

[http://www.scotphn.net/pdf/Offender\\_Health\\_Report\\_2013.pdf](http://www.scotphn.net/pdf/Offender_Health_Report_2013.pdf)

Violence Prevention, a public health priority:

[http://www.scotphn.net/projects/previous\\_projects/violence\\_prevention](http://www.scotphn.net/projects/previous_projects/violence_prevention)

<sup>2</sup> Alcohol and Drug Partnerships;

Core outcomes (<http://www.gov.scot/Topics/Health/Services/Alcohol/treatment/Partnership-Outcomes>)  
National Guidance:

<http://www.gov.scot/Topics/Health/Services/Alcohol/treatment/UpdatedGuidanceforADPsonPlanningandReportingArrang>

Recovery Indicators and Tools: <http://www.sks.org.uk/topics/drugs-and-alcohol.aspx>

- Comprehensive National Guidance for ADPs including core outcomes and reporting templates
- Embedding of core outcomes for delivery in LDP Standards for NHS Boards
- National Quality Principles and Standards for local Services
- National Indicators for Recovery and a core measurement tool.
- A national data system (DAISy) which links across to community health profiles and other national data systems<sup>3</sup>.
- Use of improvement science and LEAN theory in locally delivered workshops to generate a step change in delivery through partnership working.
- Facilitated leadership workshops and learning sets.

Many aspects of this activity exist within current local community justice expertise and note there is shared membership across community planning to this ADP activity but it could be harnessed more effectively to address offending and reoffending by a national agency with the authority to influence, persuade and guide local action.

The flexibility and future-proofing of the legislation to allow Community Justice Scotland to adapt and respond to changing demand and a complex landscape is welcome but also embeds an opportunity for misinterpretation of undue political control or diffusion of the agency's role. Clarity on the timing and cycles of improvement in which Ministers would expect to see impact would be useful and a degree of independent review and assessment may avoid this risk.

#### **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?**

In statute, the proposed powers exist and the duties are aligned with the overall ambitions of Community Planning Partnerships. For wider impact, as detailed above in comments on the scope of the Bill it does not fully include power over local determinants of offending or prevention. The partnership structures at local level are also highly variable across Scotland (the integration of health and social care as one example) and this new challenge of addressing local justice as well as safety concerns for populations will be immense in some areas.

For effectiveness of these structures, a cohesive and logical approach across community planning will be essential and this is likely in the short term to be a major focus and potential drain on the resources of Community Justice Scotland. The agency must therefore be adequately resourced to meet this likely demand and ensure positive impact. The proposed national Community Justice Plan and performance framework will be one way of defining this and therefore has to be outcomes focused, person-centred and consider the wider determinants of offending and inequalities context within which community planning operates.

---

<sup>3</sup> DAISy <http://isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Drug-Alcohol-Information-System/Governance/>

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

There is a strong degree of expectation of local community justice partners to eventually deliver, measure and provide a rationale for decision making to Ministers within the proposed Bill. Clear guidance, consistent reporting templates and local support will assist here. The local enactment of these responsibilities could be variable and impacts at a time of change and challenge, especially for health and social care partners. While the transitional funding period is welcome to allow for areas at different stages of development to adapt arrangements and take on more responsibilities the national guidance, support and influence of Community Justice Scotland will be essential but this needs to be delivered in a way which does not unintentionally foster dependence on national solutions. Building local leadership will mitigate against this risk.

**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?**

Only a degree of improvement is likely to be achieved. The creation of a national agency to drive this agenda forward is welcome, but its power will lie in persuasion and influence as no direct control can be exerted over local decision making, funding or delivery of services. Inspection is cited as a feature of the new agency but the authority and process of this function is unclear. Self- assessment, review and support for validation is a style and level of support afforded to ADPs in partnership between the Care Inspectorate and Scottish Government and should be considered in parallel.

A range of clear guidance, evaluation evidence, outcomes planning tools and local leadership will require to be facilitated to enable the agency to impact. The support of other national agencies, both within justice and beyond in health, social care, community and voluntary partners will go part way to supporting these improvements but variability and inconsistency is likely. Again parallels with the national work with ADPs may prove useful as a model to develop further; clear outcomes and guidance, reporting templates and measurement tools, national standards and principles, building of user and family voice and skills and clear briefings and guidance on evidence of effectiveness and commissioning criteria.

**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?**

There is insufficient detail in these costings for the new national agency and no specific reference to the capital, staffing and partnership requirements for either the transition of community justice as a whole or the requirement to meet the needs of women offenders. There is no clear strategy to reduce rather than disperse women involved in the criminal justice system across a potentially variable range of local service provision and no clarity on the specific costs required to meet the needs of

this population, either at national agency or local partnership level. Further modelling work, national leadership and robust planning would therefore be welcome.

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

The regional and national readiness appears strong and there are several planning activities which are anticipating this change, such as the modelling work being delivered by SPS, Turning Point and NSCJA for the women offending agenda and new national Scottish Government leadership on this agenda. What is less clear is the readiness at local community planning level and while there is some planning in place by Community Justice Authority colleagues to promote this and enter into planning discussions, any influence or support by Scottish Government and wider national partner agencies both within and potentially out with the justice sector to facilitate this would assist.

**9. Could the proposals in the Bill be improved and, if so, how? - See more at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/89658.aspx#sthash.vjohvi1B.dpuf>**

NHS Health Scotland  
11 August 2015