

Justice Committee

Community Justice (Scotland) Bill

Written submission from Orkney Islands Council

Please find below responses from Orkney Islands Council to the specific questions asked in the Call for Evidence on the Community Justice (Scotland) Bill. Please do not hesitate to contact me if there is further information we can provide.

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 proposals in this Bill will play a key role in helping the community justice system develop a coherent national and local identity, giving national and local bodies the best possible structural underpinning from which reoffending and the prison population can be addressed. Reoffending has been steadily reducing in recent years, and there are encouraging signs from the Scottish Prison Service's Young Offender Institutes of reductions in numbers.

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

The definition seems appropriate as far as it goes, but should certainly be augmented to include Diversion from Court processes, as recently highlighted by the national roll-out of "Fiscal Work Orders" as an alternative to prosecution. This area of work also highlights the notable omission of any mention of the Crown Office and Procurator Fiscal Service as a key Community Justice Partner in the legislation or the guidance.

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?*

Academic input provided by Professor Andrew Coyle at the time of the initial consultation phase on the future of Community Justice Authorities highlighted that there is no direct causal link between structural arrangements and successful services, ie, no structural "solution" will of itself engender success. However, there are self-evident needs for a coherent structure to underpin community justice services, and from the local perspective of an Island authority, we can speak from experience on the aspects of regional organisation under the Community Justice Authority system that were unhelpful. In particular these related to the impossibility of

sustaining meaningful partnership arrangements across such a large, diverse and organisationally complex area as the Northern CJA, with 7 local authorities, 5 health boards, 2 major Police divisions, 2 MAPPA areas and an enormous range of third sector organisations. Despite the best efforts of the CJA staff and the many helpful interventions and innovations they provided, the sheer logistics of meaningful partnership work over this size of region rendered their task impossible.

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?*

Given that the Community Empowerment (Scotland) Bill has the effect of identifying named Community Planning Partner organisations in law, the parallel process of naming Community Justice Partners, including partners outwith the list of Community Planning Partners (particularly Scottish Ministers, understood to encompass the Scottish Prison Service and the Crown Office and Procurator Fiscal Service), would appear to have the required effect of conferring duties appropriately on the named Community Justice Partners.

We have been concerned, however, by apparent inconsistencies over time in the role envisaged for Community Planning Partnerships. There is nothing in the Community Empowerment Bill to stop CPPs including bodies other than those named in the Bill, indeed it specifically says that they can. So the Community Justice Bill could have placed the Community Justice duty on CPPs acting in partnership with the additional bodies named in the CJ Bill. Instead CPPs are ignored entirely in the Bill – they are not mentioned once. Clarification would be welcomed.

The powers of the named Community Justice Partners appear to be appropriate, and in order to fulfil their roles, they will need to address any internal structural factors that may inhibit them from contributing effectively to the 32 Community Justice Partnerships. In practical terms, it may be helpful and necessary to require each Community Justice Partnership area to agree a named “lead agency”, as a list of partners with equal responsibility may not produce the required initiative to make the Partnerships work.

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

We are aware of concerns that clauses which seem to enable Community Justice Scotland to step in to deliver, or commission delivery of, local services directly, may be perceived as threatening long established and effective means of local service delivery, such as Criminal Justice Social Work Services (encompassing Diversion,

Fiscal Work Orders, Community Payback Orders, “Heritage” Community Orders such as Probation or Community Service for offences committed before 2011 which subsequently come to light, Criminal Justice Social Work Reports, Parole Board Reports, Post Custody Licence Supervision etc), or MAPPA arrangements. We would suggest that sufficient checks and balances be provided in the legislation to assure Community Justice Partners that Community Justice Scotland will provide appropriate national underpinning and guidance for the continued local delivery of services in ways that reflect the huge variety of Scotland’s social and geographic circumstances.

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?*

The proposed reforms will enable all of these factors to be addressed more flexibly, appropriately and coherently than has been the case to date. It should be noted, however, that no single organisational arrangement provides a universal panacea for the inherent challenges that the Community Justice system faces. Although the Community Justice Authorities were created with inherent flaws, particularly in terms of lack of co-terminosity with the structural arrangements of other key organisations, some significant benefits accrued from their operation. Locally the elected members who have contributed to the operation of the Community Justice Authorities have gained insights and experience relating to this relatively small corner of their span of responsibility, to the net benefit of all involved. It will be important that these gains, achieved in recent years, are not lost in the process of reorganisation.

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?*

The 2012 Report by the Commission on Women Offenders

<http://www.gov.scot/About/Review/commissiononwomenoffenders/finalreport-2012>

was complex and wide ranging, containing more than 30 recommendations, not all of which were achievable (eg “We recommend that ‘Community Justice Centres’ for women offenders should be available to every woman offender in Scotland to enable them to access a consistent range of services to reduce reoffending and bring behavioural change.”, which is simply an impossibility where women live and wish to stay in remote island or rural locations, but where, for instance in Orkney, local delivery of services for women has been so successful that whole reporting years have elapsed without a single woman being sent to custody). The resources set out in the Financial Memorandum appear to be sufficient to meet the aspirations behind the recommendation “Based on all the evidence we have read, seen and heard, we recommend that a new national service, called the Community Justice Service, is

established to commission, provide and manage adult offender services in the community. Its objective would be to protect the public, reduce reoffending and promote rehabilitation.” (para. 323). It should be noted that the Policy Memorandum states at paragraph 108 that a separate Financial Memorandum will be required to specify new arrangements for distribution of ring fenced funding to local authorities under section 27 of the Social Work (Scotland) Act 1968, and that resources available to local Community Justice Partnerships will be crucial to their success.

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

The timetable appears to be achievable.

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

- 1) National Standards for Social Work Services in the Criminal Justice System have been the greatest success story for coherent and interchangeable approaches to CJSW (NB – offenders quite often move from one authority area to another) with local flexibility of the last 25 years. Their maintenance and development should be a key role for Community Justice Scotland. If they are not referenced in the legislation, there should be a clear steer to this effect in the guidance.
- 2) Whilst recognising that judicial independence from political processes is to be upheld, unless there is continuing and constructive dialogue between Community Justice Partners and sentencers, no amount of structural reorganisation will achieve the aims aspired to. There is urgent need for discussion and deliberation on how this can be achieved.

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