

Redesigning the Community Justice System – A Consultation on Proposals

Ministerial Foreword



In the Ministerial Foreword to the paper which launched this consultation, I described the Scottish Government's vision of a successful Community Justice system as one which delivers positive outcomes for victims, for offenders and their families and for communities. One where services are person-centred, based on evidence of what works and makes best use of public resources. One where there is strong leadership, collaborative working and robust accountability.

I believe the proposals described in this response deliver that vision.

Like much of the work which takes place within the Community Justice system, it has not been easy to reach the outcome we all desire. It has required leadership, communication, collaboration and direction; just some of the traits that will characterise the new Community Justice system.

It has required the input of the full range of Community Justice stakeholders in order to reach this stage. We have engaged with partners in local government, Community Justice Authorities, the Third Sector, prisons, police, health, welfare and countless others.

This input is reflected in the consultation's participation levels. We held 13 stakeholder events around Scotland which were attended by over 550 people. In addition, we received 112 written responses. This level of engagement is an indication of the commitment of those involved with Community Justice and I would like to thank everyone who shared their views with us.

I would especially like to thank the Community Justice Authorities who have been major partners in the delivery of Community Justice outcomes since they were formed in 2006. Their commitment and abilities have never been in question and I remain committed to utilising their valuable knowledge and experience as we move through the transition period and into the new arrangements.

In many ways, Community Justice – and justice more generally, has been a success story. You just need to look at the stats to realise that: recorded crime is at its lowest level in 40 years and down 35% since this government came to office; homicides are down; illegal drug use is down; firearm offences are down.

Communities are beginning to *feel* safer because they *are* safer but we should not stop there. These statistics are the foundation on which we can build a safer Scotland and, together, I believe we will achieve that.

A handwritten signature in black ink that reads "Kenny MacAskill". The signature is written in a cursive, slightly slanted style.

Kenny MacAskill MSP
Cabinet Secretary For Justice

Introduction and the case for change

1. On 20 December 2012, the Scottish Government launched a consultation paper “Redesigning the Community Justice system: A consultation on proposals”. The consultation followed the publication of two reports: one by the Commission on Women Offenders and another by Audit Scotland on reducing reoffending.
2. The Commission on Women Offenders concluded that “there still exist inherent barriers in the structural and funding systems for criminal justice social work, and working practices which inhibit greatly the potential to reduce reoffending” and that “radical transformation is required”. In response to the report, on 25 June 2012, the Cabinet Secretary for Justice stated that the status quo was untenable.
3. The Audit Scotland report on reducing reoffending found that there are many bodies involved in reducing reoffending with “different governance and accountability arrangements and geographic boundaries, resulting in a complex landscape”. It acknowledged that Community Justice Authorities (CJAs) have “brought people together”, but stated that they have made little progress on reducing reoffending and commented that “the way they were set up and inflexible funding have significantly limited their effectiveness”.
4. The consultation ran until 30 April 2013. A total of 13 stakeholder events were held around Scotland and 112 written responses were received.
5. This paper provides a summary of the Scottish Government’s response to the key points made by respondents to the consultation, and describes Ministers’ thinking with regard to the Bill that will be introduced to the Scottish Parliament at a later date. It addresses points made in the written responses that were submitted and also draws together a number of key observations that have been made to Ministers and officials during the consultation, at public consultation events and at other meetings.
6. Following extensive discussion with a wide-range of stakeholders, the Scottish Government is now in a position to announce the new model, as well as a proposed timeline for implementation.
7. The Scottish Government extends its thanks to everyone who participated in the consultation.

Current arrangements

8. There are many different bodies – public, private and Third Sector - involved in the strategic and operational planning, design and delivery of services for offenders. This includes large national organisations such as the Scottish Prison Service (SPS), Police Scotland, the Scottish Courts Service (SCS), and the Crown Office and Procurator Fiscal Service (COPFS) through to regional bodies such as CJAs, criminal justice social work in local authorities, as well as Third Sector organisations which provide specialist services aimed

at reducing reoffending. People who have offended also receive support from a wide range of services which are not specifically offender services but may help reduce reoffending. For example, local authority services such as housing, education, children and families; NHS; Registered Social Landlords (RSLs); local colleges and Jobcentre Plus all have a role to play.

9. CJAs are the main bodies responsible for providing a co-ordinated approach for the local delivery of offender services. The Management of Offenders etc (Scotland) Act 2005 created provision for eight CJAs across Scotland with planning, monitoring and reporting functions. CJAs are independent statutory bodies with no operational responsibility for delivery of criminal justice services. CJAs are not directly accountable to Scottish Ministers or local authorities. CJA duties include:
 - working with local authorities, SPS and others to prepare joint plans to tackle reoffending;
 - reporting annually to Scottish Ministers on delivery of services in compliance with the plan;
 - distributing funding for criminal justice social work services in local areas and ensuring this is being used effectively to improve the management of offenders;
 - monitoring and reporting on the performance and effectiveness of joint working among bodies responsible for the delivery of these services;
 - supporting better information sharing and the sharing of good practice.
10. The Board of each CJA is restricted to elected members from each constituent local authority. A Chief Officer is appointed by the CJA to ensure the CJA's affairs are conducted with probity.
11. The Act also defines the police, NHS Boards, SCS, local Procurator(s) Fiscal, Victim Support Scotland and organisations receiving funding over £100,000 per year as partner bodies.
12. In 2012-13, the Scottish Government allocated approximately £111 million to Community Justice. From this, approximately £100 million is provided to CJAs for the delivery of criminal justice social work services, which is in turn, distributed to local authorities. CJAs receive circa £1.8 million annually for staff and running costs. The remainder of the funding is used on centrally managed initiatives such as electronic monitoring. The overall funding picture for Community Justice outcomes is complex and other justice funding in the system beyond these dedicated amounts, comes from specific budgets for areas such as addiction services, community safety etc.
13. Other strategic partnerships such as Alcohol and Drug Partnerships (ADPs), Community Health Partnerships and Community Planning Partnerships (CPPs) also have an interest as offenders often have complex, multi-faceted problems which require joined up working and input from a range of professionals.

14. It is clear, therefore, that Community Justice goes beyond criminal justice social work. Successful delivery of better outcomes for victims, for people who offend and their families and for communities relies upon a wide partnership of agencies and services working together, engaging with local communities and listening to the voices of those affected by offending.

15. The Scottish Government set out its approach to reform in our response to the Christie Commission. Our vision is of public services built around local people's needs with public, third and private sectors working collaboratively with communities to deliver shared outcomes. Partners should constantly seek to improve performance and secure maximum public value from investment by delivering services in an integrated way which empowers staff and prioritises prevention. Form must follow function; and the Scottish Government acknowledges that there is no research which suggests a direct correlation between specific organisational models and reductions in reoffending.

Key characteristics of a successful Community Justice system in Scotland

16. The Government is, however, of the view that there are a number of key characteristics that, if integral to a Community Justice system, would make it more likely to deliver better outcomes for victims, for people who offend and their families, and for local communities. These draw on and encompass our wider principles of public service reform. They are:
- strategic direction and leadership to drive forward performance improvements and deliver public services that protect victims and communities and meet the needs of people who offend;
 - a focus on prevention and early intervention;
 - better and more coherent person-centred opportunities for supporting desistance which focus on developing the capacities and capabilities of offenders to enable them to make a positive contribution to their families and communities;
 - clearer lines of strategic, political and operational accountability to support continuous improvement;
 - effective local partnership and collaboration that brings together public, third and private sector partners, including non-justice services, and local communities, to deliver shared outcomes that really matter to people;
 - strategic commissioning of services that are based on a robust analysis of needs, evidence of what supports desistance and best value for money;
 - a strong and united voice that represents Community Justice interests with the judiciary, public and media;
 - better data management and evaluation to assess organisational and management performance, including the impact of services;
 - involvement of service users, their families and the wider community in the planning, delivery and reviewing of services;
 - provision of an overview of the system as a whole, including consistency and breadth of service provision;
 - better integration between partnership structures, services and organisations working with offenders and their families;
 - a more co-ordinated and strategic approach to working with the Third Sector;
 - a strategic approach to workforce development and leadership for criminal justice social work staff that is based on evidence of what supports desistance and builds expertise, capacity and resilience and encourages collaborative working with other professionals towards shared outcomes;
 - greater professional identity for Community Justice staff which builds on their existing values and provides well defined opportunities for career progression;
 - ability to follow innovation nationally and internationally, as well as develop and share evidence based good practice.
17. The Scottish Government wants to redesign the current Community Justice system to include the key characteristics described above and, in doing so, simplify rather than complicate the existing landscape.

Options for reform – preferred model

18. The Scottish Government engaged with key stakeholders to seek their views on alternatives to the current arrangements. The following three options were put forward:

- Option A: Enhanced CJA model;
- Option B: Local authority model;
- Option C: Single service model.

What we heard

19. None of the three options as outlined in the consultation paper attracted significant support at the consultation events. In the written responses there was a preference for option B although option C was preferred in some areas. Elements of each option found favour with consultees, leading to the development of an “option D”. The following emerging themes summarise the key elements of an “option D”.

- **Strategic Direction**
It was thought Community Justice would benefit from a strategic direction similar to GIRFEC (Getting It Right for Every Child) or Road to Recovery. Many felt that this would clarify the agenda, encourage collaboration and focus on outcomes. It would also help to ensure a stronger role for service users in shaping the development and delivery of services;
- **Leadership**
Many practitioners felt that the sector would benefit from having someone able to explain Community Justice to politicians, local communities and the media. While the police, prison service and young people have clear leaders, Community Justice does not. In addition to national leadership, many practitioners felt that the sector as a whole would benefit from clearer leadership across partner agencies and the Third Sector;
- **Collaboration**
In order to improve outcomes for service users, there was a strong view expressed that Community Justice needs to embed collaboration across the sector. Some practitioners stated that collaboration must become a statutory responsibility for Community Justice partners including housing, health, welfare and education;
- **Local decision-making and service delivery**
While a single service was viewed as offering some benefits, most participants saw this as unlikely to deliver significant progress. Practitioners are keen to respond to individual needs and use resources where they feel they can make the greatest impact. While national guidance was viewed as valuable, most participants expressed the view that Community Justice should be able to think and act locally;
- **Communication and profile**
There was a strong desire to improve the profile and understanding of Community Justice with politicians, community and the media. This needs a concerted programme of activity to engage with the Judiciary, practitioners, partners, local communities and the media and to challenge

perceptions about its effectiveness. This would also help to address concerns raised by former offenders who often find it difficult to engage with the system and view much of the language around Community Justice as obscure and confusing.

Scottish Government response

20. It was apparent from both the written responses and consultation events that none of the models as described in the consultation paper would meet the requirements of a successful Community Justice system.
21. There was however a clear preference for a model with local delivery, partnerships and collaboration at its heart while still incorporating some form of national arrangements to provide the profile, leadership and strategic direction felt to be missing from the present set-up.
22. The Scottish Government initiated a series of workstreams in conjunction with partners and stakeholders in CJAs, COSLA, local government, the Third Sector and others to develop and refine a model which meets the requirements outlined in this response.
23. There was recognition amongst all parties that the model should deliver services which are person-centred, evidence-based and make best use of public resources. Strong leadership, robust accountability and a strategic approach to working with all delivery partners should be at the forefront of the model.
24. The main features of the new model, therefore, will be:
 - Local strategic planning and delivery of Community Justice services through Community Planning Partnerships (CPPs);
 - The creation of a national body to provide assurance and recommendations to Scottish Ministers and Local Government elected members as well as professional strategic leadership for the sector;
 - A focus on collaboration, including the opportunity to commission, manage or deliver services nationally where appropriate;
 - A mechanism, reflecting the national and local democratic responsibilities, to afford discussion and agreements as necessary, on aspects of mutual concern.
25. The national body will be a statutory body. It will support a Board for Community Justice consisting of individuals with relevant professional experience reflecting the Community Justice landscape in Scotland. This will include people with experience in non-justice areas such as health (and housing), as well as those with academic and Third Sector experience.
26. The national body will be responsible for:
 - providing national, professional and strategic leadership for Community Justice in Scotland;

- Offering expert advice to Scottish Ministers and COSLA leaders as required;
- Providing oversight of the delivery of a new national performance, improvement and outcomes framework for Community Justice in Scotland;
- Identifying and advising on how justice and non-justice resources can be aligned to improve outcomes for Community Justice;
- Management of any services which have been identified and agreed as being best delivered on a national basis.

27. We also asked about certain key elements which would be integral to any new Community Justice model. Those which are to be key components of the new system are discussed below.

Accountability and performance

28. We asked which option would provide clearer lines of political, strategic and operational accountability for performance and mechanisms to support continuous improvement.

What we heard

29. Analysis of the written responses to the consultation showed there was most support for option B, closely followed by option C. We also heard that we should strengthen the links between Community Justice and CPPs and place an onus on the CPPs to provide better leadership and accountability.

The Scottish Government response

30. The Scottish Government will, therefore, ensure that clear lines of political, strategic and operational accountability exist within the proposed model at local and national level. This will include:

- Strategic direction and operational accountability at local level will ultimately rest with CPPs through each constituent member;
- Local Community Justice partnerships will, through CPPs, make available to the national body with strategic delivery plans and annual reports. The national body will provide assurance, advice and assistance and have the ability to make recommendations to Scottish Government Ministers and Local Government elected members;
- The national body will ultimately be accountable to Scottish Government Ministers although it will also provide regular reports to the National Community Planning Group and COSLA Leaders as and when required.

Risk Management Authority

31. Option A proposed closer links between the CJAs and the Risk Management Authority (RMA). Option B proposed an expansion of the functions of the RMA. We asked for views on the proposal to expand the functions of the RMA to take responsibility for a number of areas, including improving performance. In Option C we asked for views on incorporating the functions of the RMA into a potential new single service.

What we heard

32. Analysis of the written responses to the consultation showed that people were very positive about the nature and strengths of the RMA. They felt that an expansion of its role into certain areas such as performance management and representing Community Justice interests in the media would be inappropriate and that other bodies, for example the Care Inspectorate, should retain their roles in improving performance.

33. Moreover, respondents highlighted the importance of the RMA retaining its functions independent from delivery.

The Scottish Government response

34. Scottish Government officials also consulted directly with the RMA to determine how it will fit into the new model. It is therefore proposed that the RMA sits alongside, but separate from, the new national body.

35. This arrangement allows the RMA to forge close links with national body where appropriate, while also maintaining its independence by remaining at arms-length from both Scottish Ministers and local and national delivery.

36. This approach also affords an opportunity for the Scottish Government to work with the RMA to strengthen elements of its governance.

Workforce development and cultural change

37. We asked if functions such as programme accreditation, development of good practice, performance management and workforce development should be devolved from the Scottish Government to an organisation with the appropriate skills and experience.

What we heard

38. Those who addressed this issue in their written response indicated a preference for these functions to be devolved from the Scottish Government but for national oversight to continue and consistency improved.

The Scottish Government response

39. The Scottish Government proposes that a national strategy for workforce learning, development and innovation will be developed in conjunction with local partnerships and relevant delivery partners and stakeholders and drawing upon the experience of the CJAs.

40. The Scottish Government will undertake further work in collaboration with the above parties to establish which bodies will assume responsibility for which areas. This work will involve close engagement with experts such as Scottish Social Services Council, the Office of the Chief Social Work Adviser and the Care Inspectorate who already operate in these areas.

The Third Sector

41. We asked which model offered a more co-ordinated and strategic approach to working with the Third Sector.

What we heard

42. Analysis of written responses showed that those who expressed a view believed option B provided the best opportunity to do this, closely followed by option C.

The Scottish Government response

43. The Scottish Government proposes that the national body will support the development of a more strategic and co-ordinated approach to the development of the Third Sector in Community Justice. In addition, when board positions are appointed, knowledge or experience of the Third Sector would be required by some of its members.

44. There is also an expectation that the Third Sector will be recognised as a key player at a local level. This would mean appropriate representation on local partnerships for Community Justice which would sit under CPP arrangements.

Funding

45. We asked if funding for criminal justice social work services should remain ring-fenced.

What we heard

46. Analysis of the written responses showed that those who expressed a preference were in favour of funding remaining ring-fenced. However, others expressed concerns over the practicalities of this.

47. Scottish Government officials also heard concerns about how ring-fenced funding might act as a barrier to joint-working, both at consultation events and at further meetings with partners and stakeholders.

The Scottish Government response

48. The Scottish Government has initiated an inter-related project under the Reducing Reoffending Programme 2 which will consider further the issue of ring-fenced funding.

Next steps

49. The next step for this area of policy development will be for the Scottish Government to consult on the detail of this model in early 2014.
50. In the interim period, the Scottish Government remains committed to working with Community Justice Authorities, building on the progress we have made within Community Justice in recent years and ensuring the transition period is as smooth as possible.
51. The Scottish Government will further work to bring CJAs and Community Planning Partnerships into closer alignment, reflecting the latter's priority strategic aim of reducing offending.
52. Primary legislation will be required to implement the new structure for Community Justice set out in this document. The Scottish Government will announce further details of the timing of this legislation in due course.



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ISBN: 978-1-78412-162-4 (web only)

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Produced for the Scottish Government by APS Group Scotland
DPPAS21404 (12/13)

Published by the Scottish Government, December 2013

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