

Justice Committee

Community Justice (Scotland) Bill

Written submission from Families Outside

1. Families Outside is a national independent charity that works on behalf of children and families affected by imprisonment in Scotland. We do this through a comprehensive national family support service that serves both families and the professionals who work with them, through direct support in person or by telephone; through delivery of training; and through development of policy and practice.

2. Families Outside is grateful for the opportunity to respond to the Call for Evidence on the Community Justice Bill. We do not feel we are in a position to comment on all of the questions but will highlight the issues most relevant to our work and expertise. We are happy to elaborate on any of these should the Justice Committee require additional information or specific references.

3. In general, Families Outside has concerns regarding:

- The extent to which the Bill recognises the full remit of community justice and the critical role of wider community partners in the prevention and reduction of offending;
- The accountability of Community Planning Partnerships in carrying out the agenda of Community Justice Scotland; and consequently
- The extent to which the Bill addresses the recommendations in the report from the Angiolini Commission.

We endorse the submission to this Call for Evidence from the Criminal Justice Voluntary Sector Forum (CJVSF), and our responses draw heavily upon that evidence.

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?

4. The Bill does not appear to follow the recommendations from the Commission on Women Offenders. The Commission's first recommendation to improve leadership, structures, and delivery referred to a national Community Justice Service that would "commission, *provide*, and manage adult offender services in the community" (emphasis added). The proposed role of Community Justice Scotland in the Bill is much weaker than this and includes no provision of services whatsoever. Further anomalies are as follows:

Cluttered landscape:

5. The Community Justice (Scotland) Bill specifies the statutory partners that need to be engaged in local planning for community justice. However, it does not clarify how service providers from the voluntary sector and service users will be engaged in the new model.

6. A structure with 32 new Community Justice Partnership structures (one in each CPP area), compared to eight Community Justice Authorities, could become a very complex system and actually increase the 'cluttered landscape'. In addition to justice-specific services, the new model should also ensure that a wider range of service providers are engaged (for example, those working in housing, substance misuse, family support), since they too have a critical role to play in improving outcomes.

Short-term funding:

7. The Bill does not state how often the local Community Justice Outcomes Improvement Plans will be developed and reviewed: the Explanatory Notes at para. 28 only refer to a review of the initial national performance framework within five years. The Bill also does not state what the link will be between the funding system and the improvement plans. It is therefore unclear on what basis and for what duration funding will be allocated to services and whether this current weakness in the system will be addressed. Further information about how funding of national services would work in practice would therefore be welcomed.

Lack of accountability and leadership:

8. The legislation focuses on reporting requirements, and we welcome the ambition for a national strategy that has buy-in from all relevant stakeholders. We are less clear, however, about the ability the national body will have to drive forward significant improvements, since they will not have the power to hold local partners to account. The response from the South West Community Justice Authority (para. 5.4) emphasises this concern, questioning what sanctions would apply if local Community Justice partners refuse to "comply with any reasonable request" by Community Justice Scotland.

9. We are concerned that para. 31 of the Bill's Explanatory Notes is weak ('As soon as reasonably practicable after publishing the community justice outcomes improvement plan, the community justice partners must send a copy to Community Justice Scotland'). The wording of this requirement implies that CJS has no input or authority but is merely provided with information. Further, the Bill states that 'from time to time, [Community Justice Scotland must] report to the community justice partners for the area on its assessment of that performance' (para. 23 (1)(b)). This is also weak and makes no requirement for regular assessment or evaluation of quality and impact of services. Community Justice Partners are therefore not being held to the same standards of service that commissioned non-statutory providers are expected to uphold.

10. Finally, sec. 2 para. 8 of the Explanatory Notes states that Community Justice Scotland has equal legal status. For clarification, this is equal legal status to whom?

Inconsistent service provision across Scotland:

11. In order to enable consistency of provision, the proposed structures need to have clearer routes for stronger engagement with voluntary sector providers and service users. It would therefore be helpful to have greater clarity around how common needs across different CPP areas will be identified and what the process will be for commissioning services that may be more effectively delivered across multiple areas.

12. Finally, valued colleague Dr Jonathan Sher comments on the difference between *standards* and *standardisation*: Community Justice Scotland is well-placed to set *standards* for community justice across Scotland, but this does not require that the approach to community justice should be *standardised* (identical) across all 32 local authorities. Setting standards should allow flexibility for CPPs to address local needs, as long as this ensures consistency in quality, opportunity, and engagement. The CPPs should then be accountable to CJS to demonstrate that this is the case, with clear processes to support CPPs that do not meet the standards.

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

13. Families Outside has concerns that the definition of Community Justice in the Bill focuses too much on ‘offenders’ and not enough on the wider role of community justice in prevention. An explicit link between community justice and youth justice to help ensure that these activities are more strongly connected would be helpful, for example, as would explicit input from non-justice bodies that have a clear remit in relation to offending and prevention (housing, health and mental health, addiction services, families). We endorse the evidence from Shelter Scotland as an example of this, noting that the reference in the Bill to input from local authorities is not enough to ensure full engagement with housing services.

14. Community Justice also has responsibility for people on bail or in custody on remand, who are not legally defined as ‘offenders’. Indeed, the definition needs to recognise all those affected by the community justice system, such as victim, witnesses, and families of the accused / people with convictions, ensuring that engagement and full support is integral to community justice systems.

15. We are also conscious of considerable work done recently in Scotland, largely through our colleagues at Positive Prison? Positive Futures..., in relation to labelling and the need to move away from the term ‘offenders’ to ‘people with convictions’. Future legislation should reflect this shift.

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?

16. Across all the national body’s proposed functions, we would welcome greater clarity and detail around the powers and responsibilities that Community Justice Scotland (CJS) will have. The present proposals suggest that CJS will replace the eight CJAs with one large one, with limited powers to effect meaningful change and no role in the provision of services as recommended in the Commission on Women Offenders.

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?

17. Community Planning Partnerships are not mentioned in the Bill, which has created some confusion about the proposed roles of the Community Justice Partners and CPPs. This needs to be clarified as soon as possible to assist local areas with developing the appropriate arrangements.

18. Given the ambition for a more collaborative approach, we would also be keen to see Community Justice Partners having a role in facilitating the engagement of other community justice stakeholders (individuals and families affected by the community justice system, Voluntary Sector service providers, etc).

19. Given the important contribution that individuals and families affected by the community justice system and that the voluntary sector staff supporting them can make to community justice in Scotland, we are concerned that there is no duty on statutory partners to engage these people actively in the planning and delivery of services. This is at odds with legislation in other policy areas (e.g. children's services planning, health and social care services planning) and with the general principles of public service reform. At present, the Bill states that the local statutory community justice partners will need to *consult* 'community bodies' they think are relevant for their local area. Voluntary sector providers and indeed service users have a critical role to play in the strategic commissioning process, providing valuable evidence about local needs, availability of existing provision and what works in relation to supporting people with convictions, their families, and victims and witnesses of crime. Audit Scotland (2012: 27) found that 30% of services listed in the 'National Directory of Services for Offenders' are provided by Voluntary Sector organisations. This contribution should be recognised when designing and planning community justice at both a national and local level.

20. It is vital that the new structures for community justice recognise and make best use of the assets available in the voluntary sector to improve outcomes for individuals, families, and communities. This will require a much higher level of engagement than consultation. A further 'duty to engage' could usefully be added to ensure that Community Justice Partners have a responsibility to facilitate the engagement of other individuals, families, and organisations that can contribute to positive outcomes for those affected by the community justice system.

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

21. Whilst we support the ambition for local responsibility, the Bill is not clear what checks and balances are in place (or will be put in place) to improve the current system. The Bill states that the role of the national body will be to suggest improvements but that it will be up to local Community Justice Partners to decide whether to act on these suggestions. As noted in the response to question 1, the response from the South West Community Justice Authority (para. 5.4) emphasises this concern, questioning what sanctions would apply if local Community Justice partners refuse to "comply with any reasonable request" by Community Justice Scotland. What might happen if progress towards improved outcomes is not occurring in a local area? Who will be responsible for ensuring that individuals and families caught up in the community justice system receive the appropriate support that they require, and how will individual partners/partnerships be held to account?

22. Activities at a local level also need to be joined up at a national level, and the structures should enable cross-boundary collaboration and build on best practice. Again, this will require clarity over links and engagement routes.

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

(a) leadership, strategic direction and planning?

23. As noted in the responses above, the Bill is weak with regard to the role of Community Justice Scotland in ensuring the provision of quality services nationally and in the engagement of all relevant parties to ensure this.

(b) consultation and accountability?

24. Like other respondents to this Call for Evidence, we continue to have concerns around accountability. If individuals and families are not receiving the support they require, there needs to be a clear line of accountability so that problems can be swiftly resolved.

(c) partnership and collaboration?

25. We are not clear from the Bill how the proposed reforms will support this ambition or what role the voluntary sector or key non-justice services such as health and housing will have.

(d) commissioning of services and achieving best value for money?

26. At present, a number of service providers deliver national programmes, and it is not an effective nor efficient use of resources for them to engage with 32 different commissioning structures to deliver these. We therefore welcome the proposals to provide for commissioning at both national and local levels but are unclear about how this would work in practice.

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?

27. We do not feel we are able to comment on the detail of this.

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

28. In view of the responses we have seen to the Call for Evidence, the current Bill will require significant amendment and therefore is unlikely to meet the time scales currently proposed.

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

29. To summarise the evidence above, the draft Bill would benefit from improvements in a number of areas. First would be explicit recognition and adoption of the full remit of community justice: it is not just about 'offenders' but about prevention of offending (both initially and further offending). If it is genuinely *community* justice, it should recognise and engage with all those affected by offending and the justice process, namely victims and their families, witnesses,

families of the accused / convicted, and wider communities. It should recognise and engage actively with non-justice bodies critical to prevention, namely housing, health and mental health, substance misuse, and employment. The voluntary sector should be named, active participants, as should service users.

30. Finally, the accountability of CPPs in delivering quality and comprehensive community justice services needs to be clarified, along with the authority of Community Justice Scotland to oversee, support, monitor, commission, and potentially provide (as per the original recommendation from the Commission on Women Offenders) community justice services across Scotland. Clarity regarding solutions to the problem of short-term funding is also essential for longer-term planning and delivery.

Families Outside
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