

Justice Committee

Criminal Justice (Scotland) Bill

Written submission from South Lanarkshire Council

Please find attached South Lanarkshire Council's response to the consultation request on the Criminal Justice (Scotland) Bill. I would like to take this opportunity to contribute to the formulation of the proposed legislation.

Overall, it is our view that the Criminal Justice (Scotland) Bill represents an important opportunity to improve the delivery of justice to victims of certain offences, who have previously not been able to access court due to the need for corroborating evidence.

The other measures relating to knife crime, people trafficking and the role of the appropriate adult are also welcomed.

There is however great concern that the effect of the expected increase in nominated council officers undertaking the role of appropriate adult has been underestimated and will place a burden on local authorities.

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RESPONSE

South Lanarkshire Council, Social Work Resources provides a wide range of community services which will be affected by the Criminal Justice (Scotland) Bill. The Council in partnership with Lanarkshire Criminal Justice Authority provides supervision, guidance and support to offenders throughout South Lanarkshire. South Lanarkshire Council also provides a service to three sheriff courts within the Lanarkshire area.

In addition to this South Lanarkshire Council is at the forefront of developing strategies to tackle domestic abuse. This work is co-ordinated through Doorway - a multi-agency partnership involving social work, Women's Aid and other partners. This work provides and implements a strategic framework that promotes and supports multi-agency response to domestic abuse and provides improved protection for women, children and young people.

As such we would like to express our thanks for the opportunity to contribute to a statutory provision which will have an effect on our service provision.

This submission has been structured thematically, in the suggested format.

Police powers and rights of suspects (Part 1 of the Bill)

It is our view that overall the provisions made in the bill are reasonable and provide

adequate protection for accused persons, while allowing the police adequate opportunity to make investigation.

The provision of immediate access to a solicitor is now a requirement and in our view will reinforce the rights of the accused while safeguarding victims and witnesses.

We have no view on the reduction time that accused persons can be kept in police custody without charge, provided this is sufficient time for the police to make their investigations. It is noted that this part of the bill follows the recommendation of Lord Carlway and therefore we would on balance support this.

The inclusion of children up to the age of 18 and the provision for questioning children and vulnerable adults is welcomed, and it is hoped that it will lead to a more accessible and fairer system for accused persons within those categories. This provision however is likely to lead a substantial rise in the number of requests for officers of the local authority to act as appropriate adults. Disappointingly it is clear from the figures published that this has not been taken account of and the suggestion that Local Authorities will be able to manage this provision from existing resources is unrealistic and in our view requires revising.

It is proposed that the final say in whether or not a young person retains access to a solicitor will lie with the appropriate adult. This is very much welcomed by us as it takes account of intra familial offending and will enhance the rights of certain accused persons in particular circumstances. Again though this is likely to lead to an increase in demand for officers of the local authority to act as appropriate adults.

Corroboration, admissibility of statements and related reforms (Part 2 plus section 70 of the Bill)

In our view the abolition of the corroboration rule in criminal proceedings is to be welcomed. This measure will assist the victims of domestic and personally violating crimes to have a better opportunity to have their voice heard. The current system places an unreasonable and unrealistic burden on those responsible for the prosecution of these offences and it sets the bar so high as to deny meaningful justice to the victims of these crimes. The nature of these offences means that corroboration is often not available and while it is recognised that not every case can be convicted, victims are currently being denied justice unnecessarily. As an organisation which works in partnership to support the victims of these offences we have experience of the trauma and distress caused by these cases and therefore we would support the proposal.

Court procedures (Part 3 plus section 86 of the Bill)

The increase in the length of time which an accused person can be remanded for is not something that is to be welcomed, however in our view it is a better development than justice being denied to the victims of crime or those accused of a crime due to a lack of preparedness by either the prosecution or defence.

The increase in the majority required for a guilty verdict to be recorded is an understandable counterbalance to the abolition of the rule of corroboration. We have some concerns that certain offences which by their nature will always require a jury to assess the credibility of a witness, will on too many occasions become subjects of

unnecessarily intrusive questioning. It is our concern that in cases such as these where a victim of a crime has been subject to needless and invasive questioning Jurors will confuse trauma with unreliability and unduly find defendants not guilty.

Therefore we would ask that consideration be given to an evaluation of the efficacy of Sexual Offences (Procedure and Evidence) (Scotland) Act 2002. It is our view that the removal of the corroboration requirement, coupled with an increase in jury majority may lead to an increase of incidences whereby victims of certain crimes are targeted by the defence and unduly traumatized.

Overall despite these reservations, we would support the increase from simple majority to two thirds.

Appeals, sentencing and aggravations (Parts 4 and 5 and sections 83 to 85 of Part 6 of the Bill)

We welcome the proposal to raise the maximum sentence for handling knives and offensive weapons from four to five years. It is our view that this will reinforce to both the public and those who commit this offence the seriousness of the offence.

The proposals for prisoners on early release is to be welcomed and recognises the breach of public trust committed by people who are on early release when they commit an offence. It is our view that this provision should be extended to include all community-based disposals. This would underline to the public at large and offenders the importance of complying with community-based punishments. By not including all community-based disposals within this legislation, it is our view that there is a subconscious devaluation of these disposals within a court setting and to the public at large.

We welcome the proposal to make people trafficking an aggravated offence factor. Scotland's status as a destination country for trafficked people is unwelcome and it is important to recognise the role that we all have to play in the eradication of people trafficking. Making people trafficking an aggravating offence factor sends a message to those involved in this activity about the priority that will be given to their detection, prosecution and punishment.

The additional provision of television links for court is also a welcome development as it will allow vulnerable victims and witnesses of crime, to give evidence in a less intimidating atmosphere. Presumably it will increase the number of children and vulnerable adults willing to give evidence which can only be a good thing.

Closure

In summation we are supportive of a number of the proposals made in the Criminal Justice (Scotland) Bill, however we are concerned about the unintended consequences of some of the provisions such as:

- A large increase in the number of nominated Council officers undertaking the role of appropriate adult
- An increase in intrusive questioning of witnesses in certain cases
- An indirect devaluation of community based court disposals.

Overall though we welcome the abolition of the corroboration rule, the introduction of greater use of TV links and People Trafficking being made an aggravating factor.