

Justice Committee

Community Justice (Scotland) Bill

Written submission from Sacro

Q1. 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. Sacro welcomes the endeavour to support collaboration and partnership working. However, Sacro wishes to highlight that in addition to the structural reforms proposed in the Bill, there will be a number of other factors that will also contribute to whether the desired outcomes from the Bill will be achieved. For example the use of remand, the use of diversion and stronger performance management.

2. As not all statutory Community Justice Partners listed in the Bill are Community Planning Partners, we would welcome clarity on how all community justice partners, including the Third Sector, will link with Community Planning structures in each local area. The Commission on Women Offenders was clear that structures need to be designed to ensure local liaison and joint working. Given the scale¹ of current delivery by the Third Sector it should not be regarded as marginal providers.

3. It is unclear how the proposed structure will better engage Third Sector service providers such as Sacro in Community Justice Planning. With potentially 32 new community justice partnership structures, this could become a very complex system, particularly for a 'National' organisation to engage. This national perspective assists to drive up standards, through exposing weakness and amplifying strengths. Third Sector engagement at both local and national levels is essential.

4. The assertion that the Community Justice (Scotland) Bill proposes to consult community bodies in effect lessens the influence of the Third sector in community justice planning. The current arrangements for Community Justice Authorities accommodate community bodies as providers under certain criteria to attend at CJA meetings and be active partners in the planning process. Thus, enabling Third Sector partners to be integral community justice partners working collaboratively in assessing the problem, designing the plan and delivering solutions. This is a deeper involvement than that proposed as a consultee and is viewed by Sacro and the wider Third Sector as a flaw in the proposed legislation.

5. The following from the Community Empowerment Bill, Section 4 (5) seemed a reasonably robust way of ensuring the third sector are involved in community planning at a local level.

¹ "Of the programmes identified in the directory, 107 third sector organisations provide 30 per cent of the services listed." http://www.audit-scotland.gov.uk/docs/central/2012/nr_121107_reducing_reoffending.pdf p45

6. Each community planning partnership must—
 - (a) consider which community bodies are likely to be able to contribute to community planning having regard in particular to which of those bodies represent the interests of persons who experience inequalities of outcome which result from socio-economic disadvantage,
 - (b) make all reasonable efforts to secure the participation of those community bodies in community planning, and
 - (c) to the extent (if any) that those community bodies wish to participate in community planning, take such steps as are reasonable to enable the community bodies to participate in community planning to that extent.
7. Examples of deeper Third sector involvement in legislation is found in both the Children and Young People's (Scotland) Act 2014 and the Public Bodies (Joint Working)(Scotland) Act 2014 where explicit reference is made to the need to engage with Third Sector providers in relation to strategic planning of services.
8. The Financial Memorandum accompanying the Community Justice (Scotland) Bill states that section 27 funding will flow directly from Scottish Ministers to local authorities. Sacro has concern over the potential impact - given the potential conflict of interests between local authorities' dual role in commissioning services from others and delivering services at first hand - this may have if there is insufficient robust, transparent evidence base for these decisions as we have increasingly seen virement of section 27 funding from non-core to core activities.
9. Sacro welcomes the intention that Community Justice Scotland will have a budget to procure services at a national level. Strategic commissioning is a necessary component of any new community justice structure and is essential to maintaining universal availability of strategic capability relating to the management of offenders posing significant risk to public safety. This is also relevant to national programmes currently administered by the Scottish Government. This is considered by Sacro to be essential in supporting the national body in driving forward significant improvement, since they do not have the power to hold local partners to account. Sacro would wish clarity on the ability of Third sector provider organisations to bid for the allocation of innovation funding if the third sector are not named as a community justice partner?
10. Currently, Sacro often receives short term funding and this creates uncertainty around sustainable service provision and planning. This is a barrier to effective partnership working and impacts directly on staff turnover, morale, a lack of confidence amongst service users and other partners including sentencers.
11. The Commission on Women Offenders identified the importance of strategic leadership. The Bill requires to recognise resilience in leadership, where decisions that have local visibility also have significant national perspectives; ie. Dunblane (firearms), accommodating sex offenders.

12. There is a risk that in the transition to the new structure, the expertise developed by the Community Justice Authorities is lost and this impacts negatively on leadership and strategic direction for community justice. This reinforces the importance of strong engagement for third sector providers in the Bill, involving people who use services and third sector providers in identifying gaps, providing evidence of need and sharing good practice with statutory partners.

Q2. Are you content that the definition of 'community justice' in the Bill is appropriate?

13. The definition of Community Justice is focussed on offenders and providing support and guidance to them, with no reference to victims' issues, community engagement or the Community Empowerment (Scotland) Bill. In addition to this, there is no statement regarding prevention, public safety or community safety. Sacro would like to see an explicit link between community justice and youth justice.

Q3. 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?

14. The achievement of improvement will depend on a number of issues that are not explicit in the content of the Bill. These factors are frequently defined by relationships and behaviours and this will be significant for the future success of a National Hub and its relevance to community justice partners.

15. Across all the national body's proposed functions, Sacro believes the clarity and detail around powers and responsibilities that Community Justice Scotland will have could be strengthened. This should be reviewed in terms of the main functions of Community Justice Scotland that we do not believe are robust enough. References to language we believe could be strengthened include 'promote a national strategy' and 'to promote and support', which could be more focused in terms of achieving implementation and compliance with the national strategy. Sacro believes greater clarity around powers and responsibilities for Community Justice Scotland would enhance the extent to which it is likely to be able to drive improvements.

16. Sacro believes there should be specific responsibilities attributed to health partners. Although listed as a partner, there is no other reference to responsibilities.

Q4. 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. The redesign of the community justice system in Scotland offers an opportunity to ensure that the new structures are designed around the needs of those affected by the community justice system. Given the important contribution that individuals and families affected by the community justice system and third sector staff supporting them can make to community justice in Scotland, we are concerned that there will be no duty on statutory partners to actively engage these

people in the planning and delivery of services. This is at odds with legislation in other policy areas and with the general principles of public services reform.

18. At present, the Bill states that the local statutory community justice partners will need to consult 'community bodies' which they think are relevant for their local area. Third sector providers 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. It is vital that the new structures for community justice recognise and make best use of the assets available in the third sector, in order to improve outcomes for individuals, families and communities. This will require a much higher level of engagement than consultation. The guidance for the Engagement Matrix² tool states, "full engagement of third sector organisations means that they must be treated as partners in the planning, design and delivery of public services. They must therefore be an integrated part of the structures that support these functions." Sacro agrees with this view and would therefore support the strengthening of the Bill, to bring it in line with other legislation thus achieving stronger engagement of third sector partners in the planning, design and delivery of community justice services. We suggest that a further 'duty to engage' should also 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. Similarly a 'duty to cooperate' would be important to ensure community justice partners play a full part in delivering outcomes.

Q5. Does the Bill achieve the right balance between national and local responsibility?

19. Whilst Sacro support the ambition for local responsibility, it is not clear from the Bill what checks and balances are 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 or not to act on these suggestions. Sacro is concerned about 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?

20. Activities at a local level need to be joined up at a national level, and the proposed structures should enable cross-boundary collaboration and build on best practice. Local planning and its cohesion to national strategy cannot be left to chance.

Q6. Will the proposed reforms support improvement in terms of:

(a) leadership, strategic direction and planning?

² Action Group on Improving Engagement between Health Boards and the Third Sector (2013), The Engagement Matrix, Available at: <http://www.vhscotland.org.uk/engagement-matrix/>

21. For the reason stated elsewhere in this submission Sacro considers that the role, authority and accountability in terms of Community Justice Scotland require to be strengthened.

(b) consultation and accountability?

22. Sacro is concerned that the Community Justice (Scotland) Bill does not robustly clarify the routes by which Third Sector service providers and people using services will be engaged in the new model. Nor does the Bill require statutory Community Justice partners to cooperate to reduce reoffending. Significantly, accountability is not sufficiently clear to enable a vulnerable individual who experiences failure to readily hold to account all arms of democratic government for that agencies involvement with the system.

(c) partnership and collaboration?

23. The Policy Memorandum accompanying the Bill (page 1, paragraph 5) states that, "Successful delivery of better outcomes for victims, offenders and communities relies therefore on a wide partnership of agencies and services working together, engaging with local communities and listening to the voices of those affected by offending." The redesign offers an opportunity to enhance the relationship and collaboration between statutory and third sector partners, however we are not clear from the Bill how the proposed reforms will support this ambition or what role the third sector will be expected to play in the new system. Greater clarity of the third sector's role as a community justice partner is required within the legislation in order to support a more collaborative approach. The Third Sector should not be a marginal provider.

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

24. At present along with a number of third sector service providers, Sacro deliver national programmes and it would not be an effective nor efficient use of resources for a service provider to engage with 32 different commissioning structures in order to deliver such nationwide programmes. We therefore welcome the proposals to provide for commissioning at a national level as well as at a local level.

25. There are already situations where it is more appropriate and better value for money to commission services across multiple CPP areas, so the new structures must be flexible enough to encourage and enable that.

Q7. 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?

26. Until the functions of the new body are agreed in more detail, it is difficult to define whether the resources will be appropriate for the operation of the body itself. Sacro believes there needs to be a strategic shift in funding to focus where possible on credible and effective community alternatives to custody as highlighted by the Commission on Women Offenders.

Q8. Is the timetable for moving to the new arrangements by 1 April 2017 achievable?

27. The timetable is very challenging but achievable. There will be ongoing developments in terms of performance framework, processes etc. that will undoubtedly take longer than the initial transition phase to fully implement. This will

require ongoing commitment from all partners at both local and national level beyond 1 April 2017. One significant decision that will require to be supported through transition is the ongoing funding (or otherwise) of the Public Social Partnerships established through the Scottish Government's Reducing Reoffending Change Fund. The critical decision path for these services cannot be met by the timeline for the establishment of Community Justice Scotland and this is fundamental to delivering the improvement envisaged by the Commission on Women Offenders.

Q9. Could the proposals in the Bill be improved and, if so, how?

28. As discussed above, the Bill could be improved by:

- Ensuring that it enables full participation of individuals and families affected by the community justice system in the planning, design, delivery and evaluation of community justice services
- Ensuring that it enables full participation of third sector service providers in the planning, design, delivery and evaluation of community justice services as recognised community justice partners in the Bill
- Clarifying commissioning arrangements for community justice services
- Clarifying accountability arrangements for community justice services.

Sacro
31 July 2015