

Justice Committee

Community Justice (Scotland) Bill

Written submission from Scottish Borders Community Justice Partnership

The Scottish Parliament's Justice Committee is seeking views on the general principles of the Community Justice (Scotland) Bill, which was introduced in the Scottish Parliament on 7 May 2015. The objectives of the Bill are "to help create a stronger community justice system based on local collaborative strategic planning and delivery, with national leadership, support and assurance". The Bill abolishes the eight existing regional community justice authorities including the Lothian and Borders Community Justice Authority and creates a new model for community justice services. These proposals follow reports published in 2012 by the Commission on Women Offenders and by Audit Scotland which highlighted concerns about the current model for community justice, and two subsequent Scottish Government consultations which identified support for introduction of a new model.

The Scottish Parliament's Justice Committee is particularly interested about views on the following areas of the Bill:

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?

Whilst the group broadly welcome the detail in the Bill it is considered that there are a number of weaknesses in the Bill. These relate to the need for clarity and strengthening the roles and responsibilities of local Community Justice partners; the accountability of local partnerships to Community Justice Partnerships and to individual 'core partner' organisations; the need for more of a focus on early intervention; and issues with funding.

There is no information in the Bill about the roles and responsibilities expected of individual core partners. In particular no detail is provided on the role and contribution of local authorities in developing and sustaining the Partnership. Also some of the community justice partners are national bodies which mean that the nature of their contribution at the local level needs to be clarified in order for local Partnerships to work effectively.

The accountability of local Partnerships in terms of the approval, resourcing and scrutiny of local community justice plans needs to be strengthened. In particular there needs to be clarity in terms of their relationship to the governance arrangements with Community Planning Partnerships, and the decision making structures in individual 'core partner' bodies, particularly local authorities and their elected members.

The Bill does not address prevention and early intervention which is evident in the definition of an offender. This will hamper efforts to reduce offending, re-offending and to decrease the prison population.

Finally, there is a need to clarify the funding arrangements for the local Community Justice Plans and contributions that can be expected from local partners and the Scottish Government to support these plans.

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

The definition of community justice in the Bill focuses on offenders rather than offending and the definition of offenders as “persons who have at any time been convicted of an offence”. This does not allow for a greater focus on prevention and early intervention. There is also a need to recognise that people have to move on from being in the offender category. This means the definition of community justice needs to recognise the importance of rehabilitation, and that offenders become ex-offenders over a period of time.

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?

It is not clear whether or how community justice partners would be held accountable jointly, as partnerships, for improving outcomes and by what mechanisms Community Justice Scotland would address performance issues or lack of engagement by any of the designated partners. There is a need also for some reference to roles of other inspection agencies in relation to local performance monitoring and improvement would be helpful.

There is a need for more clarity on how the commissioning role of Community Justice Scotland would be carried out and how it would be ensured that this did not cut across local commissioning decisions. Also the Bill does not set out how Community Justice Scotland would be held accountable for its contribution to outcomes improvement. There is a need for a consistent approach to measuring performance across Scotland including the use of national benchmarking. It is considered that Improvement Scotland should put in place a national performance management framework that enables effective comparisons of performance across Scotland in relation to reducing reoffending

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?

The relationship between Community Justice Outcome Improvement Plans and Community Planning Outcomes Improvement Plans, as described in the Community Empowerment Bill needs to be further clarified. It is not explained how these will be integrated or aligned, including the reporting requirements. Also there is a need for more clarification on the role of the voluntary and community sectors within the community justice process.

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

No, the national approach should follow the same approach adopted for Community Planning setting out the national priorities but leaving it for local areas to prioritise within that. It is essential that the legislation supporting the locality approach put forward for Community Justice emphasises the bottom-up rather than the top-down.

As mentioned above there is a need for more clarification about expectations on the roles and responsibilities of the designated partners locally both separately and jointly and the role of Community planning and elected members who would have a role in overseeing and ensuring local performance and delivery.

Also there is a need for more clarity on the means by which Community Justice Scotland would: support improvements locally; hold local partners or partnerships to account for delivering improvement; and would itself be responsible for outcomes improvement.

It is essential that local Community Justice partnerships have adequate resources to achieve the outcomes set out in the Bill and that is where the focus of funding should be rather than on the national body.

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

Improvements in leadership, strategic direction and planning can be anticipated locally and nationally under this model. Locally this will depend on the effective resourcing of the Community Justice Partnership together with the commitment and engagement of partners, not just those designated. Nationally it will depend on how effectively Community Justice Scotland functions and strength of its relationship local Partnerships. Other factors will be: the relationship between Community Justice Scotland and Scottish Government; the engagement of key stakeholders and partners, whose role is not described in the Bill including the voluntary sector, Crown Office and Procurator Fiscal Service; and the quality and timely publication of the national Community Justice Strategy and outcomes framework.

(b) Consultation and accountability?

There are significant issues in relation to accountability in relation of the local Community Justice Partnerships that need to be tackled as highlighted in response to question 1 above. There is a need to clarify the roles and responsibilities of the core partners identified in the Bill and in particular the support requirements of local authorities. Also the governance arrangements need to be clarified in relation to the role of local Community Planning Partnerships and the decision-making processes of core partners, particularly the role of local authority elected members.

The Bill sets out broad principles to consultation and engagement which we support. However, it is noted that each local Community Justice Partnership will be responsible for its own consultation arrangements.

(c) Partnership and collaboration?

The Bill identifies partners, assuming partnership and collaboration will follow. There are issues in relation to accountability, governance and resourcing that have been highlighted above. There are a number of additional partners that can make a significant contribution to community justice whose roles need to be clarified, i.e. the third sector and Crown Office and Procurator Fiscal Service.

Support the duty of co-operation as set out in the Bill and the range of partners who must co-operate as far as “reasonably practicable” However the wording of this seems quite broad and perhaps could be further clarified/ strengthened.

It would be worth considering the provision of some form of framework for a constitution and terms of reference for the local Community Justice partnership. This would assist in providing clarity of purpose for the local Community Justice Partnership enabling it to set out its functions and responsibilities. This would support a consistency in approach. One of the main issues will be the ability to compel partners to fully engage in a meaningful way and hold them to account.

(d) Commissioning of services and achieving best value for money?

There is little detail in the Bill about when commissioning would be carried out locally or nationally. There is a need to provide a framework by which Community Justice Scotland might negotiate and agree with 32 areas. This would include the services that might be commissioned across areas to achieve better value for money and how sufficiently robust information on service needs, quality and outcomes would be forthcoming to allow value for money to be given proper consideration. Unit cost calculations are being undertaken as one component but these costs are yet to be tested. The work on a new funding formula is at a relatively early stage and it will affect commissioning ambitions.

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 main resource for service delivery locally will be the Section 27 funds which are currently allocated by the Community Justice Authorities. The impact on distribution of S27 monies of the new funding formula is unknown at this time. It is also not known if future funding arrangements will address issues of fragmentation and short term funding.

There is no explanation of how the budget of £2.2m for Community Justice Scotland was identified and whether this is an appropriate figure. Without a functional analysis it is difficult to comment on whether this amount is sufficient or not.

The initial limited funding provided for up to three years to local partners of £1.6m to support the transition to the new arrangements is much needed in terms of enabling partnership development and planning. It is difficult to see how funding of these functions could be absorbed by partners after the initial three year funding period, and indeed if this will be sufficient when the new arrangements are in place and as such will need to be kept under review.

It is clear that offenders and their families are among the most excluded groups in Scotland and will require additional support to ensure effective rehabilitation regimes are in place. Local partners working together will be creative but there are likely to be significant funding gaps which will require resources. Also rural areas such as the Scottish Borders have particular challenges in relation to accessibility to services, training and employment and limited economies of scale in terms of service delivery that need to be recognised in funding allocations for community justice.

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

Local partners are progressing with the establishment of the necessary governance and planning arrangements. The timetable is also dependent on completion of a number of critical national deliverables which must also be fit for purpose and acceptable to stakeholders i.e. the national strategy, national performance framework and funding formula with associated guidance.

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

Improvements can be summarised as follows:

- a) There is a need for clarity on the roles and responsibilities expected of individual core community justice partners.
- b) The accountability of local Community Justice Partnerships in terms of the approval, resourcing and scrutiny of local plans needs to be strengthened. In particular there needs to be clarity in terms of their relationship to the governance structure Community Planning Partnerships and the decision making structures in individual 'core partner' bodies, particularly elected members in local authorities.
- c) There is a need to clarify the funding arrangements for the local Community Justice Plans and contributions that can be expected from local partners and the Scottish Government to support these plans. There are likely to be significant funding gaps to implement local Community Justice plans that will require additional resources.
- d) Rural areas such as the Scottish Borders have particular challenges in relation to accessibility to services, training and employment and limited economies of scale in terms of service delivery that need to be recognised in funding allocations for community justice.
- e) In the definition of community justice there is a need for a greater focus on prevention and early intervention. Also there is a need to recognise that people have to move on from being in the offender category. This means the definition needs to recognise the importance of rehabilitation and that offenders becoming ex-offenders over a period of time.
- f) The relationship between Community Justice Outcome Improvement Plans and Community Planning Outcomes Improvement Plans, as described in the Community Empowerment Bill needs to be further clarified.
- g) There is a need for more clarity on how the commissioning role of Community Justice Scotland would be carried out and how it would be ensured that this did not cut across local commissioning decisions of local Partnerships.
- h) There is a need for more clarity on the means by which Community Justice Scotland would: support improvements locally; hold local partners or partnerships to

account for delivering improvement; and would itself be responsible for outcomes improvement.

i) There are a number of additional partners that can make a significant contribution to community justice whose roles need to be clarified, i.e. the third sector and Crown Office and Procurator Fiscal Service.

j) There needs to be work undertaken with Improvement Scotland to put in place a national performance management framework that enables effective comparisons of performance across Scotland in relation to reducing reoffending.

Scottish Borders Community Justice Partnership
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