JUSTICE COMMITTEE

PRE-BUDGET SCRUTINY OF THE SCOTTISH GOVERNMENT’S DRAFT BUDGET 2019-20

SUBMISSION FROM COMMUNITY JUSTICE SCOTLAND

1. What is your view on the current trends in funding in the justice portfolio and the Scottish Government’s rationale for these?

Community Justice Scotland (CJS) welcomes this opportunity to offer a view on funding trends in the justice portfolio. We recognise the ambition by the Scottish Government to strengthen community sentences and to achieve a community justice model that empowers communities and agencies to collaborate in developing and delivering services to local priorities, using interventions based on best practice.

We recognise that funding trends to date are based on a community justice model that has since been redesigned and reinvigorated with a local focus. Partners active in the community justice sector have the benefit of new legislation and guidance, and CJS support the shared commitment to fairness, prevention, and reintegration and rehabilitation set out in the Vision for Justice in Scotland and the National Strategy for Community Justice.

This updated legislative, policy and structural landscape present a timely opportunity to fully align portfolio funding to the Christie Commission principles, national priorities and outcomes. Structuring a funding stream towards recovery and rehabilitation for example, would provide an whole systems focus on these outcomes and our success in achieving them. As the collective justice strategies mature and deliver on their priorities, their success implies an accompanying reorientation and reinvestment of resource within the portfolio towards a focus on prevention, responding to need, and building on the commitment to use incarceration only where it is necessary, proportionate and purposeful to do so.

To respond to constant changes in population profile, complexity and need, funding trends that anticipate and mirror these would strengthen services’ ability to provide the right services to people, at the right time and in the right format. Increasing local areas’ flexibility in allocating funds could also support increased reactivity within funding cycles. Some partners have reported, additionally, the introduction of funding and performance cycles with a longer term focus (e.g. 3-5 years) would enable increased collaboration in prevention and prioritisation, attention to achieving the best possible outcomes with people, reduced reactive spend, and a greater understanding and spread of effective practice. The focus on local decision-making in terms of commissioning and funding could also extended to other areas of activity within the justice system.

2. What is your view, in particular, on the Scottish Government’s proposals for spending on the Crown Office and Procurator Fiscal Service? This includes recent announcement of an additional in-year budget of £3.6million to fund the recruitment up to 140 permanent staff.

Community Justice Scotland support investment in these core staff, particularly where it improves the experiences and outcomes of victims and their families and in direct links with
local communities. We would also welcome the sharing of the anticipated outcomes of this investment, sector-wide and with individuals using the services.

Building on our response to Question 1, justice resource mapping and allocation will be at its strongest when undertaken in collaboration across partners, likely in the Justice Committee, and with the strategic outcomes as the focus for decision making. This would allow a whole-systems approach to knowing and responding to population changes in for example, the profile and complexity of need, and as far as possible, to anticipate and prevent unintended consequences from singular investment or action as each part of the criminal justice system is co-dependent on each other. For example, if there is increased prosecutor activity this will have a direct impact on custodial services, community-based services and all support services which underpin both of these court outcomes.

3. What is your view on the level of current funding and planned spend on the rollout of electronic monitoring to ensure that the courts, prisons and Police Scotland have sufficient resources to provide for an enhanced service in all parts of Scotland? Is sufficient funding provided to third-sector and voluntary groups who provide services in relation to people who have such a device fitted as well as helping people with prior convictions or who have been accused of a crime?

At present the entirety of the current and planned spend of Electronic Monitoring (EM) is not wholly clear. The Management of Offenders Bill is still progressing and therefore the exact purpose, reach and design of EM in Scotland has yet to be confirmed. The use of EM provides an unparalleled opportunity to strengthen community sentencing options and planning and delivery should build on the recommendations outlined in the report by the Electronic Monitoring in Scotland working group.

To effectively support desistence from offending and offer strengthened community reintegration, the evidence is clear that Electronic Monitoring needs also to include a person-centred care package that identifies needs and provides coordinated multi-agency support to meet them. Achieving sentencer and public confidence in the use of EM as a safe, effective and efficient community justice approach will require that design and delivery be built robustly on the best available evidence. This translates to a creation of care plans that are goal-orientated and centred around individual people, with parallel consideration to public protection and the protection of victims.

We note that Scottish Government anticipates limited resource implications for partners including Criminal Justice Social Work as a result of a rollout of EM. We would caution that this may be a conservative estimate, given the potential for increased use of community sentences including EM, for example, as a requirement of a Community Payback Order.

With the intended extension of Presumption Against Short Sentences (PASS), the potential reduction in remand as well as an expanded use of EM, we anticipate a greater duty to fall to community services including the third sector. We wholly support this approach, and would advocate a funding allocation that recognises and aligns to the impact of increased community disposals on community justice services. Effective implementation of EM and associated prevention of further offending requires an associated infrastructure beyond the courts, prisons and police Scotland. These potentially include supported bail services, mentoring and coaching, and specific interventions related to housing, alcohol, domestic abuse and substance use. Given that many of the population in question have multiple, complex needs and require services from public and third-sector resources working in
collaboration, we suggest that, without additional support, current funding provision will be insufficient.

The link between offending and alcohol consumption is of concern to CJS. The Scottish Crime and Justice Survey 2014/15 states that in 54% of violent crime, the victim said the offending person was under the influence of alcohol. In the past 10 years, half of those accused of murder were under the influence of alcohol and/or drugs at the time of the alleged offence. Alcohol harm costs Scotland £3.6 billion per year. Given this context CJS is encouraged by the proposals contained in the Working Group on Electronic Monitoring’s 2017 report for Scottish Government. The Scottish Centre for Crime and Justice Research 2015 report states that Transdermal EM achieves high rates of compliance.

CJS believes the use of Transdermal EM technologies is proven and fits within the ethos of the Management of Offenders Bill, the Scottish Government’s Community Justice Scotland National Strategy, the 2009 Scottish Government Framework for Action on Alcohol and the draft Scottish Drug and Alcohol Strategy for more community based interventions. We believe that without the option of Transdermal EM, Scotland’s communities will continue to struggle with the issues set out in the MESAS report 20175. Therefore, we ask the Scottish Government to reconsider their position on Transdermal EM in the Bill and give this technology equal status to GPS EM.

Section 12 of the Financial Memorandum states that EM will “in turn lead to increased costs associated with monitoring these orders”. CJS has yet to see evidence that this is attainable given the current resourcing of Criminal Justice Social Work (CJSW) and further work will be required on the financial implications arising from a potential increase in CJSW activity related to this areas of work.

CJS welcomes the fact that Scottish Government has reaffirmed that new technologies will be rolled out alongside existing technology and will not replace current equipment. We believe this will build confidence amongst stakeholders in how the technologies will be used. The technology is extensively tested and works, it is our ability to deliver that remains the challenge. We must enable services to develop to support those on EM, ensuring implementation is responsive to need, and funding allocations should take into account varying delivery models across urban and rural areas.

CJS also notes that the financial costs seem to be only compared to RF with no consideration about the implications of GPS being utilised. The memorandum reflects the use of EM or restriction of movement in relation to existing orders and not as the 10th requirement of a CPO. Section 319 of the Policy Memorandum states “no detrimental effect” on Island Communities. Some island, remote and rural areas however cannot get GPS signals due to Scotland’s topography, geographic spread and broadband availability. Whilst this is likely to change with the advance of technology, in the meantime, CJS would suggest that further research is needed on the current viability of GPS across Scotland’s diverse geographies. CJS have also previously made comment in respect of the data collected when applying GPS technology (with regards to an individual’s movement in the community) and would welcome clear guidance from the SG in relation to this.

CJS believes there needs to be a thorough assessment of implementation and on-going costs involving relevant stakeholders. The National Audit Office in England has highlighted issues in the administration of EM contracts and noted ‘Governance and management arrangements in the criminal justice system are complex, and changes to one part of the system can have unexpected consequences for others.’ Given our concerns on the
resourcing of Criminal Justice Social Work, and the geographical spread issues, CJS believes the costs of implementation should be comprehensively and accurately identified.

4. What funding issues arise more generally from the work of third-sector and voluntary groups who operate in the civil and criminal justice systems, especially in terms of preventative spend?

Public services in Scotland continue to operate in a climate of austerity, with the additional uncertainties associated with Brexit. Many of the funding issues arising from the work of the third sector and voluntary groups are affected by this context. In recent engagement with statutory, non-statutory and third sector partners in connection with strategic commissioning for the sector, longer funding cycles were felt to offer achievement of a number of improvements, benefitting all:

- **A whole systems focus on outcomes** (including third and voluntary stakeholders), and systemic appreciation of the medium (and long) term trajectories to meeting them – a collective and collaborative working towards them; an ability to work in a more aligned, sustained way with people, with greater stability.

- **Better outcomes for people** – through better ability to work upstream and preventatively; achieving stability and consistency across people’s justice journeys through greater service and staffing continuity; wide understanding and embedding of the evidence; focussing on intermediate outcomes - identified in the evidence base as important characteristics for effective intervention. One example being early intervention to minimise the risk or mitigate impact of Adverse Childhood Experiences (ACEs) among children of people in or on the edges of justice, often drawing on services not explicitly focussed on (or funded by) justice.

- **Better collaboration and ‘market development’** – greater security in provision allows for greater awareness of available third sector support, better understanding of gaps in provision and consideration of ways to fill them. It could enable more collaborative development of third sector provision - within the sector as well as between community justice partners and the third sector - such that the ‘right’ rather than ‘available’ service can be purchased.

- **Better service provision** – enabling and driving innovation and improvement; creating the conditions for more mature relationships and honesty in performance measurement and a more positive learning culture; reduced staff anxiety about financial security and accompanying turnover.

Adopting community justice strategic commissioning nationally with an accompanying, strengthened strategic locus of all partners (including the third and voluntary sectors), would support commonality of purpose across all. Part of this would involve a strengthening of the third sector contribution - as an advocate of people’s needs, a collaborative partner in meeting them, and an evidence broker. Including funders in this locus, and the adoption of both outcomes focussed and flexible funding approaches would further enable local allocation of resource to need, reducing unhelpful competition for particular populations or between providers, or siloing of resource and eligibility to the same. It would also allow the development of a holistic review of success in the context of existing and emerging priorities, and a consistency of all, into and through any procurement.
Current governance arrangements within community justice partnerships mean that funding allocated and/or commissioned to third sector delivery often originate from services who are not in themselves a community justice partner, or partnership member. While legislative duties exist for partners to work together for service provision, no accountability, incentive or deterrent is in place for oversight of service alignment and resourcing. Strengthening CJ partnership status to a body corporate with ability to hold, manage, and allocate funds would enable strategic oversight of needs-led provision, and investment of resource (human or otherwise) from partnership members. Strengthened accountabilities and powers would create a basic status for onward leadership, partnership participation, accountability and improvement. This would need to also involve a strengthened locus with Community Planning Partnerships, and ability to collaborate with others such as ADPs, where populations and need are the same.

Funding issues experienced by the third sector are well identified, and include the following:

- Reduced overall funding levels
- Short term funding cycles with or without insecure funding sources (one-off grants rather than mainstreamed funding, etc.). For example, the reduction in non-core funding available to Criminal Justice Social Work via Section 27 has caused significant anxiety among third sector service providers working in justice, though the impact on third sector services is as yet unclear.
- With smaller providers, constrained capacity and constrained capability, resulting in an imbalance in provision - larger providers continue to grow or dominate, despite not always being felt to be the best available. This can result in lesser availability of locally tailored services.