

Future Model for Community Justice

Report by: Eibhlin McHugh, Joint Director Health and Social Care

1 Purpose of Report

The purpose of this report is to consult with elected members on the attached draft response to the Scottish Government's consultation on the Future Model for Community Justice in Scotland.

2 Background

2.1 Having held a wide-ranging consultation last year on the future structure of community justice the Scottish Government published its response in December 2013. The response outlined the new model and confirmed that under the proposed arrangements the CJAs will be abolished and each local authority will have a statutory duty, with partners, to set up local Reducing Reoffending partnerships and assume responsibility for the strategic and operational planning, design and delivery of services for community justice, 'to reflect local need and in accordance with the national strategy for reducing reoffending.'

2.2 The Scottish Government has now launched a further consultation about the detail of the local arrangements and the role of a new national body with the provisional title of Community Justice Improvement Scotland. The deadline for responses to be returned is 2nd July 2014.

2.3 In the new consultation paper the Scottish Government states that local partners will include:

- Local authorities
- NHS Boards
- Police Scotland
- SPS
- ADPs
- Third Sector
- Skills Development Scotland

Local partners will be required to produce a single strategic plan for community justice for each CPP. Each partner organisation within the CPP will be held accountable for its performance, including its contribution to community justice, through its existing governance and accountability arrangements. Meanwhile the national body will create a national strategy and a national performance framework for community justice that will inform local plans.

The new consultation paper confirms that the national performance framework will be based around the following outcomes for offenders:

- Sustained or improved physical and mental well being
- Reduced or stabilised substance misuse
- Improved literacy skills
- Employability prospects increased
- Maintained or improved relationships with families, peers and community
- The ability to access and sustain community support, including financial advice and education
- The ability to access and sustain suitable accommodation
- The ability to live independently if they choose
- Improvements in the attitudes and behaviour which lead to offending and;
- Greater acceptance of responsibility in managing behaviour and understanding the impact on offending on victims and families

The consultation paper outlines the role of the national body but there is still some uncertainty about the extent of its powers. The paper states that the national body will have 'the power to make recommendations to Scottish Ministers and to relevant local government elected members as appropriate, on any improvements that are required based on its analysis and findings.' The consultation paper also sets out the plans for a proposed 'national hub' for community justice innovation, learning and development. It is expected that the hub will be virtual. The paper states that the hub will be 'practitioner led' but the detail of this has not yet been decided.

3 Report Implications

3.1 Resource

Resource implications are unclear at this point but it is unlikely that the transition to the new model will be cost neutral. Given the expectation that CPPs will be responsible for the strategic planning and design of community justice and for gathering local intelligence to inform the Reducing Reoffending plan it is expected that at the very least the Council will require additional research and analysis capacity.

In the short term there does not appear to be any intention to end ring-fenced funding for Criminal Justice social work but this may be considered as an option in the not too distant future. It is very important that ring-fenced funding remains in place during the transition period as any change to funding would have a detrimental effect on the successful implementation of the new model. In a time of austerity with local authorities struggling to maintain services it is difficult to imagine that community justice would be allowed to fully develop in the way described in the consultation paper if it had to compete with other Council priorities.

3.2 Risk

There is still some concern on the part of COSLA, ADSW and SOLACE about whether the role of the national body will be advisory or whether its authority will extend to **requiring** that local partnerships take action if the need for improvement is identified.

Under the proposed structure a range of partners will be expected to actively contribute to reducing and preventing reoffending for the first time. For some partners this will be a change in culture and expectation as they may not previously have seen their role as in any way relevant to community justice. There is a risk that these partners may not fully embrace their role in relation to reducing offending if we do not engage with them effectively in the transition period.

The consultation paper makes clear that it is acceptable for Reducing Reoffending partnerships to be formed across local authority boundaries. Given the small size of Midlothian it may well be in our interests to look at forming a partnership with, for example, East Lothian and Scottish Borders. This represents both an opportunity and a threat; the opportunity of improving capacity, increasing economies of scale and sharing best practice and the threat that it may be difficult to gain consensus and ensure effective decision making across more than one CPP.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- x ☐ Community safety
- x ☐ Adult health, care and housing
- x ☐ Getting it right for every Midlothian child
- x ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

• Key Priorities within the Single Midlothian Plan

The proposed new Community Justice structure will contribute to the following key priorities:

- Reduce anti-social behaviour
- Reduce re-offending
- Reducing violent crime
- Violence against women
- Protecting Midlothian's children
- Protecting adults at risk
- Crimes of dishonesty
- Delivering community safety outcomes

• Impact on Performance and Outcomes

The proposed model for Community Justice should improve performance and outcomes for offenders and communities. The CJAs have added little value since their introduction in 2007 but have created a great deal of time

consuming activity that could be better used in planning and delivering services locally. In any formal partnerships between local authorities of significantly different sizes there is the risk that the largest partner will dominate to the unintended detriment of the others and this will no longer be an issue under the proposed model. It is also the case that national initiatives such as the Shine and New Routes mentoring services and the development of community justice centres for women offenders work very well for urban areas but less well for smaller authorities and we should be able to avoid this kind of disadvantage under the proposed structure.

3.5 Adopting a Preventative Approach

The Scottish Government states in the consultation paper that it intends to place an additional statutory duty on local authorities and other statutory bodies across the public sector to focus on preventative approaches to reduce reoffending. This will have an implication for Children and Families social work in relation to the early identification of young people who are becoming involved in offending behaviour and the effective implementation of the Whole System Approach. There will also be an implication for a range of other services such as NHS Lothian, in relation particularly to responses to mental health and substance misuse issues.

3.6 Involving Communities and Other Stakeholders

There is already an expectation under the national guidelines for Community Payback Orders that consultation takes place with communities and other stakeholders and the increased localisation of the new model should allow this to happen more regularly and effectively.

There is a real challenge in engaging communities around community justice issues when newspapers tend to describe anyone not receiving a custodial sentence as 'walking free from Court'. There is very little public knowledge about the purpose of community disposals and what happens to people who are subject to them. Also very important is the relative success of community disposals when compared to short-term prison sentences, in relation to reoffending rates. The proposed model should help us to bring community justice issues to the heart of communities and increase engagement and informed debate. The new arrangements should also allow partners to respond more effectively to offending 'hot-spots' as they occur.

3.7 Ensuring Equalities

Improving performance and outcomes and having the ability to tailor community justice services to the particular needs of Midlothian's population should improve equalities for victims, communities and offenders. Offenders themselves have often experienced inequalities as have their victims; the two groups are not mutually exclusive. We also know that the more disadvantaged areas in Midlothian are disproportionately affected by offending and anti-social behaviour as well as by many of the issues that lead to offending such as substance misuse. As indicated above the Scottish Government have identified outcomes for offenders that have been proved to impact on desistance from offending, such as stable accommodation, improved employability prospects and increased literacy skills and an improvement in these areas will also increase equality and social inclusion.

3.8 Supporting Sustainable Development

One of the difficulties with national funding streams such as the Reducing Reoffending Change Fund, and Community Justice Centre funding is that they have been short-term, leaving local authorities and other partners with the dilemma of how to continue these services after the funding ends. Midlothian Council has not received any funding from these work streams however and the challenge for partners across the Council and beyond is to improve services and outcomes by working together in a more co-ordinated and efficient way. Local Reducing Reoffending partnerships should help to facilitate this and reduce duplication.

3.9 IT Issues

There are no IT issues identified.

4 Summary

In summary there are many positives in the Scottish Government's proposal for the future model of community justice. We will have more local accountability and the opportunity to make community justice relevant to our local needs. There are a number of areas where the detail is still lacking and as we move forward it is important that we ensure that the new model allows us to prioritise local issues and improve outcomes for communities in Midlothian.

5 Recommendations

Council is asked to agree the attached response to the Scottish Government's consultation on the Future Model for Community Justice in Scotland.

Date 29 May 2014

Report Contact:

Name: Margaret Brewer Tel No: 0131 271 3833
Margaret.brewer@midlothian.gov.uk

Background Papers:

ANNEX A

The Future Model of Community Justice in Scotland

RESPONDENT INFORMATION FORM

Please Note **this form must be returned with your response to ensure that we handle your response appropriately**



1. Name/Organisation

Organisation Name

Midlothian Council

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

Postcode	Phone	Email

3. Permissions - I am responding as...

Individual

/ Group/Organisation

☐

Please tick as appropriate

☐

(a) **Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?**

Please tick as appropriate

☐ Yes ☐ No

(c) **The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).**

- (b) **Where confidentiality is not requested, we will make your responses available to the public on the following basis**

Please tick ONE of the following boxes

Are you content for your response to be made available?

Please tick as appropriate

☐ Yes ☐ No

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (d) **We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Please tick as appropriate

☐ Yes

☐ No

ANNEX B

CONSULTATION QUESTIONS

Chapter 2

Question 1: Do you have any general comments on the overview of the new arrangements for community justice?

We welcome the move to a local model with local accountability. We are aware that there is a road to be travelled in relation to bringing partners on board and engendering a sense of community justice in partnership. We agree that the success of the new model will depend on the improvements that will be made through local partnership working.

Given that the development of Criminal Justice Social Work over the past 25 years has been on a largely national basis, with National Outcomes and Standards, national guidelines for CPOs, national programmes and national templates and risk assessments, we agree that it makes sense to create a new structure that includes national leadership. The long-standing national dimension of Criminal Justice Social Work has helped to foster a performance culture, albeit focused on processes for many years rather than outcomes. There has been a consistency of practice across Scotland and a sense of a community of practice that has facilitated shared working across local authority boundaries. We would hope that the national board will ensure that these advantages will be maintained and developed under the new structure.

Chapter 3

Question 2: What are your views on the governance and accountability arrangements?

We hope that Scottish Ministers will ensure that stakeholders with experience of working in the criminal justice field will have an opportunity to be consulted on or contribute to the national strategy and performance framework. Given that the strategy and framework will 'provide the backdrop for local partnerships' it is very important that these documents are both grounded in reality and aspirational. This is particularly the case given the fact that some local partners will have little or no previous experience of the community justice system or the role their organisation can play in reducing reoffending.

We welcome the proposal that each partner organisation at a local level will be 'held accountable for....its contribution to community justice'. However it would be helpful if the Scottish Government could play a leadership role in helping partners who currently don't have a great deal of knowledge about offending or their potential role in its reduction to see the relevance of the new structure to them and their professional role.

The local partnerships will not be a legal entity in their own right and it would be useful to have more detail about how the Scottish Government envisages the transition to a system where each local partner measures its own contribution to community justice 'through its existing governance and accountability arrangements'. However the fact that all key relevant partners and not just local government will have a legal duty to reduce reoffending under the new structure is welcomed.

In relation to membership of the national board we have some concern about the public appointments system being the best way to ensure that the board members have the right experience, skills and knowledge for the role. The

relationship between the national board and local partnerships will be crucial and it is important that there is not a disconnect between the two. We understand that the Scottish Government does not want to set up a board so large that it becomes unwieldy but it is important that the membership reflects the reality of delivering services for offenders. We would therefore hope that its members are grounded not just in research on issues such as desistance but are also fully aware of the day to day responsibilities and challenges of Criminal Justice social work and other partner agencies.

There is some lack of clarity in the proposed powers of the national board. It is stated that the board will have the power to 'make recommendations' to Scottish Ministers and local authority elected members on improvements required'. While welcoming the development of an improved performance culture with the opportunity to benchmark with other areas and share best practice, it would be useful to have more detail about under what circumstances the national board would recommend improvements and interventions to local partnerships and how this would be negotiated with the partnerships themselves.

We welcome the suggestion that there may be benefits for 'shared services or collective and collaborative undertakings at a national, regional and local level.' Given the issues relating to capacity and economies of scale in the smaller local authorities the potential for shared services is important. There are also very strong existing working relationships across local authority areas and within Lothian and Borders; these relationships preceded the introduction of Community Justice Authorities in 2007. It is important to maintain the benefits of existing relationships within the new structure.

Chapter 4

Question 3: What are your views on the arrangements for local strategic planning and delivery of services for community justice?

The flexibility in local partnership arrangements and local discretion in creating partnership structures is positive. As stated above, for partners not previously involved with community justice the Scottish Government may wish to take a leadership role in demonstrating the benefits to partners and their organisations of having a role in reducing reoffending and creating safer communities. The consultation paper states that the Scottish Government will produce guidance to help CPPs develop the new arrangements but more leadership may be required to win hearts and minds, although we recognise that much of this work will be done at a local level.

The principle of consulting with service users and local communities is helpful and in line with the guidance for delivering Community Payback Orders as well as the capacity building and co-production agendas.

The local model depends on information being available to allow local authorities to collect and share relevant data. One useful source of data would be the risk assessment and management tool LS/CMI but there is an issue with the RMA having the capacity to train staff members in 32 local authorities to extract the data. It would be helpful if additional capacity could be made available on a temporary basis to allow the RMA to fulfil this function.

The consultation paper makes little mention of MAPPA but currently MAPPA Co-ordinators cover CJA areas and it is not clear what would happen under the new model. MAPPA is a very good example of partnership working and it is important that the success of MAPPA is maintained under the new structure.

The community safety board established following the creation of Police Scotland and Scotland's Fire and Rescue have taken over responsibility in Midlothian for the safer community agenda. It is important that the new local model for community justice under CPPs is aligned effectively with this structure, rather than being set up in a standalone manner.

Chapter 5

Question 4: What suggestions do you have on how a national performance framework for community justice in Scotland could operate under the new model?

Midlothian Council welcomes the emphasis on measuring outcomes in this section. The ten outcomes for offenders are helpful and may throw up some interesting issues for local authorities. For instance many local authorities have a policy of evicting tenants if there is evidence of criminality at the tenancy, such as stolen goods, but the requirement to provide stable accommodation to reduce the risk of reoffending may require a review of this.

We feel that something should be added about the management of high-risk offenders. With these offenders the focus can be on risk management planning and restriction on a partnership basis rather than on outcomes for the individual offender and this is not reflected in Chapter 5. With the advent of processes such as MARAC and MATAC, as well as Risk Management Case Conferences and MAPPA, the ability of a strong partnership to put measures on place to protect victims and manage risk is vital in creating safer communities.

Chapter 6

Question 5: What are your views on the functions to be delivered by Community Justice Improvement Scotland?

We welcome the proposal that the national board will act as a voice and champion for community justice. It was hoped in 2007 that this would be a function of the CJAs. In Midlothian we have recent experience of negative press coverage of a situation relating to a high-profile offender and, although helpful and sympathetic, the Scottish Government were not able to make any statement of support to the media. While understanding this, it would be helpful to have a national body who could explain to the general public, through the media, what the supervision of offenders in the community involves and how successful it is compared to short term sentences. It would also be helpful to communicate how restrictive supervision can be for individuals on licence and that the focus of the agencies involved in managing offenders is to reduce reoffending; although this may seem obvious it is likely that many members of the public are unaware of it. The public read in the papers that if someone is sentenced to a community sentence, even a very onerous one, they have 'walked free' from Court. We need something to redress the balance and the national board could have a pivotal role to play in achieving this.

The consultation paper mentions Intensive Support Packages as one arrangement that would be better undertaken at a national level. We would agree and would also suggest that the national board develop a national clearing house for the small number of offenders whose profile and notoriety is so high that it is difficult or impossible for them to resettlement in their originating authority after a custodial sentence.

Question 6: Does the name “Community Justice Improvement Scotland” adequately reflect the responsibilities of the new national body and the functions?

We would prefer Community Justice Scotland. The term is more neutral and sounds less like an inspection agency. If this is not possible then Community Justice Development Scotland would be a possible alternative.

Chapter 7

Question 7: Are the skills and competencies in paragraph 105 and referenced in paragraph 106 sufficient to allow the body to fulfil its functions as noted in Chapter 6?

It is important that skills in the risk management of high risk offenders including sex offenders are part of the national board. The intention may have been that ‘social work professional skills’ would encompass this but it is not clear and in any case other disciplines, such as forensic psychiatry, would also have an important role to play.

Question 8: Is the organisational structure shown at Figure 3 and the expected size of the staffing complement sufficient to allow Community Justice Improvement Scotland to fulfil its functions as noted in Chapter 6?

We have no comment on the proposed number of staff in the structure but as outlined in Question 2 we have some concerns about using the public appointment system to appoint board members. We recognise that the proposal includes the setting up of sub-groups of the board but the members of these groups would presumably be attending as individuals rather than on behalf of their organisations.

Question 9: What other suggestions do you have for the organisational structure for Community Justice Improvement Scotland to allow it to fulfil its functions as noted in chapter 6?

It might be useful to look at appointing board members who are in a position to consult with their organisations and represent their views at a national level. Otherwise the national structure may appear remote to those working on the frontline of services.

Question 10: What are your views on the proposed location for the headquarters of Community Justice Improvement Scotland?

We agree that it would make sense for the new body to be located in Edinburgh or Glasgow.

Chapter 8

Question 11: Are the professional areas noted in the list at paragraph 114 appropriate to allow the Board of Community Justice Improvement Scotland to fulfil its functions?

See above for our concerns about the suitability of the public appointments system for the national body.

In relation to the third sector it would be useful to have representation not just from the large organisations such as Sacro but also from smaller organisations. There are many excellent small voluntary organisations that can and do contribute to the reduction of reoffending but who because of the current funding system spend much of their time and resources chasing funding, rather than providing the services they were set up to deliver.

Chapter 9

Question 12: What are your views on the arrangements for the national Hub for innovation, learning and development?

The TDOs have provided an excellent training programme for Criminal Justice staff and we very much hope that this high quality of training will be replicated under the new structure. We therefore welcome the statement that the Scottish Government will work closely with the TDOs to develop the hub. As stated earlier so much of Criminal Justice social work (as opposed to Community Justice) has a national dimension that it would make no sense to have 32 training programmes for Community Justice. Consequently the combination of national training initiatives and the hub seems useful.

We welcome the statement that the national hub will be 'practitioner-led' but it would be useful to have more information about how this would work in practice.

We feel that if the hub is virtual considerable effort would have to be put in to ensure that it is regularly and actively used by Community Justice partners. There are many such hubs and staff often experience email fatigue so the hub would have to seem relevant and helpful to partners on a day to day basis. One advantage of the hub would be to share knowledge across the new reducing reoffending partnerships.

It would be useful for the hub to be developed and used creatively and for it to be aspirational. For instance there is increasing recognition of the importance of trauma-informed services and information about trauma and how to create such services would be a cross-cutting issue relevant to all partners.

Chapter 10

Question 13: What are your views on the arrangements in support of the transition process?

The arrangements to support the transition to the new structure are welcomed. Given the fact that the new structure is unlikely to be in place until 2017 it is important not to lose momentum and it would be helpful to have milestones in the intervening period.

It is important to start from where partners are if we want genuine engagement. So for example for some agencies the first question might be 'What has community justice got to do with me and my organisation?' rather than 'What should our local reducing reoffending partnership look like?'

Partly because of the national dimension of Criminal Justice social work and possibly also because of ring-fenced funding it has to some extent existed in parallel to other sections of local authorities rather than being fully integrated. There is a real challenge to redress this and ensure that Criminal Justice social work is well understood by partners within and outwith local authorities and that there is an increased understanding that no single agency can reduce reoffending.

We welcome the proposal that shadow partnerships are created prior to the implementation of the new structure and that these would co-exist for a period with CJA arrangements.

We believe that it would be counter-productive to end ring-fenced funding during or shortly after this important transition period. Local authorities are under a great deal of financial pressure to maintain services to vulnerable

adults and children and it would not be helpful for Community Justice to have to compete with other priorities in the current economic climate.

We also believe that given the new expectations on local authorities to plan and deliver Community Justice Services some extra allocation for research, information and planning capacity would be vital.

Chapter 12

Question 14: What impact on equalities do you think the proposals outlined in this paper may have on different sectors of the population?

The proposals should ensure that Community Justice is more attuned and responsive to local need and this should have a positive impact on equalities for communities. A co-ordinated response across agencies to ensure that the outcomes described in Chapter 5 are met should benefit service users and increase social inclusion.

The needs of women offenders have been poorly met for many years and there has been significant improvement in this area over the past two years with the development of Community Justice Centres and other projects tailored for women. It is important that this progress is maintained under the new structure and that funding for these services is not short-term and characterised by uncertainty.

It is important to recognise the increase in inequality that has been brought about by welfare reform and to be aware that this may impact on offending and reoffending.

Chapter 13

Question 15: What are your views regarding the impact that the proposals in this paper may have on the important contribution to be made by businesses and the third sector?

As stated earlier many smaller voluntary organisations with much to contribute are forced to spend much of their time chasing funding rather than providing services. This is a challenge both for the organisations themselves and for other partners who would benefit from working more closely with them.

If the national board is going to have a role as the 'voice' of community justice it would be helpful if one of their tasks was to engage with the private sector to encourage them to see the benefits of employing people with a history of offending, particularly in a climate where in some areas employment can be hard to come by especially for young people. A good example of this is the work that Timpson's has done in this area.

Declaration Box

Instructions: *This box must be completed by the author of the report. The box will be copied and saved by the Council Secretariat who will delete it from the report prior to photocopying the agenda.*

Title of Report: *Future Model for Community Justice*

Meeting Presented to: *Council Meeting on 24th June 2014*

Author of Report: *Margaret Brewer*

I confirm that I have undertaken the following actions before submitting this report to the Council Secretariat (Check boxes to confirm):-

- ☒ *All resource implications have been addressed. Any financial and HR implications have been approved by the Head of Finance and Integrated Service Support.*
- ☒ *All risk implications have been addressed.*
- ☒ *All other report implications have been addressed.*
- ☒ *My Director has endorsed the report for submission to the Council Secretariat.*

For Cabinet reports, please advise the Council Secretariat if the report has an education interest. This will allow the report to be located on the Cabinet agenda among the items in which the Religious Representatives are entitled to participate.

Likewise, please advise the Council Secretariat if any report for Midlothian Council has an education interest. The Religious Representatives are currently entitled to attend meetings of the Council in a non-voting observer capacity, but with the right to speak (but not vote) on any education matter under consideration, subject always to observing the authority of the Chair.