

Justice Committee

Community Justice (Scotland) Bill

Written submission from the Law Society of Scotland

Introduction

The role of the Law Society of Scotland (the Society) is to lead and support a successful and respected Scottish legal profession. Not only do we act in the interests of our solicitor members, but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes.

The Law Society of Scotland's Criminal Law Committee (the Committee) has considered the Scottish Parliament's Justice Committee's call for evidence upon the general principles of the Community Justice (Scotland) Bill introduced into the Scottish Parliament on 7th May 2015 and has the following general comments.

General Comments

The Committee responded to the Scottish Government consultation entitled "Redesigning the Community Justice System" in April 2013.

At that time, the Committee, while welcoming of any proposed measure resulting in a successful Community Justice system in Scotland, expressed some concern that democratic accountability may be lost if a single service model becomes operational.

These comments were made against the background of the National Offender Management Service (NOMS) which is an Executive Agency of the Ministry of Justice responsible for the correctional services in England and Wales being divided into ten separate areas.

With particular reference to Paragraph 16 of the Policy Memorandum accompanying the bill, we note that a "fourth option" has now been developed by Scottish Government, partners and stakeholders which draws on the clear preference as expressed in the consultation exercise for a model with local delivery, partnerships and collaboration at its heart, while still incorporating some form of national arrangements to provide the profile, leadership, and strategic direction felt to be missing from the current arrangements.

It is envisaged, that this proposed community justice model will help to create a stronger Community Justice system based on local collaborative strategic planning and delivery with national leadership support and assurance.

With particular reference to the questions contained within the Justice Committee's call for evidence, the Committee should like to respond as follows.

Questions:

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?

While it is hoped that the proposals contained in the Bill will address weaknesses identified in the current model, tackle reoffending and reduce the prison population, we believe that the incorporation of Community Justice Scotland in terms of Section 2 of this Bill should raise the profile of community justice in that this new body will be responsible for strategic direction and leadership and it is anticipated that this should promote a consistency of approach based on evidence of best practice with overall responsibility and oversight being in one place. We also note that the actual delivery of services sits well with the community planning structure which should have the desired effect of there being links to other gateways which should help reduce reoffending such as housing and employment etc.

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

We note that the definition of “community justice” in terms of Section 1 (1) of the Bill appears to be focused on the reintegration of offenders released from prison back into the community.

We believe that the definition of “community justice” could perhaps be expanded to include the prevention of crime.

The role of community justice should prevent people from being drawn in to the criminal justice system in the first place and also provide links to eg: the Early Years and Early Intervention agendas.

We also suggest that the definition could encompass other factors which help to reduce reoffending such as stable housing, employment or a constructive use of time and emotional and practical support etc.

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?

We refer to our response at question 1 above.

It is of course anticipated that the proposals for the new national body should lead to improvements in areas such as leadership, oversight, identification of best practice and the commissioning of services.

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?

We note that Section 4 of the Community Empowerment (Scotland) Act 2015 places “community planning partnerships” on a statutory footing and it is of course anticipated that community justice partners in terms of Section 12 of the Bill should have the powers, duties and structures required to effectively perform their proposed role in relation to community justice.

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

Yes, on the basis that there will be a clear communication strategy between Community Justice Scotland and the community justice partners.

It is envisaged that this could be overseen by COSLA but should be noted that some local authorities do not form part of COSLA.

In all the circumstances, proper channels of communication will have to be put in place in order to achieve the right balance between national and local responsibility.

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 refer to our response at Question 1 above. We believe that the Current Community Justice Authorities would be better placed to answer this question .

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?

We have no comment. We believe that the current Community Justice Authorities would be better placed to answer.

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

It seems a reasonable timetable. It is our understanding that there are already transitional arrangements and discussions taking place with Scottish Government at present. There should of course be a reasonable “shadow period from the inception of Community Justice Scotland until the current Community Justice Authorities are abolished in terms of Section 31 of the Bill.

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

We have no comments. We believe that the current Community Justice Authorities and the Community justice partners as referred to in Section 12 of the Bill are better placed to answer.

Alan McCreadie
Deputy Director of Law Reform
12 August 2015