

## Justice Committee

### Community Justice (Scotland Bill)

#### Written submission from Safe Glasgow Group on behalf of Glasgow Community Planning 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?*

Without minimising the significance of the findings of the Commission on Women Offenders, we would suggest that the Audit Scotland Report Reducing Reoffending in Scotland (2012) is of similar importance. Audit Scotland referred to a “complex landscape” being part of the problem. We would suggest that the landscape envisaged in the Bill is no simpler than the current one with the local Community Justice partners individually in 32 local authority areas, all reporting individually to the national Community Justice Scotland (CJS), who will, in turn, report to the Scottish Ministers. We are not clear how the proposals as currently framed in the Bill will improve existing joint working to tackle reoffending. It is submitted that more effective partnership working, integration of services and alignment and pooling of resources are the approaches most likely to deliver improvement.

We are concerned that there is a risk that the changes as currently framed in the Bill may actually create a more disjointed approach and fail to achieve the objectives set for it. In particular, the structure envisaged in the Bill does not provide a focus for building more effective partnership working around tackling re-offending by offering a collaborative approach to helping offenders with multiple problems, e.g. mental health and housing problems. In the case of individuals leaving prison this is a common problem. Work on this is already underway in Glasgow. The Bill needs to make the links between Community Justice and the links to both Community Planning and the Health and Social Care Partnership much clearer if it is to achieve its stated objectives.

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

The definition seems to focus on the “criminal justice” side and says little about partnership and integrated services. Nor does it cover promoting community safety, desistance, and social inclusion.

We understand that there is a particular issue in implementing the Bill’s intention of bringing the NHS into the redesigned community justice arrangements, as a full partner. It is our understanding that the National Health Service Scotland Act 1978 does not give territorial NHS Boards the powers to respond to certain of the requirements contained in the draft Bill. This could mean that although the NHS Board is a named community justice partner, there would be very little that it could be held accountable for in terms of delivering “community justice”, as currently defined in the Bill. A broader definition including a commitment to promoting community justice by promoting the well-being of prisoners and assisting the victims and families of offenders, and thereby reducing re-offending, and the resulting impact on

communities, would be a more significant contribution. This is made yet more important in areas such as Glasgow where Social Work Criminal Justice will operate as part of the integrated Health and Social Care structure.

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?*

Whilst the proposals to have a national body to provide support to local partners are generally welcomed, there are concerns regarding the reporting structure from local partners to CJS, which appear to envisage individual partners reporting to CJS separately rather than collectively. We do not see the case for having a local plan jointly agreed and submitted to CJS but then CJ S looking at individual partner performance. This is not only inconsistent but creates an unnecessarily cumbersome process. We would suggest that alternative approaches should be considered e.g. local partners should peer review each other, and hold each other to account through a local structure. That local partnership – which, as set out below, could be supported through an expanded Community Planning structure, could in turn be accountable collectively, rather than individually, to CJS for performance. We would suggest a much closer alignment of Community Justice to Community Planning, which already has structures and processes which allow scrutiny of Police and Fire and Rescue Services to be located within CPP structures while allowing the local authority to fulfil its statutory functions. The Bill outlines the requirements of the proposed CJS to produce a national strategy and has indicated that community justice partners would need to be engaged and consulted on this. The wording of the Bill does not indicate how local issues i.e. at the Local Authority level, will help to form the strategy. There is no indication that this will be the two way process which would be required to be effective.

4. *Taking into account the reforms set out in the Community Empowerment (Scotland) Act 2015 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?*

The Bill, as currently framed, is a missed opportunity to effectively link Community Justice to Community Planning. The Community Empowerment (Scotland) Act gives us a new definition of “Community Planning “, It is now to be “*planning that is carried out with a view to improving the achievement of outcomes in relation to the area of a local authority resulting from, or contributed to by, the provision of services delivered by or on behalf of the community planning partners.* “ This emphasis on agreed joint outcomes, is accompanied, in section 9 of the Community Empowerment Bill, by a greater emphasis on the duties of the Community Planning partners. These include:

- taking account of the published Local Outcomes Improvement Plan;
- committing appropriate resources to the achievement of local outcomes set out in that plan and for the purpose of securing the participation of relevant community bodies in community planning; and
- providing the partnership with such information about the outcomes in the plan which the partnership may request.

The Bill as drafted does **not** envisage the migration of Community Justice to Community Planning. This is surprising given previous Scottish Government statements including specifically the “Future Model for Community Justice in Scotland” published on 15 December 2014 which stated that “Local strategic planning and delivery of services through Community Planning Partnerships (CPPs) is central to the new arrangements “(Executive Summary p.3). The actual phrase Community Planning Partnership does not appear in the Bill although it does in the Policy Memorandum in the section on “Community Justice Planning- a collaborative approach.

Rather than Community Planning being the vehicle for local strategic planning of Community Justice, the Bill refers to “Community Justice Partners: “as being individually responsible for this as set out below. The Bill seems to overlook the fact that with the abolition of Community Justice Authorities, in the absence of a transfer to Community Planning structures, there is no local structure for partners to meet and discuss issues relating to Community Justice. Paras 74-76 of the Policy Memorandum accompanying the Bill make it clear that while the approach to be adopted by CPPs is a “similar collaborative approach “it is not the same. It is not one integrated process. Para 76 states “It is expected that CPPs and Community Justice partners will consult each other when preparing their respective outcome improvement plans”. That makes it explicit that “Community Justice planning “and Community Planning remain separate processes. That contradicts the above statement in the “Future Model for Community Justice in Scotland”.

This view is reinforced by the provision which indicates that the obligations on the part of Community Justice Scotland to consult on the CJS plan is with individual Community Justice partners and not with the CPPs. A Local Community Justice Plan is to be separate from but must” have regard to” the Local Outcome Improvement Plan produced by the CPP (in terms of the Community Empowerment Bill) (see S. 18(2) (3) of the Community Justice Bill). This is a relatively weak linkage. We would suggest amendments be made to the Bill to indicate that Community Justice partners **must** work with Community Planning partners, including joint planning and co-ordination of services, with the option of CPPs inviting all Community Justice partners to formally join the CPP . There is a precedent for this in MAPPA where there is duty on partners to co-operate. It is submitted that, at minimum, Community Justice Partners should require to co-operate with each other, and CPP partners in planning and implementation. Our preference would be to go further and require formal links between CPP and Community Justice partners, with an option to allow full integration of Community Justice into Community Planning if the CPP is in a position to adapt its structures and process to meet the requirements of an amended Community Justice Bill.

There is little evidence of policy connectivity in the draft Bill. Even, if the narrow definition of community justice provided in the draft Bill is accepted, the absence of connectivity with Alcohol and Drug Partnerships (ADPs) and Children’s Services Planning are significant omissions when considering offending issues in Scotland. Any Community Justice Strategy for Scotland would need to connect with GIRFEC and Children’s Services Planning and ADPs in its formation.

Community Planning Partnerships provide the obvious mechanism to connect these inter-related policy drivers and local action. The model outlined in the Bill does not represent the transition of Community Justice to Community Planning. Rather, it creates a parallel set of relationships between local “Community Justice Partners”,

Criminal Justice Scotland and the Scottish Government sitting outside Community Planning. There are linkages but these are not particularly robust.

It is submitted that if we are to make a success of developing an integrated approach to community justice it needs to be within the established framework of community planning. It is therefore proposed that local CPPs should be asked to encourage all “Community Justice partners” in their area to agree to work within the community planning framework.

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

It is submitted that the Bill, as it stands, does not achieve the right balance between local and national, and that the model proposed is too centralised. Community Justice Scotland is described as having a “duty to monitor the performance of community justice partners against the national performance framework for Community Justice” (yet to developed) and must report individually on their performance. In other words, not only will each one of the 32 local authorities receive feedback on the local performance but Police Scotland and other partners will receive 32 reports from Community Justice Scotland each calendar year. There appears to be no recognition of any collective responsibility on the part of “Community Justice” partners working together at the local level. The Bill fails to take up the opportunity of utilising Community Planning structures, which already have agreed joint priorities through the Single Outcome Agreement and will have enhanced joint responsibility through the Local Outcome Improvement Plans (replacing SOAs) envisaged in the Community Empowerment (Scotland) Act.

Community Justice Scotland can “direct Community Justice partners to publish CJS’ assessment of its performance”. This appears to mean each individual partner in each one of the 32 local authority areas. Publication could then lead to recommendations to Scottish Ministers (s. 24). Para 106 of the Policy Memorandum makes it clear that these recommendations might include “the requirement for a rescue task force in any local area”, and to advice to Scottish Ministers to determine how local funding is allocated and used in an area, and an inspection of individual local Community Justice services. It is not clear what happens if one local Community Justice partner fails the test but others do not. This would not only be unfair but is inherently contradictory given absence of collective responsibility referred to above. Whilst Community Justice Scotland can make recommendations to Scottish Ministers as above, Ministers can in turn issue directions to CJS “to carry out improvement programmes with community justice partners”, this appears to encourage intervention from the national level, without the opportunity of partners at the local level resolving the issue themselves.

The draft Bill has no apparent cognisance of “regional” responsibilities or services. For example, Greater Glasgow and Clyde NHS would be a community justice partner in six LAs, and manages the NHS provision in the three prisons. In addition, they manage the health care provision in police custody suites. This becomes a significant issue when considering through-care and re-offending and prisoner release services. Is it envisaged that such regional issues have to be dealt with at the national level only, i.e. by Community Justice Scotland? If they are to be dealt with at the local level through community justice partners, how is this to be achieved?

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?*

We do not think that the reforms in the Bill, as drafted will help to support improvement in leadership, strategic direction and planning, nor consultation and accountability nor partnership and collaboration. We would need more detail to comment on commissioning and best value.

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?*

Whilst we acknowledge the importance of the Commission on Women Offenders 2012 report, we do not agree that is the sole criteria against which resource allocation should be considered. It is clear from the Financial Memorandum that all financial resources currently allocated to the local CJAs will, in future, be utilised by Community Justice Scotland, after a transition period ending in March 2018- one year after abolition of CJAs. This budget is approx. £2.2 mil per year. Local Community Justice Partners will require to meet costs of local Community Justice functions themselves with no Scottish Government assistance. Despite assurances that funds would be ring fenced, Para 108 of the Policy Memorandum makes it clear that Scottish Ministers will be able to direct the usage of S.27 Social Work (Scotland) Act 1965 funds to “drive improvement”. These are the funds allocated for the delivery of Criminal Justice Social Work Services which will come directly to local authorities. It is not clear in what circumstances this power would be used.

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

Whilst we would not wish to see delays, it is hard to be certain about the timescale until the issues we suggest further consideration have been addressed.

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

Each community justice partner listed already has a legislative framework that they work within which the Community Justice Bill will not supersede. How this will operate in practice is not clear. We suggest revisiting the proposed relationship between Community Justice partners and Community Planning at the local level. We believe this is essential if the Bill is going to make genuine improvements to the current arrangements. We believe that it is inconsistent and incongruous to seek to bypass Community Planning Partnerships, leaving a vacuum where local Community Justice Authorities existed. We do not accept that this provides the necessary level of local partnership and scrutiny of performance necessary to drive genuine improvements. The absence of any reference to the new arrangements for integrated Health and Social Care is noticeable. Given that in Glasgow, Criminal Justice Social Work services will be located in the HSCP, the production of a Community Justice plan for the city will need to reflect this. The references in the Bill to Community Justice Outcome Improvement Planning (S.21) suggest guidance will be issued on this. In the meantime Community Justice services will work to existing plans. However, in the meantime, HSCPs will have developed their Strategies based on Health Improvement Outcomes published already. It is also possible that CPPs

will have started work on their Local Outcome Improvement Plans. It would be helpful if some overall synchronised timetable for production of these plans could be agreed. If this doesn't happen there is a risk that Plans will be contradictory and require revision.

There is also an absence of reference to Housing in the Bill. Whilst local authorities are the strategic housing bodies, in many areas e.g. Glasgow, they have no housing stock. The need to link housing providers into delivery of community justice at a local level reinforces the case for closer links to Community Planning structures where housing associations are at the table as partners.

Finally, there is lack of recognition of the crucial role of the Third Sector in the delivery of Community Justice Services. In Glasgow, the Third Sector are partners in Community Planning. The Third Sector play a crucial role in key Community Justice working, e.g. the innovative PSP models and the One Glasgow Reoffending initiative. Again linking Community Justice to Community Planning would fill this gap.

Glasgow Community Planning Partnership  
11 August 2015