Finance Committee

Community Justice (Scotland) Bill

Submission from Criminal Justice Voluntary Sector Forum

Introduction

We welcome the opportunity to provide input to this Call for Evidence and trust that our response will be of use and interest to the Finance Committee. Our response has been developed through discussions with our members, drawing on their experience of working closely with individuals, families and communities affected by the community justice system.

About CJVSF

The Criminal Justice Voluntary Sector Forum (CJVSF) is a collaboration of voluntary sector organisations working in the field of criminal justice. CJVSF provides support to members through a member-led programme of activity and aims to:

- Support voluntary sector providers to continuously improve their own criminal justice services through collaboration and sharing of good practice
- Assist voluntary sector providers to understand, navigate and influence the complex and changing environment in which they operate
- Promote broader awareness of the activities, value and impact of third sector services within criminal justice.

CJVSF is hosted by the Coalition of Care and Support Providers in Scotland (CCPS) and receives financial support from The Robertson Trust and The Monument Trust. Further information about the Forum can be found on our website.

Response

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes, we contributed to the Scottish Government’s consultation exercises which preceded the Bill. This included participating in consultation events and providing written responses to the consultations in 2012 and in 2014. Our previous written submissions in relation to the community justice reforms are available on our website.

Given the early stage in the development of the model at which the consultation exercises were carried out, very few financial assumptions were made in the consultation papers and it was therefore difficult to comment in any detail. In our 2014 response, we noted that there was a need for more information about how commissioning, procurement and funding of community justice services will happen under the new model and highlighted risks regarding the impact of local commissioning.

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1 A list of our current members can be found at: http://www.ccpscotland.org/cjvsf/cjvsf-cjvsf-members/
2 http://www.ccpscotland.org/cjvsf/
and procurement arrangements. We also highlighted the resource implications for third sector organisations if they will be expected to engage with 32 CPPs, rather than 8 CJAs.

2. **If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?**

No, the detailed arrangements for commissioning, procurement and funding systems are still under development and, as such, the FM does not provide detail on these.

3. **Did you have sufficient time to contribute to the consultation exercise?**

Yes.

4. **If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.**

One of the costs relating to the Community Justice (Scotland) Bill (Table A of the Financial Memorandum) is the cost of a project which CJVSF has been asked to undertake, to support stronger engagement of the Third Sector in relation to the new model. This is a one-off, costed-project and, as such, we believe that the financial implications for CJVSF of the project are accurately reflected in the Financial Memorandum.

Beyond the transition period, we anticipate that the financial implications for CJVSF will be largely in terms of staffing costs, to enable effective engagement of the Third Sector at a national level. The FM notes that there may be some resource implications for other bodies, but that these are expected to be accommodated within their existing responsibilities for improving community justice outcomes.

The Bill will also have financial implications for our members, all of whom are Third Sector service providers. The Financial Memorandum does not reflect these, and they are likely to include:

- **Sustainability of services** - Currently, many Third Sector organisations are given short term funding which creates uncertainty around sustainable service provision. This impacts on service planning as well as staff turnover and morale, which in turn can have a negative impact on those using the service. The uncertainty also creates a lack of confidence amongst sentencers and other partners about the future availability of the service and therefore acts as a barrier to (i) partnership working (ii) increasing the use of viable community alternatives to custody. CJVSF members are keen to see the new model being used to improve sustainability of services in the medium term, with an increasing emphasis on supporting the reallocation of resources towards preventative activities. The Bill does not state how often the local Community Justice Outcomes Improvement Plans will be developed/reviewed nor what the link will be between the funding system and the improvement plans. At present, it is 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.

- **Risk of services potentially being taken ‘in-house’ by local authorities, without a robust evidence base that such a decision would offer best value for money** - The Financial Memorandum accompanying the Bill (p15, Schedule
2, part 1, paragraph 1) states that section 27 funding will flow directly from the Scottish Ministers to local authorities. CJVSF members raised concerns about this, and the impact it was likely to have on the Third Sector and its partnership working with statutory bodies. Third sector organisations have increasingly seen virement of section 27 funding from non-core to core activities, without a robust, transparent evidence base demonstrating that these decisions provide best value for money. They raised concerns that funding for non-statutory services may decrease further under this proposal.

- **Resource implications for engaging with the new structures and processes**
  Those delivering services across multiple CPP areas noted particular concerns that they may need to engage with up to 32 different local strategic commissioning and procurement processes.

- **Resource implications in respect of IT and staffing**, if any changes require to be made to their existing Performance Management Systems as a result of the new National Performance Framework.

**5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?**

The costs set out in the Financial Memorandum for the national body appear to be sufficient for the size of the organisation described, although we would wish to seek further detail about the organisation’s functions and role before commenting further on the costs associated with Community Justice Scotland.

The funding awarded to CJVSF to assist with the transition will involve supporting mapping activities being carried out in Community Justice Authority (CJA) areas, and an action research project in two CPP areas to allow more in-depth support to be provided in these areas. Learning from other engagement strengthening projects (e.g. the National Third Sector GIRFEC project, the Third Sector Interface Community Planning Improvement Programme) has highlighted the value of providing resource to support CPPs to self-evaluate and identify and implement appropriate actions. Transition funding has also been provided to each CPP and we are keen to understand how this money will be used to develop capability and capacity in each area.

We are not clear from the Financial Memorandum what savings, if any, are expected to arise from the transition to the new model.

**6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?**

CJVSF members report being concerned that they will be unable to meet the financial costs highlighted under question 4.

In relation to the impact arising from a lack of sustainability of services and the risk of services being taken in-house without a robust evidence base, these financial costs may lead to the closure of some services. To avoid ongoing sustainability issues in the longer term, it is important that robust commissioning and procurement structures and processes are introduced, to ensure services are needs-led and offer best value for money.

In relation to the resource implications relating to the new National Performance Framework, we understand the that Scottish Government’s Justice Analytical Services is looking at developing data collection tools which would be free to access and could
be used by a wide range of services. We welcome this practical approach to finding solutions to some of the resource challenges.

In relation to the resources required to engage with the new structures, we suggest that consideration should be given to how capacity can best be developed in each local area to ensure effective participation form relevant stakeholders. Research by Sinclair and Lindsay (2008, p16) found that, “the willingness of local authorities and other public agencies to cede part of their power and control of resources to each other and voluntary and private sector representatives is crucial to the success of partnerships (Foley and Martin, 2000). This in turn may require investment by public agencies to build the capacity of local voluntary, community and private organisations to participate effectively. A further test of commitment to partnership is therefore whether the CPP or public sector members provide any support or resources to enable voluntary and/or private sector members to participate effectively.”

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

The FM states the margins of uncertainty are low, since the costs associated with the set-up and ongoing running costs of Community Justice Scotland have been based on costs incurred by comparator bodies and on guidance received from professional advisors. Similarly for the National Strategy and Performance Framework costs, these have been based on comparator activities. We believe that this is an appropriate method for calculating the margins of uncertainty. Having not seen the detailed calculations or the guidance received, we would find it difficult to comment more specifically on the accuracy of these margins.

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

From the Financial Memorandum (p25, Table D), we understand that the national body (CJS) will have a budget to procure services at a national level and that this funding will be used to administer existing national programmes (currently administered by the Scottish Government). We are unclear whether the new funding system will enable CJS to procure other services that are identified as being more effectively delivered at a national level, or whether there is an expectation that local community justice partners in each area will cover the costs of these services between them. Further information about how funding of national service costs would work in practice would therefore be welcomed.

The financial memorandum states that the costs arising from the Bill (as set out in Table A of the memorandum) will be met from the existing Scottish Government Community Justice budget. The opportunity cost of this investment for the taxpayer should also be considered before a view can be taken on whether or not it represents the best value for money.

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9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

We are not yet clear what subordinate legislation, if any, is likely to be required. As such, we find it difficult to comment at this stage on what further costs may arise.