REDESIGNING THE COMMUNITY JUSTICE SYSTEM: Response from the Criminal Justice Voluntary Sector Forum

The Criminal Justice Voluntary Sector Forum (CJVSF) comprises a membership of 16 voluntary sector providers, all of whom are working within criminal justice in Scotland. The Forum aims to promote the role of the voluntary sector within criminal justice and to support voluntary sector providers to increase the impact of their activities. This support is provided through a member-led programme of activity.

The Forum is hosted by CCPS (the Coalition of Care and Support Providers in Scotland) and receives financial support from The Robertson Trust and The Monument Trust. Further information about the Forum can be found at: http://www.ccpscotland.org/policy/hot-topic-criminal-justice

We are pleased to respond to this consultation and trust that our response will be of use and interest. The views expressed here have been developed through discussions with our members, drawing on their experience of working closely with offenders, ex-offenders, those at risk of offending and families of offenders.

CONSULTATION QUESTIONS

All options

*Which option(s) do you think is more likely to meet the key characteristics (set out on pages 15 and 16 of the Consultation) that, if integral to any new community justice system, are more likely to lead to better outcomes?*

We support the key characteristics set out in the Consultation document and welcome the intention for a more co-ordinated and strategic approach from the statutory bodies to working with the third sector. We are not aware of any evidence, however, that one particular option is more likely to meet the key characteristics than others. Instead, we would urge the Scottish Government to focus on the purpose and the values of the system and to devote appropriate attention and resource to developing a sustainable model around these.
Which option(s) will result in the significant cultural change required to redesign services so that they are based on offender needs, evidence of what works and best value for money?

CJVSF agrees with Audit Scotland’s (2012, p5) recommendations that “The Scottish Government, SPS, CJAs and councils should work together, and with other relevant public and third sector providers, to improve how services to reduce reoffending are planned, designed and delivered”. We are not, however, aware of any evidence that suggests that changing the operational structures will necessarily result in the significant cultural change required to achieve this. Indeed, the Scottish Government (2011, p4) in its response to the Christie commission recommendations noted that, “Leadership and culture change matter more than organisational structures in achieving better outcomes and value for money”.

In order to achieve culture change, we would suggest that it is more important to focus on action around the four pillars of reform (prevention, performance, people and partnership). We would emphasise the importance of the following in relation to any actions:

- Strong leadership, with clear and consistent messages about policy aims and priorities
- Clarity over duties – Which individuals/ organisations are responsible for what?
- Clarity over accountability – Who is accountable and for what?
- Allocation of resources – Who has the power to allocate resources? Are appropriate levels of resource being invested?
- Information sharing – Improving information sharing processes and protocols
- Improving understanding between different parties of the important role that each can play in reducing offending.

Which option(s) will result in improvements in engagement with, and quicker access to, non-justice services such as health, housing and education?

CJVSF supports the ambition for a whole system, outcomes based approach, ensuring that community justice services link in effectively with other services. Whilst we cannot assume that any of the proposed options will necessarily result in improvements in engagement with, and quicker access to, non-justice services, there are a number of practical actions that can be taken to support this ambition and we would urge the Scottish Government to invest resources in these. They include:

- Improving information sharing practices and protocols in order to assist the identification of an individual’s support needs across different services
- Increasing practitioners’ awareness and understanding of the range of services available through improved access to information and sharing of good practice
Do you think a statutory duty on local partners will help promote collective responsibility for reducing reoffending among all the bodies who work with offenders? If not, what would?

CJVSF supports the ambition for improved collaborative working amongst local partners but notes that the statutory duty set out under the different options appears to vary:

- **Option A** states ‘A statutory duty would be placed on all partner bodies to work together to develop a local plan for reducing reoffending and engage in its delivery’
- **Option B** states ‘a statutory duty would be placed upon local authorities to work in consultation with partner bodies to produce and deliver a strategic plan for reducing reoffending in their area… it would be up to local authorities to decide how best to deliver these duties’
- **Option C** states that ‘the post of Area Director would hold broadly similar duties and powers to the Chief Social Work Officer post and would work closely with them in relation to wider social work and local authority issues… At an operational level, the local Area Director would hold overall responsibility (although he/she may delegate it) for working with local partners to undertake strategic commissioning of services’

Given the important contribution that they make to delivering services and reducing reoffending, we strongly believe that the third sector must be an equal partner, fully involved in joint planning and delivery and not just a consultee or a potential supplier. We would therefore seek greater clarity around:

- **Duties** – Which individuals/organisations would have statutory duties and what would these consist of?
- **Accountability**
- **Resource allocation** - Who would have the power to allocate resources?
- **Information sharing processes and protocols amongst bodies working with offenders**

Under options A and B should funding for criminal justice social work services remain ring-fenced?

No specific view.

Are there specific types of training and development that would be beneficial for practitioners, managers and leaders working in community justice? Who is best placed to provide them?
Experience from CJVSF members suggests that, at any point in the system, it is important to be able to identify opportunities that would reduce the risk of an individual service user reoffending and this requires practitioners to have strong core interpersonal skills to be able to build engagement with service users. The importance of strong interpersonal skills is echoed by Sapouna et al (2011, p18). This research found that, “Overall, research suggests that desistance is more likely to be achieved when a ‘working alliance’ with the supervisor is developed. These findings point to the need to invest in interpersonal skills training for offender managers.”

In addition to core skills, there will also be a wide variety of specialist skills that will be needed and staff will require support to continue developing and enhancing these. The then Scottish Executive (2006, p20) found that, “Staff working in different areas of offender management face very different challenges. All those working with offenders need to understand the challenges their colleagues face, respect their skills and trust their professionalism.” This still remains the case and, whilst the range of specialist training that will be required for different staff is too broad to be covered in one short consultation response, there is a more general point which we would wish to highlight. This is the important role which opportunities for networking and sharing good practice between community justice practitioners, managers and leaders working across both statutory and voluntary sectors can have in improving understanding and developing mutual respect.

Effective workforce development requires an adequate investment of resources. We are therefore concerned that an increasing focus on costs (versus quality) within public sector tendering will put further pressure of voluntary sector providers and reduce their ability to invest in sufficient ongoing training and development for their staff. The Skills for Justice 2010 Skills Assessment highlighted that, “as a result of in year cuts, many voluntary sector capacity infrastructures have already been axed or significantly reduced”. We would therefore emphasise the importance of adopting a full cost recovery model for public sector commissioning and ensuring that commissioners are fully trained in how to apply this model so that the voluntary sector is not unfairly penalised.

Is there potential for existing organisations such as Scottish Social Services Council, Institute for Research and Innovation in Social Services and knowledge portal Social Services Knowledge in Scotland to take on a greater role in supporting and developing the skills and expertise of professionals working with offenders?

Supporting and developing the skills and expertise of professionals working with offenders will be an essential part of any effective community justice system and there is potential for existing organisations to take on a greater role. We would note that a broader range of organisations are currently involved in developing the skills and expertise of professionals working with offenders than the ones listed above though. The remit for any organisation taking on a greater workforce development role for professionals working with offenders should seek to improve joint working between training providers and include effective involvement with the voluntary sector so that
opportunities for workforce development are accessible across all sectors.

What do you think are the equalities impact of the proposals presented in this paper, and the effect they may have on different sectors of the population?

The structure that is chosen may have implications for minority groups in particular geographical areas. For example, a national structure could place a disproportional focus on providing services for minority needs in local areas where there are smaller populations of minority groups. The opposite is also true, with a local structure at risk of providing an insufficient focus on minority needs due to a lack of critical mass. The chosen structures should therefore have sufficient flexibility to be able to adapt to local needs, whilst also addressing national priorities.

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

Data from the Scottish Government’s Directory of Services for Offenders (quoted by Audit Scotland (2012, p27)) suggests that 30% of the services for offenders listed in the directory are provided by the third sector. Further research by the Robertson Trust (2012) also highlighted the important contribution made by the third sector to reducing reoffending and found that the sector’s effectiveness in delivering services can be attributed to the sector’s responsiveness and flexibility; innovation; connectivity and community assets; partnership working; trust and relationships.

At the same time, Audit Scotland’s (2012, p45) found that, “The third sector has an important role in delivering services to reduce reoffending but faces increasing challenges”. The redesign of the community justice system provides an opportunity to address some of these challenges and for the statutory sector to make better use of the assets offered by the third sector through more active involvement of third sector organisations within service design and delivery. For this to work effectively, statutory agencies need to recognise and respect third sector organisations as equal partners with expertise, experience and assets to contribute. It is important that these assets are supported and enhanced by any changes to the community justice system and there is a risk that the proposals presented in this paper could impact negatively on the important contribution made by the third sector. Identified risks include:

- The impact on commissioning and funding of services
- The impact on service design and delivery
- The impact on the independent role of the third sector
- The impact on the third sector work force.

To mitigate against negative impacts, CJVSF encourages the Scottish Government and statutory partners to ensure that the structures chosen place a duty on the statutory sector to follow the six principles of engagement set out in the CLINKS guidance (2013):

- 1. Recognise what the voluntary sector has to offer
Are there other options, or permutations of the options presented in this paper, which should be considered? Please provide details.

An option which combines the strengths of each of the three proposals may be possible. CJVSF would encourage the development of a system which meets the key characteristics identified and offers:

- An overall structure with clear accountability and strong leadership
- An outcomes focus
- The ability to create shared resource in order to produce a collaborative response across local geographies
- A balance between local and national
- Opportunities for third sector providers to engage as equal partners in a whole systems approach to reduce reoffending
- Accessibility

Option A: Enhanced Community Justice Authority (CJA) model

What are your overall views on retaining CJAs but changing their membership and functions?

CJVSF members identified a number of positive contributions that the CJAs have made to improving practice within community justice since they were introduced:

- Their contribution to developing a more cohesive, co-design approach to commissioning
- The ability of CJAs to collaborate with each other to promote good practice at a national level
- The CJAs enable voluntary sector providers to work effectively with multiple local authorities more easily than if they had to negotiate with each local authority individually

We believe it is important that this positive progress in practice is retained, regardless of which structure is chosen.

CJVSF’s views on the main proposed changes to membership and functions of the CJAs are as follows.

Views on proposed change 1: “A chair for each CJA would be appointed by Scottish Ministers and Board membership would be widened to include an appointed member of the Health Board. RSLs would become a partner body”
We agree that developing links between community justice and other services (e.g. health, education, housing) will be important for enabling a whole system approach to be taken to promoting desistance and reducing reoffending. The proposed changes to membership and partner bodies to include a wider range of organisations (e.g. the Health Board and RSLs) are therefore welcomed. Given the important contribution of the voluntary sector to community justice, we would also urge that the voluntary sector is appropriately represented within the membership of the board.

Views on proposed change 2: “Statutory duty would be placed on all partner bodies to work together to develop a local plan for reducing reoffending and engage in its delivery”

As previously discussed, we welcome measures that support partner bodies to work together to reduce reoffending but would ask for greater clarity about what the statutory duties would involve and how these would be expected to work in practice.

We also understand that only third sector organisations receiving funding over £100,000 a year are considered partner bodies. Providing smaller third sector providers with an opportunity to contribute to the development of a local plan for reducing reoffending and to engage in its delivery will also be important in order to be able to draw on their knowledge of local needs, expertise and experience.

Views on proposed change 3: “Statutory functions to be expanded to include strategic commissioning of services, to promote CJA’s role in the community, represent community justice interests with the local judiciary, media & public.”

One of the challenges with the CJAs in their current format is that they do not have control over how resources are spent, which we believe makes it difficult for them to take a more strategic approach to identifying service needs and implementing change to how services are delivered. The CJVSF would therefore support the proposal for statutory functions to be expanded to include strategic commissioning of services. We would also highlight the importance of effectively involving the third sector as part of this strategic approach.

Will appointing a chair and expanding the membership of the CJA Board to include the Health Board help remove any potential conflict of interest and promote collective responsibility for reducing reoffending?

See comments to question above.

What do you think of the alternative proposal for all Board members to be recruited through the public appointments system based on skills, knowledge and experience?

No specific view.
Do the proposals under Option A give CJAs sufficient levers and powers to reduce reoffending efficiently and effectively?

See comments to question above.

Do you think CJA’s should be given operational responsibility for the delivery of criminal justice social work services? Do CJAs currently have the skills, expertise and knowledge to take on these functions?

No specific view.

Should CJAs geographical boundaries remain the same? If not how should they be redrawn?

No specific view.

Do you agree that the Scottish Government should retain the current arrangements for training and development? Should they be reviewed for effectiveness?

At present, the Scottish Government funds eight Training and Development Officers within CJAs to support cross-sectoral training and development. We support the principle of cross-sectoral opportunities for training and development. At the same time, delivering high quality, effective public services requires robust monitoring and evaluating arrangements to be in place. We therefore see value in reviewing the current arrangements for training and development to explore whether they remain fit for purpose, generate positive outcomes and offer value for money.

What could be done differently to build expertise, capacity and resilience in the community justice sector and ensure evidence based good practice is shared widely?

As discussed previously, adopting a full cost recovery model for commissioning would support providers to sufficiently invest in workforce development and sharing good practice and help to build expertise, capacity and resilience in the community justice sector.

Providing opportunities for sharing good practice should also include opportunities for cross-sectoral discussions. There are a number of examples where this is already being done and we would suggest building further on these. For example, the National Youth Justice Development Team’s activities which provide opportunities for practitioners to come together to discuss common issues and share practice. The CJVSF also supports the sharing of evidence based good practice, through our quarterly Forum meetings, briefings, practitioner training and networking opportunities and involvement with the Scottish Government’s Prevention Roundtable Group.
Option B: Local authority model

What do you think of the proposal to abolish CJAs and give the strategic and operational duties for reducing reoffending to local authorities?

CJVSF members noted three main concerns in relation to the proposal to give strategic and operational duties to local authorities.

Firstly, the implications this model would be likely to have for consistency of provision. This is discussed further under our response to the question below.

Secondly, whilst we support the ambition of strategic commissioning of services, it is not clear from the consultation document how this would be expected to operate in practice or what role Scotland Excel might play in relation to this. Giving responsibility for strategic commissioning to local authorities creates a potential conflict of interest whereby local authority commissioners may be put under pressure to commission internally, even if this option does not represent the best value for money. It is also not clear how community justice service commissioning would be aligned to commissioning work by other agencies although, again, we would support this in principle.

Thirdly, under a local authority model, there may also be accessibility challenges for smaller providers, given the likely complexities associated with navigating commissioning arrangements across 32 different local authorities.

What do you think will be the impact on consistency of service provision, good practice and the potential to plan and commission services across boundaries (and hence value for money) of moving from eight CJAs to 32 local authorities?

Under this proposal, it would be up to individual local authorities and their partners to decide which services it wishes to commission from the third sector. This is likely to create challenges for voluntary sector providers and the co-design approach currently being promoted due to the implications on staff capacity if they were required to work with up to 32 different organisations to develop and deliver services across Scotland.

Commissioning could be improved through adopting a more strategic approach, measuring and reducing the administrative burdens of contracts for both buyers and suppliers, moving to multi-year funding and implementing full cost recovery. Partnership arrangements work best where adequate funding is supplied to voluntary organisations to enable them to cover the full economic cost of providing support, including the ability to train, develop and reward staff appropriately, and appropriate development costs.

Furthermore, we would anticipate that the focus on meeting local needs is likely to have a negative impact on the consistency of service provision and the potential to plan and commission services across boundaries. Under
this proposal, it will be important to clearly establish who will be accountable for ensuring consistency of service provision and what duties will be placed on local authorities and other statutory agencies to ensure that this ambition is realised.

*Do you think there is still a requirement for a regional partnership, provision or co-ordination role (formally or informally) in this model? If so, how would it work?*

No specific view.

*What do you think would be the impact of reducing reoffending being subsumed within community planning, or other local authority planning structures?*

There are various existing examples of encouraging approaches in relation to community planning activities. One recent example is the Getting It Right for Every Child (GIRFEC) Third Sector National Project, which is working to bring together the third sector, local government and national government to ensure that all groups working with children and families are in full partnership.

A similar approach to developing a full partnership is required in relation to reducing reoffending. However, at present, CJVSF members identified a number of challenges for voluntary sector providers being able to access and engage with Community Planning Partnerships (CPPs), noting that engagement is often dependent on existing individual relationships. If these barriers are not overcome, it will impact on the ability of the voluntary sector to contribute to reducing reoffending at a local level.

*Do you agree that functions such as programme accreditation, development of good practice, performance management and workforce development should be devolved from the Government to an organisation with the appropriate skills and experience?*

No specific view.

*What are your views on the proposal to expand the functions of the Risk Management Authority to take responsibility for improving performance?*

The CJVSF agrees that it would be helpful to have an overview of all the strategic plans, including the provision of services to reduce reoffending. We understand that work is already being undertaken by the Scottish Government to develop a Directory of Services for Offenders and it would be useful if the information gathered through the local plans could also be used to help keep the Directory updated.

Similarly, having a central resource for collating community justice research and developing evidence based practice would be helpful. Consideration will need to be given as to how this fits with existing structures, such as the SCCJR (Scottish Centre for Crime and Criminal Justice Research), IRISS (Institute for Research and Innovation in Social Services) and SKSS (Social Services Knowledge Scotland).
It is not clear, however, that the Risk Management Authority is the most appropriate body to take on the responsibility for improving performance within the community justice system. CJVSF members expressed concerns that expanding the functions of the RMA to take responsibility for improving performance may lead to there being less balance between risks with strengths (in line with an assets based approach).

What are your views on the proposal to set up a national Scottish Government/Convention of Scottish Local Authorities Leadership Group to provide national leadership and direction?

No specific view.

**Option C: Single service model**

What are your views on the proposal to abolish the eight CJAs and establish a new single social work led service for community justice?

Whilst we support the principle of strategic commissioning of services, it is not clear from the consultation document how this would be implemented in practice and what implications it would have for linking services at a local level. We would seek further information before forming a view about its likely effectiveness or otherwise.

CJVSF members also identified a risk that a single service model could potentially negatively impact on the ambition to develop a full partnership approach between the statutory and voluntary sector to reducing reoffending. Given the importance of the sector’s role in reducing reoffending, we would recommend that any national board for community justice needs to include members from the voluntary sector. The consultation document specifies that there would be representation from Victim Support Scotland but we have some concerns that there is nothing to indicate that there would be representation from providers working with other target groups (e.g. offenders, ex-offenders or families of offenders).

What do you think of the proposal to incorporate the functions of the Risk Management Authority into a new single service?

Please see comments to the question about the RMA under option B.

What do you think about grouping local delivery around the three Federation model currently employed by the Crown Office and Procurator Fiscal Service and police?

No specific view.
Does the approach to strategic commissioning and procurement provide a good balance between local and national service priorities and needs?

| The CJVSF supports the Scottish Government’s ambition for “working with local partners to undertake strategic commissioning of services that are based on a robust analysis of needs, evidence of what supports desistance and best value for money” (Consultation document, p31). We also agree with the principle of building in flexibility to commission services on a national basis (where appropriate) as a well as on a local basis. However, further detail of the proposed strategic commissioning exercise would be required to be able to ascertain whether or not the proposed approach provides a good balance between local and national service priorities and needs. It is also not clear from the consultation document how community justice procurement would be ‘aligned to work already underway by other agencies to promote strategic joint commissioning’. There are also a number of challenges around establishing best value for money in relation to community justice services. These include the ability to agree clear, measurable outcomes that can be compared across different services and to agree consistent methods for recording costs. |

| Do you think that placing a statutory duty on local partners and a strong Chief Executive negotiating on behalf of the new single service will help facilitate access to mainstream non-justice services? Facilitating access to non-mainstream services will be important, given the complex and wide-ranging set of challenges that individuals within the criminal justice system often face. The voluntary sector plays an important role in improving access and we would support placing a statutory duty on local statutory partners to work with voluntary sector providers as equal partners in the development and delivery of local plans. |

| What do you think of the proposal to establish a dedicated community justice unit as part of the new service? The CJVSF welcomes the ambition to build expertise, capacity and resilience in the sector and to adopt a strategic approach to workforce development and leadership. It is essential that any new dedicated unit does not replicate existing provision and is fully accessible to the voluntary sector. |

Any additional comments