

Justice Committee

Community Justice (Scotland) Bill

Written submission from Inverclyde Community Planning Partnership

Local representatives feel that there is not enough detail at present to make a fully informed comment in regard to all of the questions posed. However the group responding has made an effort to answer each of the 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?

The absence of a strategy in regard to Community Justice means that it is difficult to tell if the Bill will achieve positive outcomes, as it is difficult to tell what the interplay will be between each component.

It would be helpful to have some principles fronting the Bill to set the legislation in context and set a tone for what the guidance or regulations will look like post agreement of the Bill.

There is a lack of context with other pieces of legislation and guidance. The Bill needs to spell out more clearly what the reforms might mean for individuals, communities and organisations.

Partners in Inverclyde believe that the proposal might get the right agencies around the table to consider community justice from a local perspective. From a Criminal Justice Social Work (CJSW) perspective, the introduction of CJAs created a disconnection with their Councils which the proposed new structure has the potential to remedy through the repatriation of CJSW. There is an opportunity to take a very local focus to the issues that require to be addressed locally, being able to tailor services to match local issues. But there remains the question of how do all 32 authorities engage with the national partners? There will remain some national issues, with national stakeholders. For example early intervention and reducing re-offending includes issues for the Police, Scottish Courts and Tribunals Service, SPS etc. These agencies are named as Community Justice Partners. Each local partnership will need engagement with all these agencies and this will vary across each authority.

With regard to the CJA there are potential gains and losses. In the CJA arrangements at present, the drive and focus is solely on community justice, but with the move to Community Planning, then this will be only one area of focus among many. The CJA came with a chief officer and planning officer resource and a driving force to direct the work within a Community Justice context, which still needs vision and leadership to take it forward. There needs to be clarity as to where the responsibility falls for leadership and support. Community Planning Chairs do not have the in depth knowledge, or the capacity, required to fully lead and scrutinise community justice within a community planning setting.

There is still a very cluttered operational landscape that does not look like it will become any more streamlined through the implementation of the Bill, e.g. MAPPA is still across the old CJA boundaries. In addition, the Bill does not set out how all the parts will come together, for example the relationships between CPPs/local arrangements, Scottish Government and Community Justice Scotland. Some areas may still have some individual arrangements across groupings of Local Authorities, plus the 32 individual arrangements. Moving to local ownership might provide some clarity.

A local focus can hopefully help to build good relationships to help deliver services and outcomes. There are opportunities to use the focus of Community Planning on what we need to change to make things better, to use the partnership to highlight issues, and explore how we can get partners to better engage. The focus needs to be on improvement.

However, what is local varies across the partners – e.g. HMP Greenock covers a wide area from Oban to Greenock etc. There could be a requirement for HMP Greenock colleagues to be represented on all 6 CPPs in what was formally North Strathclyde CJA. This will be a challenge to resource.

There is very little synergy between the 32 Local Authority boundaries and a move to a more national focus for some organisations e.g. Police Scotland and Scottish Fire and Rescue Service.

The Bill does not have enough focus on early intervention and prevention. Diverting people from coming into the criminal justice system will be more effective than solely focussing on those already in the system, but this requires to be resourced. By still using language focussing solely on offenders the bill is not adequately addressing the issues, keeping the focus on offenders and criminal justice social work. Asset based approaches are not referenced in the bill, which would be a positive move to focussing on building on the skills and abilities of individuals, instead of taking a more deficit driven approach.

In regard to performance reporting there is a need to make sure partners are not expected to be reporting to a range of different agencies. Performance reporting needs to be streamlined and co-ordinated. The performance reporting framework should be the sole framework for reporting on community justice across partners, rather than individual partners being expected to make multiple reports to a range of agencies.

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

From a Scottish Prisons Service perspective it does cover what SPS wants to achieve.

From the perspective of other partners, the definition is quite narrow, focusing mainly on criminal justice rather than community justice and on people already through the system (already on orders etc) who tend to then be supported more by national

stakeholders. An opportunity has been missed to focus on local early intervention, using local partners to help support desistence and early intervention. As mentioned previously there is not enough focus on prevention. It would be helpful to expand the definition to include more prevention and early intervention activity, although, again, this would require to be resourced.

There is no mention of how the wider community would be involved in supporting the reduction of re-offending and desistence, which would be expected in regard to community justice.

The definition could mean that some partners, because of the very legalistic terminology, might not see a role for their organisation, particularly if they don't work with people on orders or who have gone through the system. The definition almost pulls away from localism, despite trying to set that up, by focussing on a very legalistic type of definition.

There is a mismatch between how certain partners will interact with clients e.g. some will have people on orders, and thereby have a 'higher stake' in working with them, whereas others have a key input, particularly in regard to early intervention, but may not have that legal responsibility. The definition won't stop us delivering what we have to, but some partners could potentially opt out, particularly where funding might be an issue.

Youth Justice and Whole Systems Approaches are accepted as effective but these are not reflected in the Bill. If partnerships were to take a Whole Systems Approach this may be a more effective use of stakeholder resources.

Getting it Right for Every Child (GIRFEC) as a model could also be usefully applied in the context of Community Justice. The basic premise of having the 'client' at the centre and a shared responsibility for all partners to support that person is more positive and will get better outcomes for the individual.

There is a lack of context with other pieces of legislation and guidance, and it would be useful to include the values of the Social Work (Scotland) Act within the proposed legislation.

There is no mention of the Christie Commission, and the reshaping of public services. Using this would be a useful test of the definition.

There is a lack of recognition of tackling inequalities, given some people in particular communities are going to be more likely to end up in the criminal justice system. Additionally the Community Empowerment (Scotland) Bill places a duty on CPPs to tackle inequality and disadvantage.

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?

More clarity is required as at present it is not very clear as to how CJS will function, particularly what the relationship between CPPs and CJS will be. It is difficult to

identify how the relationships will develop, particularly in relation to the oversight role of CJS. There needs to be some clarity as to if/how local arrangements will be accountable to CJS. Partners are currently accountable to a range of agencies including the local health board and local authority. There is a governance role set out for CJS that does not appear to be a collaborative effort. This is creating some anxiety among colleagues across Scotland.

There is the potential for inconsistency. If you have a clear governance and reporting structure then this would be fine, but the 'accountability' seems to be quite subjective, and there are no clear structures for governance.

The role of the body to share good practice to support improvement is welcomed, as well as its role to promote public awareness.

In regard to leadership, it would not be right to ask CPPs to lead on Community Justice, but then to have national initiatives to be made mandatory. This would not facilitate local arrangements to meet local need.

Partners have questioned why Community Justice requires a new body, where other areas across community planning e.g. Alcohol and Drug Partnerships, have support in different ways from Scottish Government. Additionally there is a question around why another body is being created, with a top down approach, which seems to have a role to carry out scrutiny, where existing bodies like the Care Inspectorate and Audit Scotland already could fulfil that role.

Will CJS improve how community justice is delivered and supported across Scotland? Could it facilitate subgroups around community justice to improve working – bringing together 32 local authorities to support and ensure a consistency and improvement of practice? Could it have a servicing/collaborative function?

It is unclear how commissioning will be carried out and what the balance will be between local and national commissioning. There is a line that is important – between the benefits of nationally commissioned projects, and where Voluntary Organisations can access funding and develop projects locally, and other local services which are developed locally in partnership. (further detail is set out in 6d).

Section 23 of the Bill, paragraph 41 of the explanatory notes: the requirement to provide reports to CJS about what action we are taking in regard to any feedback requires further clarity as it is not suggestive of a relationship of equals.

4. Taking into account the reforms set out in the Community Empowerment (Scotland) Bill relating to CPPs, will Community Justice Partners have the powers, duties and structures required to effectively perform their proposed role in relation to community justice?

There is no mention of Community Justice Partnerships in the Community Empowerment (Scotland) Bill. Among many other things the Bill re-establishes the duties for Community Planning, adds the duty to a number of additional organisations who need to engage, introduces locality planning and requires CPPs

to tackle inequalities, but it's not clear if it will make any difference as to whether Community Justice partners will deliver.

One of the core issues about routing anything through community planning is that, whilst CPPs should hold partners to account, they have no power to enforce engagement/ participation (this lies with Scottish Ministers for those organisations listed in the act) or to formally hold an organisation to account for non-performance/delivery. CPPs are not legally constituted bodies. Not all the partners listed as community justice partners are listed as having a duty to engage in community planning, even though they may already be involved in community planning partnerships e.g. Scottish Courts and Tribunals Service.

Additionally, particularly among the smaller Councils, there is very little resource around Community Planning. In Inverclyde, Community Planning falls into part of the remit of two officers, who do not do community planning full time. The requirement to place Community Justice within Community Planning structures will place an additional burden on councils to support the arrangements, which is over and above any resource employed via the transitional funding. There will be a training issue for CPP boards to understand all the issues around Community Justice, if local Community Justice Partnerships are to report to CPPs.

There is a fundamental issue asking CPPs to be responsible for everything. If they have to cover everything then nothing is a focus. They also have to be free to identify the most important issues for their local communities and plan to deliver around these, in collaboration with communities.

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

As long as Community Justice Scotland engages appropriately, with all 32 Community Justice Partnerships (CJP) the balance of responsibilities should be right, particularly in regard to developing its Corporate Plan and performance management frameworks for this.

It is difficult to answer this question fully without full detail of what the 'inspection' type process will be like (monitoring of performance in relation to community justice outcomes). Will the process be integrated with other inspection processes like the other audit bodies do?

There is also a lack of clarity around performance management. What powers does the national body have? What action will they take if a CJP is seen to be not performing to targets? How would they 'step in'? How would the existing inspection regimes for all the partners be included in any part of inspection by the national body? (Will they name and shame partnerships?).

The Performance Framework needs to take into account the different demographics of each area, and the performance indicators need to be useful and help to measure quality as well as quantity. Measurement of impact is more important than numbers, particularly if taking a whole systems, or whole person approach. It must be

recognised that in supporting individuals who are offending or at risk of offending, impact will be seen in the longer term.

What level of detailed indicators will be required? They have to be fit for purpose and shouldn't be onerous on the partnerships to complete, or reported too regularly.

Without the regulations it is difficult to comment fully on what the balance is between local and national.

**6. Will the proposed reforms support improvement in terms of:
a) leadership, strategic direction and planning?**

There are concerns about placing Community Justice within the framework of Community Planning, which might mean a loss of focus on delivering on Community Justice. Resource is required to support the planning and performance elements well beyond the transition period. If there is an expectation for Community Planning chairs to provide leadership and strategic direction there will need to be some capacity building and training for those chairs.

For the third sector, either national or local, how do they engage in Community Justice and Community Planning? If they are a national body how can they be expected to sit at all CPP tables?

b) consultation and accountability?

Again, without resources, in a time when all public sector organisations have cut back on their staffing, consultation will be difficult to carry out robustly. In regard to accountability, the development of national and local plans should highlight where improvement is required and partnerships will be required to identify how they are working towards the delivery of outcomes.

Given the requirements for CPPs to engage rather than merely consult with communities, then there is a need to emphasise in the legislation the need to fully engage.

With two potential 'masters' it is difficult to clarify where accountability sits. It's currently confusing. If CJS were to attend all 32 CPPs then there would be clear accountability via the CPPs.

CPPs are working to create environments where people are less likely to engage in offending behaviour, but it is unclear as to how they will be held accountable. Given the broader focus of CPPs on tackling inequality, which will ultimately have an impact on offending, it will be difficult to break this down as to what is having an impact. It has proven difficult across community planning to measure the impact of collaboration, planning together and delivering together.

A measure of success would be how partners jointly resource a service going forward and how joint planning is carried out. This is difficult in the current financial climate given the tight restrictions on partner resources. Evidence is required to

show the impact of particular services to get partners to give money or people's time towards a project or programme.

In regard to accountability, Criminal Justice Social Work is accountable to the NHS Board and Local Authority, SPS is accountable to Scottish Ministers, other partners have other accountabilities. It is important for this to be properly managed via CJS without reporting and accountability becoming too unwieldy.

c) partnership and collaboration?

There are existing relationships between agencies in regard to community justice. The new model will allow for local partnerships and local collaboration to come to the fore.

However as previously stated the relationship with the national body needs to be further clarified, particularly as it seems very top down.

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

There is a lack of a sense of who leads and who is in charge in regard to commissioning. Will the national commissioning role 'force' certain projects onto areas? There needs to be consultation with 32 areas to ensure services meet the local need and assumptions are not made nationally. There has been duplication in the past because nationally each area was not engaged, where good local arrangements were already in place. There should be a level of flexibility locally – this needs to be set out clearly. There needs to be a balance between learning from good practice and the roll out of good services which fill gaps in local areas, with service provision that has been developed in the local areas.

It is not clear what determines the difference between locally commissioned services, versus what makes a nationally driven, governed programme. Will local areas have the choice of what 'national' programmes they can use, that meet the local need? Where does the responsibility sit for determining programmes etc?

National commissioning can give economies of scale, but shouldn't limit what local areas wish to deliver.

There is also no clarity on how existing 'national' projects would be funded more widely across Scotland. For example the Caledonian Programme is deemed to be best practice, in relation to working with domestic violence perpetrators but not all Local Authority CJSW Services receive funding to deliver this despite recognised need.

There is no mention of moving money saved through initiatives to where there are new pressures. Looking at a model from a whole systems perspective would allow for this. This could be done better, especially to allow for resource transfer to community based resources.

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?

No.

The current financial climate presents significant challenges to partnership working. The impact of reducing resources is that many partners are having to focus on their core delivery and have no extra resource available to engage in partnership activity. Agencies may be reticent to become involved, which may be driven by the inability to contribute resources rather than unwillingness to be involved.

There is not enough clarity on how the innovation fund will be dispersed and where the money will come from. How will local authorities be funded to actually deliver? This requires to be equitable. There is a need for more detail before we can answer this question. For example is the Innovation Fund simply a recycling of existing Section 27 Non-Core monies? If so, this will have implications for delivery of CJSW Services. In addition it is not clear who can bid into the innovation fund?

It is anticipated that the definition of community justice will influence what bids to the fund will be focussed on, so if there are particular issues in a local area that don't necessarily quite meet with the definition, does that mean projects (with evidence of need) wouldn't be funded?

The Financial Memorandum focusses on setting up Community Justice Scotland. What about the rest of the implementation of community justice arrangements? The transition funding will be welcomed, but ongoing costs for the administration and performance reporting of the local plans will need to be met. In such times of financial constraint within public bodies, this task should not be added to the remit of already pressurised staff. The burden will most likely fall on Councils, and if the planning and performance reporting is to be facilitated by community planning, then additional staffing will be required, beyond the timeframe of the transition funding.

The catalyst for change needs to be funded. We cannot stop funding the services dealing with people in crisis, to fund early intervention. Savings will not be made in the short term from early intervention anyway, so there is a need to accept that the money will be generated later when early intervention work 'kicks in'.

Regarding the allocation of funding in terms of community justice versus SPS, it still sits very much with a custodial focus rather than in the community. Funding for community justice is very small in comparison with what it costs to run prison and the Courts service. If we don't get early intervention right then we are still feeding the very costly courts and prison service.

If part of the funding arrangements is to be the opening up of section 27 funding to competition then local authorities will struggle to meet their statutory requirements.

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

There are no regulations or guidance in place at present, making it difficult to assess whether 1 April 2017 is an achievable timescale. This is particularly important in regard to when plans are expected to be in place. The national outcomes have to be agreed, then the Community Justice Scotland plan to be drafted and agreed. Then the local plans would be drawn up following on from these. Committee timescales at each level could hold up processes.

Another delay could come from national organisations working out how they might be represented on all 32 partnerships.

However, if we have the freedom to come up with our local plan to meet local need initially then timescales could be met. Given that each local area is to assess themselves against the national outcomes and performance framework this seems to be unlikely.

Partnerships will need some bedding in time for them to get the local relationships appropriately established to be adding value, working better together and delivering outcomes. There will be new organisations getting involved who are not currently working in localities, which will need to develop relationships.

There are major issues in terms of people and financial resources in times of extreme financial constraints which make so much of this quite difficult. Joint funding of partnership initiatives will be difficult to achieve.

If the first plans are to be about how we will implement the new arrangements, then this will assist in meeting certain timescales. There is a need for clarity of expectations of what is in the first draft plan. We won't have a national strategy within which to frame our local plan. There needs to be some reassurance on what this is to be.

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

Yes.

We have listed a number of these above, but in summary:

- Early intervention and prevention should be part of the purpose of the Bill. Without recognition of this we will not be delivering the best outcomes for all our communities.
- Setting out some principles at the start of the Bill could assist with putting the Bill in context and soften the very legalistic definitions
- Add reference to tackling inequality in line with the Community Empowerment (Scotland) Act
- Clarification of the relationship between Community Justice Scotland and the local Community Justice partnerships

- Clarification of performance management and the relationship between Community Justice Scotland and audit and inspection bodies.
- Highlight the need to properly engage rather than just consult in regard to Community Justice
- Clarification of where accountability sits
- Greater clarity on funding beyond the set-up cost of CJS is required.

Inverclyde Community Planning Partnership
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