Community Justice (Scotland) Bill – Stage 2

Introduction
The Criminal Justice Voluntary Sector Forum (CJVSF) supports the broad aim of this Bill to "help create a stronger community justice system based on local collaborative strategic planning and delivery, with national leadership, support and assurance".¹

From reading the proposed amendments, it is clear that many of the concerns that were raised by the Committee and other community justice stakeholders at Stage 1 have been listened to and efforts undertaken to try to address these. We commend the Minister and the Bill team for their commitment to work with stakeholders throughout the legislative process to ensure that the final Act is fit for purpose. A number of the proposed amendments will have implications for the third sector and below we provide a summary of the feedback that we have received from CJVSF members to-date in relation to these specific amendments.

Definition of community justice
In its Stage 1 report, the Committee noted that a number of stakeholders were keen to see prevention and early intervention reflected in the definition and welcomed the Minister’s acceptance that revisions to the definition are required.

CJVSF² previously suggested that the definition of ‘community justice’ could be enhanced by:
- Ensuring a clear focus on improving outcomes for people and meeting their individual needs
- Reflecting the wider work underway in Scotland in relation to labelling and moving away from the use of the term ‘offender’
- Broadening the definition to also capture activities that take place to support other people affected by the community justice system, for example children and families of people with convictions, victims of crime and witnesses
- Providing a clear reference to entry point in to the community justice system, in order to take a more preventative approach to community justice
- Clarifying what is meant by ‘general services’.

We therefore welcome the Scottish Government’s amendments to broaden the definition to include activities with people who may have committed offences but not yet been prosecuted (e.g. those on bail, diversion and orders) as well as activities with people who have been convicted. We also support the proposal by Alison McInnes to extend the definition to include services for people identified as at serious risk of first time offending. The proposed amendments to remove the term ‘offender’ from the Bill and replace it with more appropriate language are also welcomed.

We encourage all Members to support:
- Scottish Government proposed amendments to broaden the definition of ‘community justice’ and to replace the term ‘offender’ in the Bill with more appropriate language
- Proposed amendment 94 (in the name of Alison McInnes) to extend the definition of ‘community justice’.

In addition, we would still be keen to see the definition broadened further, to also capture activities that take place to support other people affected by the community justice system (e.g. children and families of people with convictions, victims of crime and witnesses). We would also welcome further clarification of the term ‘general services’ within the Bill.

¹ As set out in the Policy Memorandum accompanying the Bill - Available at: www.scottish.parliament.uk/S4_Bills/Community%20Justice%20(Scotland)%20Bill/b68s4-introd-pm.pdf
² Our written submission to the Justice Committee’s Stage 1 call for evidence can be read at: www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/CJ50__CJVSF.pdf
Third sector involvement in community justice

We are grateful to the Justice Committee for drawing the Minister’s attention to the concerns of the third sector in its Stage 1 report. In particular, the Committee focused on the logistical and financial barriers to engaging with 32 local authorities rather than eight CJAs and encouraged the Minister to reflect on whether the requirement for statutory partners to only ‘consult’ with community bodies is strong enough to ensure effective collaboration and engagement with the third sector.

At Stage 1, CJVSF raised concerns about the need for stronger engagement with third sector providers to be written in to the Bill and called for the Bill to be brought in line with other legislation, so that it promotes stronger engagement of third sector partners in the planning, design and delivery of services. We also called for clarification about the routes through which third sector organisations will be able to engage with the new model.

We appreciate the desire across a range of stakeholders to reflect the third sector’s contribution to the community justice system more fully within the Bill. We are therefore encouraged to see that a number of proposed amendments have been lodged to help give the third sector a stronger participative role at a strategic level, through contributing to the development of documents such as the National Strategy and National Performance Framework for Community Justice, as well as contributing to the local community justice planning process.

We also welcome the amendments to define ‘third sector bodies involved in community justice’ as those providing a relevant service or representing the interests of people affected by community justice and for these to be included within the Bill. We believe this definition is appropriate, since it will include organisations working with and representing the interests of victims, witnesses and families as well as people with convictions.

We encourage all Members to support Scottish Government proposed amendments to strengthen the participative role of the third sector in community justice service planning and other relevant strategic activities.

Whilst the proposed amendments offer a much stronger message about the requirement for the third sector to be fully involved in community justice planning and strategic discussions, the Bill still does not clarify the routes by which third sector organisations will be engaged in the process in practice. This challenge is not unique to community justice and is being explored further through the ongoing transition work. We would therefore welcome the development of clear, supportive guidance on this issue to help both statutory and voluntary sector partners to develop clear, appropriate pathways for engagement at both a local and national level.

Changes to performance reporting and improvement activity

The Justice Committee raised concerns in their Stage 1 report that the detailed proposals in the Bill may not achieve the correct balance between strong national leadership, to drive forward improvements in performance, and local flexibility in relation to the delivery of services. We agree with the Committee’s view that "if the national body does not have adequate powers of oversight to measure and drive forward improvements in performance, there is a danger that weaknesses in relation to accountability, strategic leadership and the ability to properly measure outcomes in the existing arrangements will persist”.

At Stage 1, we welcomed the introduction of a National Performance Framework for Community Justice, but requested more clarity about how the performance reports will be scrutinised or audited. We also raised concerns about the accountability arrangements and were keen for greater clarity about what will happen if sufficient progress towards outcomes is not made at a local level and about the powers that the national body will have to be able to drive improvements. The Bill also did not state what the link will be between the funding system and the improvement plans. It was therefore not clear on what basis funding will be allocated to services and whether or not this current weakness in the system will be addressed by the new model.

We support the proposed amendment to introduce a requirement for community justice partners to report on actions as well as their assessment of achievement or progress of outcomes, in order to improve transparency and understanding of what works. We also welcome the amendments to give Community Justice Scotland further powers in relation to performance improvement.

CJVSF members have previously expressed concerns about how statutory partners will be held accountable for how they have engaged with the third sector. We therefore welcome Margaret McDougall’s proposal to introduce a specific reporting requirement around third sector engagement.
This would enable good practice to be collated and shared and any difficulties with engagement to be identified so that appropriate improvement actions can be put in place to support the strengthening of engagement over time.

We encourage all Members to support:

- Scottish Government proposed amendments to introduce a requirement for community justice partners to report on actions and to give CJS further powers in relation to performance improvement
- Proposed amendment 98 (In the name of Margaret McDougall) to introduce a reporting requirement around third sector engagement.

We would also be keen to see recognition of the third sector’s contribution to community justice captured within the local performance reports. There may therefore be merit in extending proposed amendment 45 to include actions taken by relevant third sector bodies in the area, as well as those actions taken by statutory partners.

For further information please contact:

Laura Mulcahy
Development Coordinator
Criminal Justice Voluntary Sector Forum
Laura.Mulcahy@ccpscotland.org
0131 475 2676