

Justice Committee

Community Justice (Scotland) Bill

Written submission from the Scottish Courts and Tribunals Service

I refer to the call for evidence in relation to the above, to which I respond on behalf of the Scottish Courts and Tribunals Service (“the SCTS”). The response includes the shared view of both SCTS and the senior judiciary, in particular the Sheriffs Principal. I would wish to comment specifically on the provision in section 12 of the Bill which identifies the SCTS as a community justice partner.

The Scottish Government’s proposal in the consultation ‘Future model for community justice services in Scotland’ and their response thereto, did not propose SCTS, along with Crown Office and Procurator Fiscal Service and Victim Support Scotland, as a community justice partner and we consider this to have been the correct approach.

The Judiciary and Courts (Scotland) Act 2008 created the SCTS as a judicially-led body responsible for the provision of administrative support to the Scottish courts and tribunals, the members of those tribunals and the judiciary. The inclusion of the SCTS as a community justice partner in section 12 of the Community Justice (Scotland) Bill and the functions of community justice partners contained in the various sections within the bill is inconsistent with the independence of the SCTS as provided by the 2008 Act.

It is our understanding that the concept of a community justice partner is not extended to individual judicial office holders who impose community justice disposals in sentencing offenders. Any statutory requirement which requires liaison with justice partners in respect of the imposition of community sentences is clearly inconsistent with the independence of the judiciary and their sentencing functions.

We have considered the inclusion of the SCTS as relating purely to the corporate body of the SCTS charged with administrative functions. The proposed functions required of a community justice partner, set out in section 17 of the Bill, require among other things, input to joint decisions in respect of: the prioritisation for achievement of nationally agreed outcomes; the consideration and setting of ‘locally determined outcomes’ for each of the 32 local authority areas; any actions required to achieve these. The performance of those community justice partners in the achievement of those outcomes is monitored by Community Justice Scotland who may make recommendations in respect thereof to Scottish Ministers. It is our view that those responsibilities, which would involve SCTS in local policy making decisions and make their performance subject to scrutiny by another body corporate accountable to Scottish Ministers, are inconsistent with the independence of the administrative functions of the SCTS which are restricted to providing administrative support for the courts and tribunals, the members of those tribunals and the judiciary.

Notwithstanding this, the SCTS will expect to be consulted by Scottish Ministers and the new body of Community Justice Scotland, at national level at appropriate times

and on relevant issues as one of the bodies covered by the existing statutory requirement within the Bill, to consult such other persons as considered appropriate. We are of the view that this provides sufficient opportunities and safeguards to ensure input from SCTS into national strategic policy decisions proposed in relation to the delivery of community justice affecting the administration of justice within the courts.

Further we propose, as suggested in the Scottish Government response to the most recent consultation, that SCTS, in line with the proposals for the Crown Office and Procurator Fiscal Service, be engaged and will engage with community justice partners at local level. For SCTS such engagement would be undertaken most appropriately through the existing framework of the Local Criminal Justice Boards, chaired by Sheriffs Principal within the overall aim of providing for the efficient disposal of court business within their sheriffdoms.

The policy memorandum notes that the Bill provides clearly defined roles and responsibilities for Scottish Ministers, local community justice partners and Community Justice Scotland. It is expected that Community Justice Scotland, will replace the Community Justice Authorities as one of the justice partners who will engage with the Local Criminal Justice Boards. It would appear to add complexity, and a duplication of effort, for SCTS to be both a community justice partner reporting to Community Justice Scotland, and to also be liaising with them in a different role as a justice partner in the forum of the Local Criminal Justice Boards.

I hope these views are of assistance to you. If you require any further information at this stage, please do not hesitate to contact me.

Jane Macdonald
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17 August 2015