

The Scottish Government's response to the Committee's report

LETTER FROM THE CABINET SECRETARY FOR JUSTICE TO IAIN GRAY, CONVENER OF THE PUBLIC AUDIT COMMITTEE, 29 MARCH 2012

I am writing to provide you with a formal response to the Public Audit Committee's first report of 2012 entitled: *An overview of Scotland's criminal justice system*, published on 8 February. As you know, the Committee's report followed the Audit Scotland study of the same name, published in September 2011.

I am pleased that the Committee has taken an interest in this valuable area of work and I look forward to seeing the results of the further Audit Scotland work on Reducing Reoffending which is due to be published later this year.

Your report made a number of recommendations, some of which were for the Scottish Government and the Scottish Prison Service (SPS). I have set out below the Scottish Government and SPS response to the Committee on these recommendations, and I would be happy to provide any additional information. I believe that the Crown Office and Procurator Fiscal Service (COPFS) are liaising with you separately about the recommendations that are for them.

In general terms, the Committee's recommendations chime with the Government's agenda. As you may know, we are currently working up proposals for the second phase of our Reducing Reoffending Programme. This is one of the five flagship change programmes in the Justice portfolio (which also include Making Justice Work - covered below), and will drive improvements aimed at reducing Scotland's reoffending rate. As many of the responses to the Committee's recommendations make clear below, projects will cover:

- a review of funding arrangements for community justice;
- improvements to performance management, including a new national framework;
- a review of voluntary throughcare, and establishing a more strategic approach to commissioning of services that reduce reoffending; and
- implementing recommendations from the independent commission on women offenders.

The programme will be collaboration between Government, delivery agencies, local government and other partners. I would be happy for officials to provide more detail on the programme as a whole, should you and your colleagues be interested: not least as its outputs will provide a constructive and robust response to many of the Committee's concerns.

My responses to the specific recommendations of the Committee follow below.

Recommendation The Committee also seeks an update from the Scottish Government on its Making Justice Work programme including the key achievements to date, the financial and resource savings anticipated from the delivery of the programme and key deadlines for implementation.

Scottish Government response

A detailed briefing on the Making Justice Work programme is in preparation, and will be sent to the Committee shortly. I will thereafter be happy to provide the Committee with regular updates. In the meantime, it may be helpful if I summarise some of the early measures being taken.

The programme involves collaboration between the Scottish Government, Scottish Court Service, COPFS, police and other justice organisations. Making Justice Work plans to deliver savings of £10.4m in 2012-13 and will deliver bigger savings in the longer term.

All five of its projects, which cover criminal and civil justice are now up and running:

- MJW Project 1: Delivering efficient and effective court structures**
- MJW Project 2: Improving procedures and case management**
- MJW Project 3: Enabling access to justice**
- MJW Project 4: Co-ordinating IT and Management Information**
- MJW Project 5: Establishing a Scottish Tribunals Service**

Within each project there is a range of activity, including sub projects which are major pieces of work themselves. You will be interested to note that several of the projects within Project 2, which are specifically designed to tackle the issues highlighted in the Audit Scotland report, are now planning for delivery, with some pilots already underway. For example, a project led by the Crown Office began a pilot at the beginning of February sending witnesses a text message reminding them that they were due in court in Edinburgh. Work to improve getting victims and witnesses to court also continues, with police forces in Glasgow, Edinburgh and Dundee piloting witness attendance schemes.

Within Project 1, you will of course be aware that Scottish Court Service have been working on future court structures, which was the subject of a recent member's debate. The intention is to continue this work, with a number of engagement events across the country planned in the coming months. Alongside that work, the Scottish Government has been preparing for the implementation of the Scottish Civil Courts Review. The first legislative measure is a Bill to create a Civil Justice Council, which will be introduced to the Parliament before the summer recess.

Within project 4, work on a justice system "data hub" is ongoing. This Hub Project uses technology to improve sharing and monitoring of information between criminal justice organisations involved in the running of Scotland's

courts. In 2011 the Scottish Government, working alongside criminal justice organisations, rolled out a pilot project at Glasgow Sheriff Court to minimise disruption to court cases caused when the accused failed to appear.

To date the Glasgow pilot has identified nearly 300 instances where an accused due to appear at court is being held in remand for another offence. By bringing this information to the attention of the Crown and Court before such cases call in court, this has the potential of saving almost £600,000 a year. A further pilot scheme in Airdrie is now underway, with more due to be launched later this year.

Projects 3 and Project 5 are less directly connected to the Audit Committee report, but the Committee will no doubt be interested in progress. Project 3 on Access to Justice is now being established, with the involvement of the Scottish Legal Aid Board, Consumer Focus Scotland and SOLACE. This project is directed at ensuring that, within the very tight constraints of public finances, we have the best possible mechanisms to assist citizens to understand and enforce their rights and resolve disputes. Project 5 concerns tribunals, and is the subject of a debate in the Parliament on 29 March.

Recommendation In order to ensure that the reconviction rates can continue to be compared in future years, the Committee requests confirmation from the Scottish Government that, in addition to monitoring one year reconviction rates, it will continue to publish data on two year reconviction rates.

Scottish Government response

I can confirm that we intend to continue publishing data on the two year reconviction rate for the foreseeable future, even though, in recent years, we have increasingly focussed on one year reconviction frequency rates. When comparing the different measures, we found that the one year rate closely tracks the two year rate, but it has the advantage of being available a year earlier: i.e. also a year closer to the action that led to an outcome. In addition, we are measuring the frequency of reoffending. This means that, as well as counting the number of individuals who are convicted at least once in the course of a year, we also factor in the number of convictions. This means that, in cases where someone moves from being a prolific offender to being an infrequent offender (or moves the other way), then those trends are picked up. We believe that this provides a richer picture of the effectiveness of measures to reduce reoffending, and would invite the Committee to consider using it to support their evaluation of performance in this area.

Recommendation The Committee would also wish Audit Scotland to include an analysis of changes in one year and two year reconviction rates for the past decade together with analysis of the scale and nature of reoffending in Scotland in its performance audit report.

Scottish Government response

This would provide useful contextual background on the functioning of the criminal justice system in Scotland. Scottish Government Justice Analytical Services have already carried out a substantial amount of work in this area and would be interested in contributing to this exercise.

Recommendation The Committee seeks confirmation from the Scottish Government of when it anticipates that its outcome framework will be implemented. The Committee also invites Audit Scotland to comment upon the appropriateness of the different outcomes measures identified in the framework for assessing reoffending rates.

Scottish Government response

The development of an intermediate outcomes framework will be a collaborative process with our stakeholders as part of the second phase of the Reducing Reoffending programme. The framework will be developed in partnership with CJAs, SPS, and the voluntary sector, and will consider the extent to which measures associated with desistance might be collected on a more consistent basis in order to measure progress towards reduced reoffending. We are consulting on a draft framework this month (March 2012), and we would welcome the involvement of all interested parties, including Audit Scotland, in further developing that framework. We will share the document drafted for consultation on the new framework with the Committee. It is not yet possible to say when the framework will be implemented. In order for it to function effectively, it will be important to have stakeholder support, and it is also related to a range of other reforms we are taking forward, including on funding, services and throughcare.

Recommendation The Committee requests further information from the Scottish Government on these deliberations including when they will be completed. The Committee also requests an update on whether and if so, when, the LS/CMI system will be rolled out to every CJA.

Scottish Government response

The roll out of LS/CMI to all local authorities in Scotland was completed at the end of February 2012. As indicated above, an outcomes framework will be developed as a collaborative process with our stakeholders and a consultation on a draft framework will be issued in March 2012 to start that process. This process will consider the potential for LS/CMI to assist in the provision of data to underpin performance management, although we are clear that LS/CMI's

primary value lies in its capacity to provide a more consistent approach to risk management.

Recommendation The Committee seeks further information from the Scottish Government on how the public sector partners in each CJA are individually held accountable by the Scottish Government for their contribution towards delivering services and achieving the targets agreed by the relevant CJA.

Scottish Government response

CJAs operate with an inner core of 'duty to co-operate' partners. The CJAs have a role in monitoring and management of performance and tight information sharing arrangements with these partners. They also have a wider group of statutory partners set out in secondary legislation (for example, health) whose services are seen as essential to the rehabilitation of offenders. In respect of individual parties collaborating within the CJA framework, each has their own respective performance management regime, and accountability relationship with the Scottish Government (e.g. police, NHS, local government, third sector providers, Crown Office etc). At a Community Planning Partnership level, several local areas set objectives and targets in respect of reducing reoffending. The Scottish Government does not comprehensively keep track of the performance of each of these agencies in respect of reducing reoffending - rather it is for the CJA to ensure contributions to the strategic picture at a regional and local level, and then for the Scottish Government to assess the CJA performance. As described above, and more comprehensively in the consultation document to be published this month, there are improvements required in these arrangements that we will take forward.

Recommendation The Committee therefore requests that the Scottish Government takes action to ensure that, at a national level, the type and capacity of each service provided in Scottish prisons and communities to reduce reoffending is identified.

Scottish Government and Scottish Prison Service response

The Scottish Government has been working with partners, including the SPS, CJAs and third sector bodies to develop a web-based national directory of services and interventions for offenders. The directory will contain details of the type of each service provided in prisons and communities specifically aimed at offenders. The directory is in the final stages of development and will be rolled out nationally in the next few months.

As well as the substantial support given to developing the national directory, the SPS already provides a substantial range of interventions including psychology-based risk reduction programmes, learning opportunities, core skills and supports for offenders' needs. These interventions, while contributing to reducing reoffending are also aimed at addressing the risk and needs of individual offenders which is an integral part of the SPS offender

management policy. I would be happy to ask my officials to demonstrate the directory to the Committee, if that would be helpful.

Recommendation The Committee would also welcome information on how the Scottish Government intends to improve the quality of data collected on the effectiveness of different offender services and programmes aimed at reducing reoffending, and in turn make this information available to CJAs and the SPS.

Scottish Government response

Scottish Government analysts recently conducted a comprehensive review of the international and national evidence on what works to reduce reoffending, to provide the evidential basis for the second phase of the Reducing Reoffending Programme. The review helps provide the outcomes evidence of which interventions are able to demonstrate effectiveness. It can help provide a clear link between intermediate outcomes and reoffending. The full evidence review is available [here](#).

(<http://www.scotland.gov.uk/Resource/0038/00385880.pdf>)

Our analysts will continue to ensure that authoritative evidence on the effectiveness of offender interventions is made widely available to support evaluations of specific services. It is worth noting though that this is a complex area of work, where attributing the changes in offender behaviour to *particular interventions* has a number of inherent difficulties which are recognised internationally. The development of the directory of services (mentioned above) means that we are now well placed to undertake that work. The directory is web-based, so that it is accessible to CJAs and SPS. Further work on performance management, and on the directory of services, will be taken forward in the second phase of the Reducing Reoffending Programme, where the programme structure will ensure that appropriate and necessary links are made.

Recommendation However it would welcome further information from the Scottish Government on how it will support the SPS to better target reoffender services at those serving short sentences.

Scottish Government and Scottish Prison Service response

The SPS is already looking at how to better support low tariff, persistent offenders whilst they are in custody with a view to helping the transition back into communities. The opening of the new HMP Low Moss in March 2012 provides a valuable opportunity for practical testing of some of these initiatives. The second phase of the Reducing Reoffending Programme will have a specific project to review the provision of services and throughcare (the support given to offenders by social workers). The project will have a specific focus on low level repeat offenders who tend to be those who serve short term prison sentences.

Recommendation The Committee would welcome further clarification from the Scottish Government of how it proposes to support the better integration of prison and community based offender services and how it proposes to monitor the effectiveness of such services as the offender moves from prison to the community.

Scottish Government and Scottish Prison Service response

The first phase of the Reducing Reoffending Programme developed a shared needs screening tool to maximise the possibility that offenders can successfully reintegrate from prison back into the community. The tool feeds into a community integration plan for each individual prisoner. The community integration plan will be shared by practitioners including social workers. These tools will be piloted initially and the outcomes from the pilot will feed into the project on services and the review of throughcare in the second phase of the Reducing Reoffending Programme. That second phase of the Reducing Reoffending Programme will also consider how to best measure the effectiveness of services.

The SPS continues to work with CJAs and other partners to ensure collaboration as far as possible to manage the risk and needs of those offenders who eventually return to their communities. SPS has also developed the Partnership Development Initiative which provides a vehicle for the third sector to work more collaboratively and effectively with SPS and is about how best prisons and third sector partners can deliver on offender outcomes whilst ensuring best use of philanthropic and charitable trust funding.

This initiative has been taken forward as a partnership arrangement between key criminal justice agencies and the third sector, involving the SPS, the Criminal Justice Voluntary Sector Forum and The Robertson Trust (the four funding partners) and Lothian and Borders CJA, working with the Scottish Government. The development of a model framework is intended to support positive engagement, clearer communication, better understanding and improved partnership arrangements that provide clarity on outcomes, mutual supports and continuity of service and is about working together to improve services and service outcomes.

Conclusion

Once again, I thank the Committee for their interest in this work and I hope that this information is useful to you. Please let me know if it would be helpful for my officials to follow up on any of the points I have mentioned above.

KENNY MACASKILL

ADDITIONAL WRITTEN EVIDENCE PROVIDED BY THE SCOTTISH GOVERNMENT

In relation to your point around the collection of data on women offenders, further information on what is contained within our existing data collections in relation to women, was provided in Leslie Evans' correspondence to you following her Committee appearance (letter of 24 November, attached).

The remaining points the Committee have raised around women offenders (and service evaluation) were to an extent picked up our 29 March letter to the Committee within the sections which dealt with intermediate outcomes for all offenders, but if it is helpful to the Committee we have expanded on these sections below specifically in relation to women offenders so that the Committee are clear as to the Scottish Government's position. The recommendation made was as follows:

60. The Committee would welcome further information from the Scottish Government on how:

- **the draft outcome framework will specifically improve data collection on the causes of women's offending;**
- **it proposes to monitor the effectiveness of services targeted to reduce reoffending by women offenders;**
- **it will ensure that best practice amongst CJAs is shared and used to reduce reoffending.**

In relation to data collection on women offenders, there was some discussion at the Committee around the lack of available data on women offenders. That discussion was in part predicated on an absence of information in the course of the evidence session about the exact gender breakdown within different reoffending statistics that the Scottish Government collect.

Leslie Evans' letter of 24 November, helps provide additional information, to illustrate for the Committee that the Scottish Government do collect information in some detail as to the offences for which women are reconvicted. In fact all of our reconviction information can be broken down by gender and by age. As the Committee will be aware, the purpose of an intermediate outcomes framework is to broaden out what we can say about offenders beyond just their rates of reoffending (which is a blunt measure).

The Committee have been copied (Joe Griffin letter of 30 March) the Scottish Government's consultation proposals in relation to the framework, and from those, it can be seen that a number of potential offender outcomes, for men and for women, are in relation to precisely those factors the evidence shows are associated with reoffending, such as addiction status, accommodation status etc.

To ensure the intermediate outcomes are informed by the available evidence on men and women, our analysts have produced a separate summary of the international evidence focussed on the needs and risks associated with

women's offending which has also been shared with the Commission for Women Offenders. Work done by our analysts looking at 'needs and risks' which seemed to be associated with female reoffending in particular, do identify factors that seem to be stronger predictors in women, which does perhaps suggest specifically tailored measures for female offenders, which can be considered further as part of the framework.

In relation to monitoring the effectiveness of services targeted to reduce reoffending by women offenders, as above, our approach to intermediate outcomes set out in our 29 March response sets out in more detail the steps taken to look at the overall effectiveness of services, which would include services for women offenders. That makes clear the work we have done, and will continue to do, to disseminate the material on "what works". The full evidence review is available here (<http://scotland.gov.uk/Resource/0038/00385880.pdf>). The report includes an assessment of the international evidence on 'what works' for women offenders which has also been shared with the Women's Commission. We also outlined in our previous response to the Committee, the work done on the directory of services to draw together for the first time a picture on what services are available nationwide. The directory explicitly identifies services for women offenders, as well as having the functionality to be interrogated for other groups that services are "targeted" at.

We would reiterate our offer to demonstrate the directory to the Committee if that would be helpful. In addition, our analysts have conducted a number of workshops and seminars with practitioners to highlight and disseminate material on what is good practice in evaluation of services, to help ensure people are evaluating their services on a consistent basis.

In relation to the Committee's query as to how the Scottish Government will ensure that best practice amongst CJAs is shared and used to reduce reoffending. In addition to all the work set out above, the Scottish Government also routinely facilitate policy events to highlight good practice in particular areas. An example would be the recent (26 March) community sentencing workshops, which were attended by 200+ representatives from the criminal justice sector across Scotland, which included specific sessions on women offenders, young offenders, substance misuse etc, in order to allow the dissemination of best practice.

CORRESPONDENCE FROM THE SCOTTISH GOVERNMENT TO THE PUBLIC AUDIT COMMITTEE, 24 NOVEMBER 2011

During my appearance before the Public Audit Committee yesterday on the Audit Scotland 'An overview of Scotland's criminal justice system' report, I agreed to provide further information on a number of points of detail.

Firstly, I agreed to clarify the exact date on which the Government published overall reconviction statistics, which informs the Scotland Performs national indicator of progress in terms of a 2% reduction in reconviction rates by 2011. This was published on 30 August 2011, between the completion of the final draft of the Audit Scotland report and its publication on 6 September, as indicated by Joe Griffin at the evidence session. They can be viewed on the Scottish Government website at:

<http://www.scotland.gov.uk/Publications/2011/08/29151240/0>.

Secondly, Willie Coffey MSP asked about a project supporting women offenders' rehabilitation in South West Scotland CJA area. I think Mr Coffey was probably referring to the "Women in Focus" project, which was introduced in South West Scotland as a partnership between Barnardo's and the Criminal Justice Social Work Services that operate across the four local authority areas of the CJA (Dumfries & Galloway and East, North and South Ayrshire). An evaluation of the project, carried out by The Scottish Centre for Crime and Justice Research earlier this year, can be accessed at the following link for the Committee's, and in particular the member's interest:

<http://www.sccjr.ac.uk/documents/Women%20in%20Focus%20FINAL%20REPORT.pdf>

Finally, you enquired about data held on women offenders. We should have been able to confirm that the data you sought is in fact collected at a national level but I held back offering a definitive view on this, as I did not want to mislead the Committee. I apologise for any confusion caused but I can confirm that the Scottish Government publishes annual data on the reconviction rate of women offenders at a national level in *Reconviction Rates in Scotland: 2007-08 and 2008-09 Offender Cohorts*. As noted above, this was published on 30 August 2011 and can be viewed at the link in paragraph one. This information has been published for the past six years.

The publication mainly shows one year reconviction rates, and additional datasets are published which give more detail on two year rates:

<http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Datasets/ReconvictOffendDatasets/Q/EditMode/on/ForceUpdate/on>.

At the request of the Community Justice Authorities (CJAs), a comprehensive set of tables broken down by CJA and Local Authority area were published on the back of the equivalent reconviction statistical bulletin published in 2009. These can also be accessed via the above link. Updates to these tables were then provided directly to CJAs in subsequent years, but not published on the Scottish Government website due to concerns about the statistical validity of

reporting results based on very small sample sizes in many of the breakdowns.

As I said at Committee, we are continually looking to improve performance monitoring in this area. Officials are developing a framework of intermediate outcomes which reflect and measure the impact of those factors that influence reoffending, rather than relying on the reconviction rate alone as a measure of performance. This should also deliver better data in respect of women offenders at a local level. The draft framework will be ready for consultation in March 2012.

I trust that this information is helpful to the Committee.

Leslie Evans

Director-General Learning & Justice

Crown Office and Procurator Fiscal Service's response to the Committee's report

LETTER FROM THE CROWN AGENT AND CHIEF EXECUTIVE TO IAIN GRAY, CONVENER OF THE PUBLIC AUDIT COMMITTEE, 3 MAY 2012

Dear Iain,

I refer to the Committee's request for additional information on 2 issues. I have outlined COPFS approach to the 2 issues and I am happy to expand at our forthcoming meeting.

25. The Committee requests further information from COPFS on how it proposes to monitor the impact of the new staffing arrangements on the quality and costs of managing case work especially in light of any changes arising from the Carloway Review.

Federation Structure

From April this year our previous 11 management Areas have been replaced by 3 Federations: North; East; and West. Within those Federations the organisation will be divided into 4 functions covering our core operational work: initial case processing; summary cases, sheriff and jury cases and High Court case preparation. High Court work will contain further specialists units with sexual offences and homicides. This will enable us to manage specific types of work more effectively.

We have piloted some of this approach with excellent results which is why we have implemented it across Scotland. Where we established a specialist initial case processing team we had decisions fully aligned to our prosecution policies, higher productivity and citation of fewer witnesses all of which reduces both our costs and those of the rest of the criminal justice system.

We have also added to the specialisms which are managed nationally. The most recent changes are that all deaths which are not homicides but which require some explanation are now being investigated under the control of the Scottish Fatalities Investigation Unit. Later this year we will have a single unit dealing with all allegations of criminality by police officers. In addition we have further national specialist staff who work on:

- Appeals
- Civil Recovery
- Health & Safety
- International Co-operation
- Serious and Organised Crime
- High Court
- National Sexual Crime Unit
- Scottish Fatalities Investigation

- Wildlife and Environment
- Civil Recovery Unit
-

I attach a chart showing the new structure and a list of the key managers within this structure.

(attached in appendix)

Costs

The new management structures enable more effective monitoring of staff numbers by grades and other costs associated with each of our main functions, i.e. Initial Case Processing, Summary business, Sheriff and Jury, High Court and Deaths. We will now be able to more accurately evaluate resource required in relation to each of the case types and number of cases received.

We have analysed samples of potential Sheriff and Jury or High Court case with credible and reliable evidence from a single source which have not been able to proceed as a result of the current requirement for corroboration but which would have been able to proceed if the Carloway recommendations had been in place and considered information from a similar exercise carried out by the police in respect of summary cases. This information forms the basis of our ongoing work assessing the impact on COPFS of the proposed change in evidential requirements.

Quality

For example we measure how quickly decisions are taken in cases reported to us by the police and other reporting agencies, how many witnesses are cited and we dip sample and audit cases to ensure that they have been processed in accordance with our case marking guidelines. In summary business one of the key measures, in conjunction with our Criminal Justice partners, is the amount of churn in the system and reducing it. All Sheriff and Jury and High Court cases are monitored for quality when reported to Crown Office prior to proceedings being taken.

26. The Committee also requests further information from COPFS on how it tracks offenders, victims and witnesses through the summary system

The COPFS case management system, known as 'Future Office System' (FOS), allows us to track offenders, victims and witnesses through the summary system. The police submit prosecution reports electronically to the Procurator Fiscal and these are stored within FOS, under a case reference number. Any further documents or correspondence, generated in relation to the case, are also stored under the relevant reference case number. This includes:

- Correspondence with the police (memos, case updates etc.)
- Correspondence with victims and witnesses (scanned and saved from hard copy correspondence)
- Information from Victim, Information and Advice (VIA). (See below for further information on VIA)
- Instructions in relation to the Crown's position on bail
- Case preparation instructions
- Letters to the accused

FOS operates alongside other electronic databases, which are directly linked to police systems and to the Scottish Court Service. These databases contain information on:

- Scheduled court appearances (updated automatically from Scottish Court Service)
- Whether or not the accused is in custody
- Witness details (names and addresses)
- Trial information, including verdict and sentence

In addition to this case management system, there are specific processes in place to track offenders and others to track victims and witnesses.

Offenders

Prisoner Data Hub

A problem can arise with cases in Court when the accused is on bail for a particular case but is in custody in relation to another. The Procurator Fiscal may not be aware that the accused is in custody for a separate case and so does not arrange for the accused to be brought from prison to Court. This can result in the case being adjourned to a later date, causing delays and resulting in inconvenience to the court and potentially to victims and witnesses.

The Prisoner Data Hub is designed to tackle this issue and was recently piloted in Glasgow, Airdrie and Dumfries. The Scottish Court Service submits data to the hub regarding those accused scheduled to appear in Court two days hence. This data is compared with the prison population and reports are generated in the hub and then emailed to COPFS. This list contains the names of accused due in Court in respect of a matter where their status is "bail" for that case but, in fact, they are in prison on another matter. This allows the Procurator Fiscal to make the necessary arrangements to ensure that the accused is brought to Court for their case.

This project has been piloted in Glasgow, Airdrie and Dumfries and produced excellent results. Between 7 March and 5 April 2012 the Procurator Fiscal's office at Airdrie was able to identify 32 accused who were appearing in Court and believed to be on bail but were in custody on other matters. Without the information from the Prisoner Data Hub it is likely that these cases would have been adjourned due to the absence of the accused.

Victims & Witnesses

Although it is possible to track witness information through the case management system, it is recognised that some victims and witnesses will require further assistance in relation to understanding the prosecution process and should be informed of how a case is progressing. This can be done through FOS and also through personal contact with the victim/witness.

In providing this assistance to victims and witnesses, we can encourage co-operation with the prosecution process and avoid the situation where cases require to be adjourned due to the non-availability or non-appearance of witnesses.

Future Office System (FOS)

When the police report a case to the Procurator Fiscal, they will highlight if there are any particular sensitivities/priorities – for example, if the offence involves a domestic incident or hate crime. The police will also highlight whether there are child witnesses or witnesses with other vulnerabilities. These notifications or ‘markers’ are visible on FOS, allowing the prosecutor to take appropriate action, including requesting further information be obtained by the police or a referral to our Victim Information and Advice (VIA). This referral consists of an email sent to VIA, who will then access the details of the case and make contact with the witnesses.

FOS has recently been updated to allow for further information to be automatically referred to VIA in summary cases. Where a case calls, out with the standard scheduled court appearances (for example, for a Bail Review, Bail Application, Accelerated, Summary After Warrant) an automatic email will now go to VIA to alert them to the fact that a subject’s custody/bail status may change as a result of this court appearance. Previously, this sort of information may have been missed by VIA and witnesses may not have been informed of changes to the cases.

VIA

VIA will proactively contact victims and witnesses in cases that have been referred to them.

VIA helps these victims and witnesses by:

- providing general information and advice about how the criminal justice system works and what can be expected in relation to the particular case type;
- providing updates on the progress of the case (including court dates, bail information and sentencing decisions);
- arranging for witnesses to be shown round the court before a trial;
- discussing any additional requirements (for example, access to court or needing an interpreter);

- obtaining the views of eligible witnesses about special measures that might help when giving evidence; and
- offering details of organisations that can offer practical and/or emotional support, facilitating contact where appropriate.

VIA staff are not involved directly in encouraging participation of the victim in criminal proceedings, but do so indirectly by passing on information to prosecutors regarding victims' concerns and wishes, by assisting vulnerable witnesses and by advising victims and witnesses generally about their role.

For any witness or victim referred to VIA, a witness contact record is maintained by VIA staff. This lists any contact (telephone, person or written) with the victim/witness and details what was discussed. In maintaining this record, it is possible to keep track of changes to witness details – for example their address and contact numbers.

Commitment to Victims and Witnesses

The COPFS Commitment to Victims and Witnesses provides every victim, prosecution witness, their families and carers and bereaved families in deaths reported to the Procurator Fiscal with clear guidance on what they can expect from COPFS.

The ten general commitments are:

1. Give you respect and a professional service at all times.
2. Communicate with you clearly and effectively.
3. Give you the information you need when you need it.
4. Deal with your case as quickly as possible.
5. Require you to give evidence in court only when we have to.
6. Ensure you can communicate with us if your first language is not English.
7. Take account of any extra support you may need.
8. Give the judge information about the effect of the crime on you.
9. Tell you how to claim expenses and deal with your claim as quickly as possible.
10. Work with other organisations to help you get the services you need.

There are 48 specific commitments and these are all contained in a booklet, copies of which are available in the reception area of all Procurator Fiscal Offices.

Text Message Pilot

There is a text message pilot currently underway for summary cases in Edinburgh. The pilot is testing the potential benefits of using text messages to remind Crown witnesses of the date that they are to attend Court. It is recognised that witness non-attendance is a major reason for cases being adjourned and resultant delays in cases and that one possible reason for non-attendance is that the witness has simply forgotten the date. Text messages

are clearly only sent when the police have provided the Crown with a contact mobile number for that witness and COPFS has been working with Lothian and Borders police for some months in order to increase the recording of mobile phone details. The text message also provides contact details for the witness, should they wish to discuss the case further.

Disclosure Website

As of 1st November 2011 the primary method of disclosure from COPFS to defence agents is via a secure disclosure website. On receipt of an automated email from COPFS alerting them to the fact that disclosure material in respect of a particular case has been uploaded onto the website, the agent can access that information and download it instantaneously.

Each registered defence agent has a digital certificate, unique login and ID in order to access the website. The disclosure information can only be accessed and downloaded once and will only be available for a period of 30 days. At the point of download a publication report is automatically produced and submitted to COPFS. This report is date and time stamped (to the second) to show the precise moment that disclosure was downloaded, and importantly the moment that the prosecutor fulfilled their disclosure obligation.

The report is stored by the website and can be generated at any time. The lack of disclosure may be a reason for an adjournment any case, and therefore contribute to the 'churn'. This process allows prosecutors in court to use the generated report when facing questions or challenges about when or if a particular item has been disclosed.

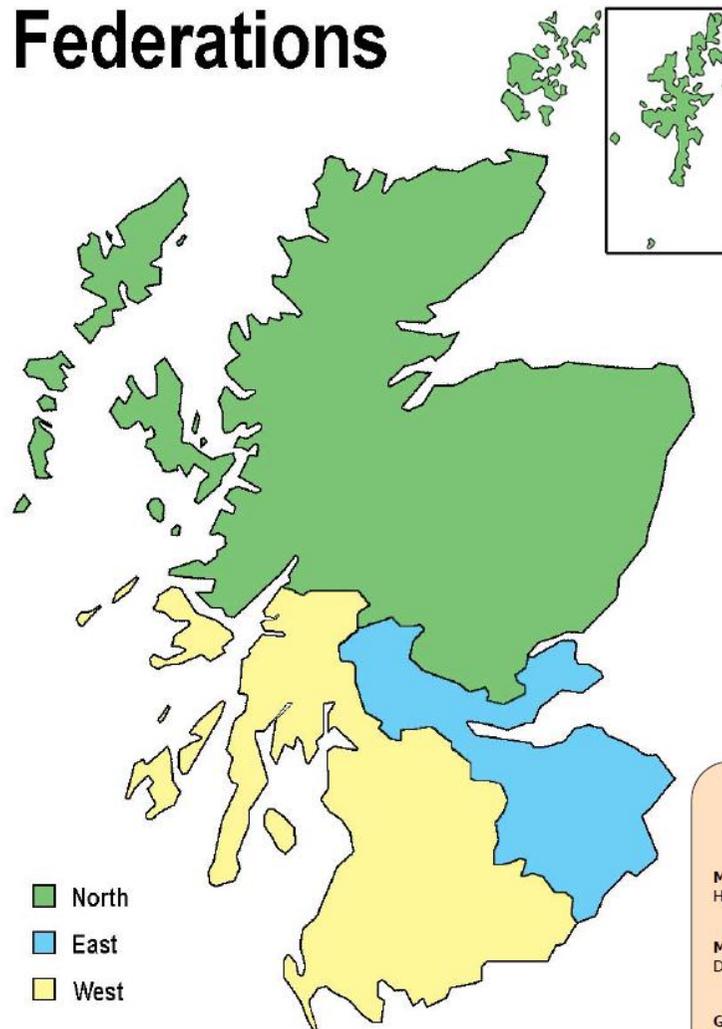
Conclusion

There are a number of ways that COPFS can track victims, witnesses and accused through the summary system. This is primarily achieved by the case management system, which records all the relevant information. Other initiatives and processes provide additional means of tracking the accused and communicating with victims and witnesses. These systems are also accessed by staff within COPFS to provide useful and necessary information to victims and witnesses, enabling them to participate fully in the prosecution process.

Yours sincerely

Catherine Dyer
Crown Agent & Chief Executive

Federations



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Procurator Fiscal, North of Scotland

Bill Comrie
Head of Business Management, North of Scotland

Ruth McQuaid
PF High Court, North of Scotland

Catriona Dalrymple
PF Sheriff & Jury, North of Scotland

Andrew Richardson
PF Initial Case Processing, North of Scotland

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PF Summary, North of Scotland

John Logue
Procurator Fiscal, East of Scotland

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Director of Information Systems Division

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Head of Strategy and Delivery

**LETTER FROM THE SCOTTISH GOVERNMENT TO THE CLERK OF THE
PUBLIC AUDIT COMMITTEE, 30 MARCH 2012**

Dear Jane,

The Scottish Government's Director-General for Learning and Justice, Leslie Evans, and I, gave evidence to the Public Audit Committee on 14 December 2011. This was to help inform the committee's report on the Audit Scotland report, "An Overview of the Criminal Justice System," published in September 2011. At our evidence session, both Leslie and I made reference to our plans to publish proposals for consultation on a new performance framework for community justice in March 2012. You will therefore want to note the letter and attached document that I issued to community justice stakeholders today.

I am also copying this letter to the Clerk to the Justice Committee.

Kind regards,

JOE GRIFFIN
Head of Community Justice Division
Justice Directorate

Letter to Community Justice Authorities

Dear colleagues,

Improving performance management of community justice services is a priority for the Scottish Government Justice Directorate. Recent scrutiny of arrangements by Audit Scotland, in their Overview of the Criminal Justice System, and subsequently by the Public Audit Committee on the same issue, have confirmed us in our view that improvements are required.

We plan to develop and agree these improvements through the second phase of the Reducing Reoffending Programme (RRP2), which began this month with the first Board meeting on 29 March. Reaching a sustainable and authoritative framework will require the expertise, input and agreement of all relevant stakeholders, and we thank you in advance for your assistance. As an initial step, the Government would welcome your response to the attached paper by 30 June 2012, which will help inform the project on performance management within RRP2.

At present, it is not possible to put a timescale on when this work will be concluded, but it will proceed in tandem with related work in RRP2 on funding, services and structures. I will provide further updates in due course.

Yours faithfully,

JOE GRIFFIN
**PERFORMANCE MANAGEMENT IN COMMUNITY JUSTICE –
PROPOSALS FOR CONSULTATION**

Summary

1. The Scottish Government would welcome views on how to improve performance management in community justice. Reconviction rates will remain an important indicator of performance, but other measures – particularly intermediate outcomes – can complement them to provide a richer picture. Improving understanding of performance in this area is a priority for the Government, and will be developed in the second phase of the Reducing Reoffending Programme. Responses to this paper would be welcome by the end of June 2012.

Background

2. Since the establishment of Community Justice Authorities (CJAs) as the main strategic bodies for reducing reoffending in 2007, there has been a need to define a rigorous and comprehensive means of understanding performance in community justice. Attempts to develop a framework have not so far delivered a satisfactory, sustainable and comprehensive solution. The Scottish Government has – throughout this period – consistently measured and published national, regional and local reconviction rates. However, such high-level information is unsatisfactory in isolation, and reconviction rates also suffer from an inevitable “lag” between the measurement and publication of data.

3. In defining the next round of transformational change through the second phase of the Reducing Reoffending Programme, the Scottish Government has been clear that establishing a permanent and reliable foundation for performance management is a priority. This was reflected in the Government’s evidence to the Public Audit Committee (PAC) on 14 December 2011: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/45682.aspx>

4. The analysis that an authoritative framework is required was similarly picked up in the subsequent PAC report, which in turn build on the evidence gathered by Audit Scotland in their overview report on the criminal justice system: www.auditScotland.gov.uk/docs/central/2011/nr_110906_justice_overview.pdf

The PAC said that they were:

“concerned...about the poor performance monitoring of Criminal Justice Authorities (CJAs) undertaken at a national level in relation to the outcomes CJAs should deliver for the public funding they receive. The Committee has requested information from the Scottish Government on its plans to address these concerns.”

5. In subsequent written evidence to the Committee, the Government confirmed plans to improve the performance arrangements for community justice, including confirming the intention to publish by March 2012, a consultative document on a new framework:

“The development of an intermediate outcomes framework will be a collaborative process with our stakeholders as part of the second Reducing Reoffending programme. The framework will be developed in partnership with CJAs, SPS, and the voluntary sector, and will consider the extent to which measures associated with desistance might be collected on a more consistent basis in order to measure progress towards reduced reoffending. We are aiming to start consulting on a draft framework in March 2012, and we would welcome the involvement of all interested parties, including Audit Scotland, in further developing that framework.”

6. This document fulfils that commitment, and the Government would welcome comments from partners on what follows by **30 June 2012**. Further details on how to respond to this paper follow at paragraph 33.

7. As indicated in our response to the PAC, feedback on this document will help inform the framing of a project on improving performance management, to be included in the second phase of the Reducing Reoffending Programme (beginning on 29 March). The outputs from the project will in turn deliver a new framework for performance managing community justice, which we hope will be a durable, transparent and rigorous way of understanding the use of public funds in this important area.

**Scottish Government Justice Directorate and Justice Analytical Services
30 March 2012**

CONTEXT

National Performance Framework

8. The Scottish Government's strategic approach to performance management is set out in the National Performance Framework: <http://www.scotland.gov.uk/About/scotPerforms>. This was introduced in November 2007, and updated in December 2011. "Scotland Performs" measures and reports on progress of government in Scotland in creating a more successful country, with opportunities for all to flourish through increasing sustainable economic growth (the Purpose of Government).

9. Progress towards the Purpose is tracked by 7 Purpose Targets and it is supported by 16 National Outcomes - describing the kind of Scotland we want to be - and 50 National Indicators, covering key areas of health, justice, environment, economy, and education measure progress.

10. Services delivered by those funded through community justice budgets will contribute to a range of national outcomes. By reducing reoffending, they will, in particular, contribute to the following national outcomes:

- We live our lives safe from crime, disorder and danger;
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others; and
- We have tackled the significant inequalities in Scottish society.

11. More specifically, there is a national indicator in Scotland Performs to "reduce reconviction rates." This reflects the historical focus on reconviction rates as an indicator of performance.

History of Performance Management in Community Justice

12. The focus of performance management in community justice has been, in the last 5 years, on CJAs - as the main strategic bodies charged with coordinating approaches to reducing reoffending. However, the CJAs are best understood as enabling partnerships, and they do not deliver outcomes in isolation, or indeed distinct from the work of their constituent partners. Local authorities, the police, SPS, the voluntary sector, the NHS, as well as mainstream service providers and a number of bodies all play a role, and all have their respective existing performance management regimes. In addition, the contribution of individual organisations to reduced recidivism is difficult to ascertain and attribute, as some offenders make the transition to and from custodial and community settings (sometimes repeatedly). These factors have made establishing a performance management framework in community justice a complex task, and one that has not yet been brought to a satisfactory conclusion.

13. Attempts have, however, been made. Shortly after the creation of the CJAs, the 2006 National Offender Management Strategy suggested 9 national offender outcomes, which could be used to judge performance. They were:

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

14. This is a list of outcomes (broadly) reflecting “offender need.” However, the 2006 strategy did not define how the outcomes would be used in practice to determine performance management regimes. With this in mind, towards the end of that year, a group was set up to agree a performance management system for the CJAs, with membership from the CJA Chief Officers, the Association of Directors of Social Work, the Scottish Prison Service, the Social Work Inspection Agency and the Scottish Government’s Justice Analytical Services Division.

15. The result of this work is attached here:



**National
Advisory Body on O**

(National Advisory Body on Offender Management (NABOM) meeting 8 - paper 8(3) performance management – 31 pages)

Building on the 9 offender outcomes, the proposed performance management framework was based on 5 community outcomes, 5 offender outcomes and 4 systems outcomes. It was envisaged that the Level of Service/Case Management Inventory system (LS/CMI, an IT based risk and needs assessment tool) would be a key source for some of the data which would underpin the framework. Pending the development and implementation of LS/CMI, it was planned that the offender outcome indicators would be based on locally-developed measures and a range of proxy measures supplied by the Scottish Prison Service (SPS).

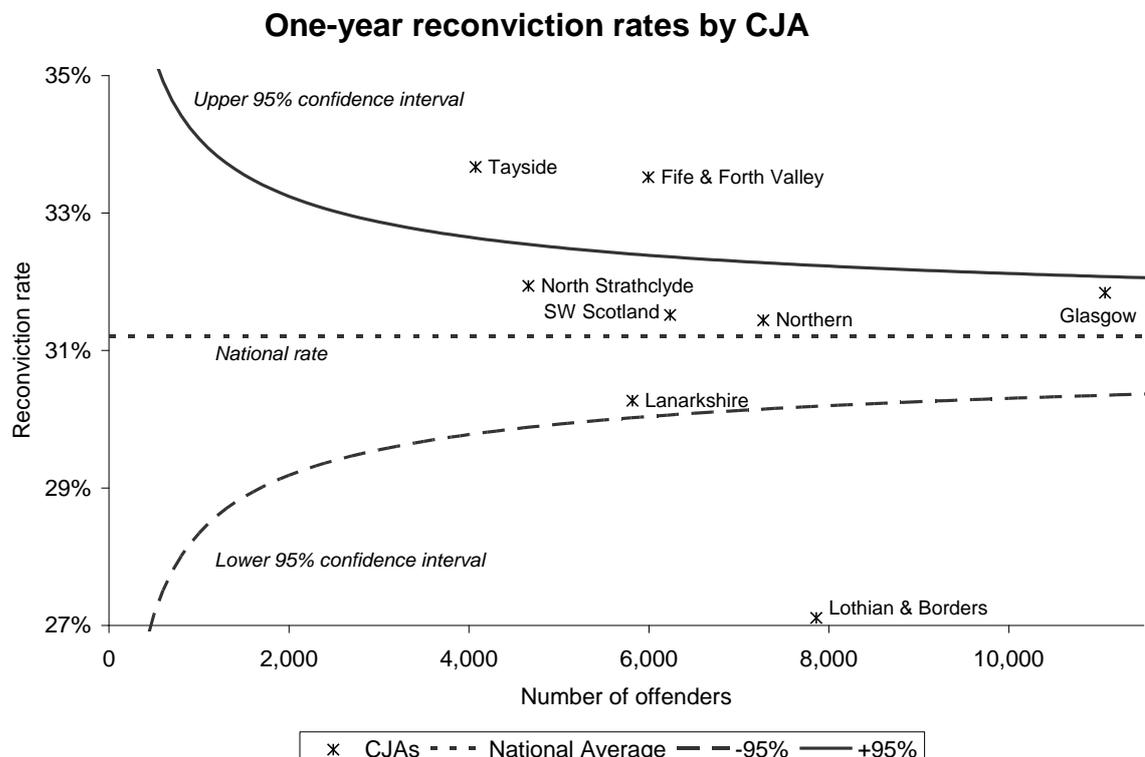
16. In practice, the nationally-agreed framework was little used. It did not become embedded within CJA processes, and instead local performance frameworks were developed. In this context, some confusion has persisted about the status of the framework, not least since the 2006 strategy was superseded by the creation of the Offender Management/Reducing Reoffending Programme. In its place, some Community Planning Partnerships have helpfully reflected the importance of reducing reoffending in

Single Outcome Agreements, and have coordinated arrangements locally to achieve this. In addition, CJA Area Plans have sought to make linkages with SOAs, and the roles and responsibilities for delivering on them. More recently, having recognised the need, the CJAs have themselves sought to develop a fresh, more practical national performance framework – a helpful contribution to the review that will now take place in the second phase of the Reducing Reoffending Programme.

17. At national level, in the absence of a consistent, authoritative framework for measuring intermediate outcomes, the Government has had to rely primarily on reconviction rates as the best indication of performance at a regional and local level. However, as explained below this is not satisfactory.

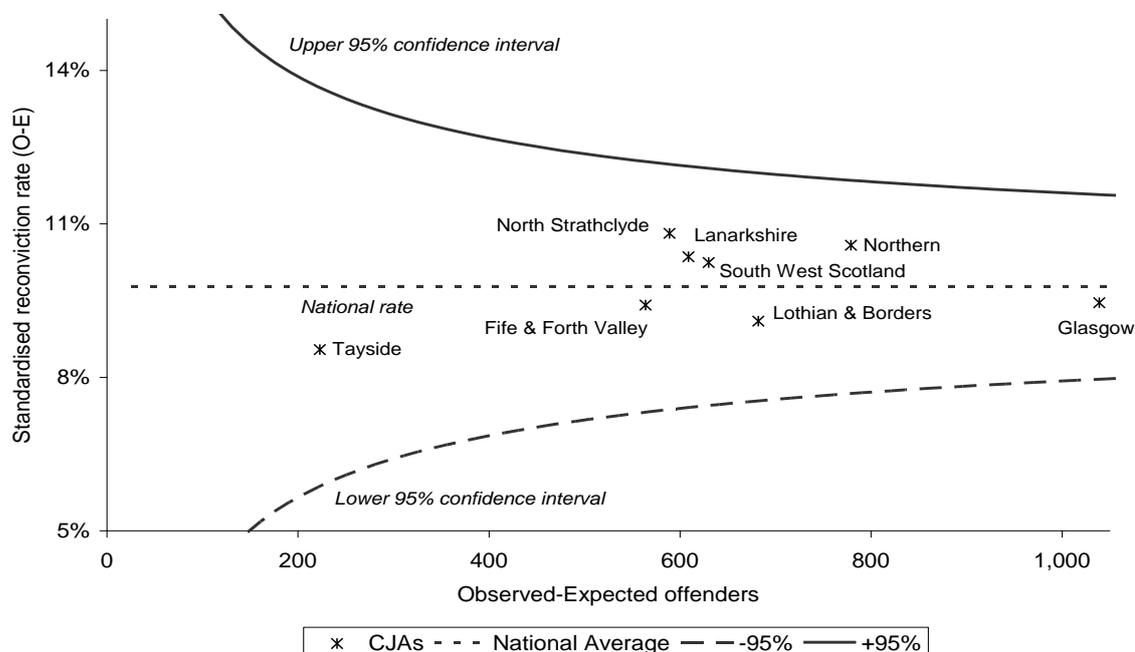
Limitations of using reconviction rates as a measure of performance

18. Reconviction rates can be a useful indicator of progress at the national level, and they provide a useful proxy for reoffending outcomes. However, they are not in themselves particularly useful measures of CJA *performance*. As can be seen from the funnel plot below, if CJA performance is judged solely on reconviction rates, it might be concluded that Lothian and Borders CJA is performing relatively well, and Tayside and Fife and Forth Valley are performing less well:



19. However, once the characteristics of the offenders have been taken into account (e.g. age, gender, criminal history etc) Scottish Government analysts have concluded that there is no statistically significant difference in reconviction rates between the 8 CJAs:

One-year reconviction rates by CJA, after controlling for offender characteristics



On one level, this is reassuring as it suggests that all CJAs seem to be performing to a similar level. However, clearly it does not shed any light on what individual CJAs might be able to do better.

20. Similarly, simply measuring the reconviction rate of those going through a particular intervention would not allow a judgment on whether the specific intervention has been effective or not. In general, it will primarily reflect the characteristics of those going through the intervention. For example, interventions aimed at prolific offenders will almost certainly have higher reconviction rates than interventions aimed at women offenders, but it is not possible to conclude from that information whether either of these interventions is “effective” or not.

21. Robust statistical assessments of the impact of interventions require carefully-constructed control or comparison groups in order to establish whether the intervention has had a significant bearing on a quantifiable outcome (such as reconviction rates or drug use). Large sample sizes are also required, ideally consisting of several thousand observations. Unfortunately for quantitative evaluations, many criminal justice interventions in Scotland comprise small numbers of users and access to credible control samples is limited by ethical and/or practical constraints.

22. In recent years, Scottish Government analysts have developed a new measure of the *frequency* of reconviction (as opposed to simple yes/no measures), which should prove to be a more sensitive measure of desistance

from offending. Analysts have also moved towards greater use of 1-year reconviction rates in order to improve the timeliness of the data. Although these developments should prove helpful, they will not solve the fundamental methodological problem, which is that of attributing changes in reconviction rates to particular interventions, or the strategic decisions of a specific body such as a CJA.

23. Overall, although an enormous amount of data on reconviction rates is available (right down to the level of individual offenders and offences), on its own unfortunately this data does not tell us a great deal about “performance” or impacts. The Scottish Government’s view is that a more rounded framework needs to go wider than just reconviction outcomes, e.g. by considering inputs, activities, outputs and intermediate outcomes and showing how they link together.

TOWARDS A FUTURE PERFORMANCE FRAMEWORK

24. The Government now proposes a review of performance management arrangements for community justice, to be taken forward collaboratively with partners in the second phase of the Reducing Reoffending Programme. As a starting point, we would like to take stock of the different arrangements being used or proposed at a local and regional level (including the draft CJA “national framework”), to understand thoroughly what partners are currently doing.

Q1 If you are responding on behalf of a body commissioning or delivering community justice services, what performance management arrangements do you currently have in place? Do you have specific proposals for improving these arrangements in your own area?

In addition, the Government proposes that a future comprehensive framework should be based on certain core principles.

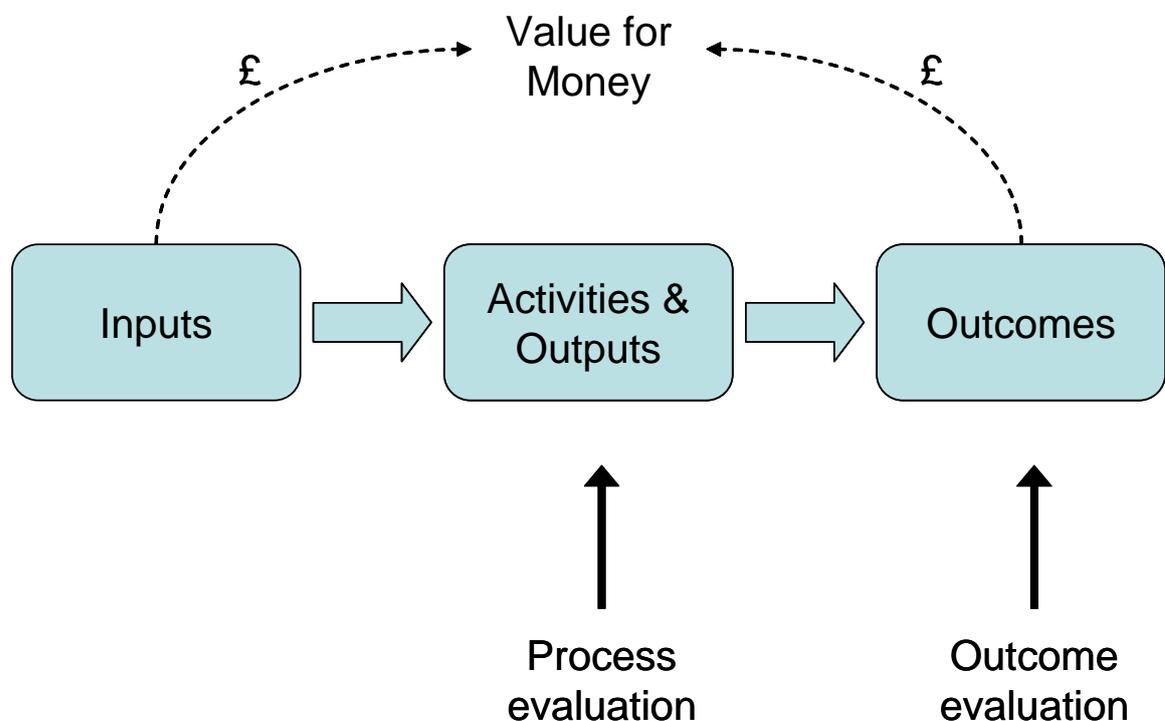
General principles

25. In drawing up a future performance framework for performance management in community justice, the Government believes that the framework should:

- Align with the Scottish Government’s National Performance Framework;
- Include the measurement of outcomes such as reconviction rates, but should also encompass the measurement of inputs, activities, and intermediate outcomes;
- Reflect the evidence base for reducing reoffending, set out comprehensively in the Government’s October 2011 publication;

- Recognise the full range of community justice responsibilities - restriction, rehabilitation, reparation, and reintegration – as well as other CJA functions (i.e. prevention and early intervention);
- Be consistent across community justice and align with other agencies, including the Scottish Prison Service; and
- Be jointly owned and promoted by partner agencies. Partly in order to achieve this, the Government is committed to taking into account and reflecting all the initiatives currently underway to improve performance, including from CJAs, the academic community and others.

26. In essence, the Government believes that the national framework should be a simple way of understanding the impact of the public funding devoted to reducing reoffending. One way of capturing this visually is as follows:



Rather than relying on reconviction rates alone to judge performance, the aim would be to create a “results chain”, with a series of possible measurement points – e.g. amount spent on drug misuse services, number of offenders accessing drug misuse services, self-reported reduction in drug misuse. This should give a more rounded picture of overall performance/ impact.

Q2 Do you agree with the Government’s proposed principles for a future performance management framework for community justice? What changes would you suggest?

Outcomes

27. Measuring the contribution and success of individual services in delivering outcomes would complement the data on reconvictions, as well as demonstrate the contribution to wider public value of community justice services. This would in turn help integrate criminal justice social work within the wider local authority and Community Planning Partnership structures, as partners recognised the impact of community justice services upon individuals who would also often have addiction problems, mental health needs, were at risk of homelessness etc. Being able to measure a wide range of outcomes, but also those that mark progress towards the ultimate goal of desistance (i.e. no longer reoffending) will be important. These so-called “intermediate” outcomes would help demonstrate effectiveness and progress – the question to be resolved is which intermediate outcomes we want to measure.

28. Since the national offender outcomes set out in paragraph 9 were developed, an evidence review was completed to provide the evidential basis for the second phase of the Reducing Reoffending Programme. This drew together nationally and internationally available evidence about “what works” to reduce reoffending. The evidence review helps to provide a clear link between particular intermediate outcomes and reductions in reoffending.

29. The full evidence review is available [here](#). A number of the findings of the review point strongly to the ways in which services should be delivered, but there were a number of areas where there was clear evidence for addressing particular areas of offender need, such as:

- Addressing needs associated with drugs usage/addiction status;
- Addressing needs associated with alcohol usage/addiction status;
- Addressing needs associated with employment status (structured days);
- Addressing needs associated with accommodation status;
- Addressing needs associated with social networks (family and community);
- Addressing needs associated with cognitive behaviour;
- Addressing needs associated with efficacy and problem solving skills; and
- Addressing needs associated with financial stability.

30. The Government believes it would be desirable to try and base more of the basis of the future performance framework on these intermediate outcomes (which are often delivered in partnership). This would provide consistency, and a “clear line of sight” from the evidence review to our performance management arrangements. It would also help resolve any uncertainty over the status of the outcomes previously used, either in the 2006 strategy, or subsequent CJA performance framework. The Government also recognises that there will be a need to measure different things in respect of the efficiency or effectiveness with which core functions are delivered – i.e. in executing the sentences of the court.

Q3 Do you agree that a future performance management framework for community justice should reflect the intermediate outcomes identified in the reducing reoffending evidence review?

31. We know that many third sector organisations in particular already measure intermediate outcomes as an integral part of their work, and we would welcome views on the extent to which these should be replicable in the public sector context.

Q4 What arrangements for measuring intermediate outcomes do you currently use in your organisation? Are there any specific tools you use for doing so?

Next steps

32. The Government would welcome views from partners on the four questions set out in the consultation:

Q1 As a body commissioning or delivering community justice services, what performance management arrangements do you currently have in place? Do you have specific proposals for improving these arrangements in your own area?

Q2 Do you agree with the Government's proposed principles for a future performance management framework for community justice? What changes would you suggest?

Q3 Do you agree that a future performance management framework for community justice should reflect the intermediate outcomes identified in the reducing reoffending evidence review?

Q4 What arrangements for measuring intermediate outcomes do you currently use in your organisation?

33. Please respond by 30 June 2012 by E mail to:

Comja1@scotland.gsi.gov.uk

Or in writing to:

Community Justice Division (Performance Management)
Room GWR
St Andrews House
Edinburgh

34. The Government's Justice Directorate will draw together the responses to this consultation, and will take forward with stakeholders the development of an performance framework through the next phase of the Reducing

Reoffending Programme. All respondents to this process will be kept informed as this develops.

**Scottish Government Justice Directorate and Justice Analytical Services
30 March 2012**