

WEST DUNBARTONSHIRE COUNCIL

Report by Director of Community Health and Care Partnership

Community Health and Care Partnership Committee: 22 August 2012

Subject: Commission on Women Offenders

1. Purpose

The purpose of this report is to advise members of the recommendations of the Commission on Women Offenders published in April 2012 and of the Scottish Governments response.

2. Recommendations

The Commission on Women Offenders contains a series of recommendations supporting the reintegration of women offenders in the community and reducing the number of women being remanded or serving short custodial sentences. Some of the recommendations would appear to be practicable only if applied though the wider (male) offender population. The Scottish Government have accepted 34 of the Commission's recommendations and are considering the remaining four.

The critique of current structures and in terms of their complexity and inconsistency has merit but also contains a threat and potential risk in terms of the local strategic and operational relationships which sustain effective service delivery.

Members are asked to note the contents of this report and that further reports on progress in implementing the Commission's recommendations will be brought to Committee in due course.

3. Background

The Commission of Women Offenders was established by the Justice Secretary in June 2011. The commission was chaired by Dame Ailish Angiolini and its remit was to make recommendations for practical measures to reduce re-offending and reverse the increase in the female prison populations.

The female prison population in Scotland has doubled in the past 10 years. Concerns regarding the use of custody for women are not new. In 1998 the then Scottish Office published a report, "Women Offenders - A Safer Way", against a background of a number of suicides in Cornton vale over the previous 3 years. That report noted that there had been a steady decline in

the use of custodial sentences for women until the early 1980's but in the years subsequently, the use of custody had risen in absolute and percentage terms. In 1995 women constituted 3% of the prisoner population in 2010/2011 the figure stood at 5%.

In terms of the profile of women offenders compared to the very much larger male offender population women are more likely to

- be of lower risk to public safety
- be in prison for dishonesty offences
- be placed on remand
- have higher rates of mental health problems
- have drug problems
- have history of physical sexual abuse and victimisation
- have dependent children

The report evidences the basis for a distinctive approach to women offenders in terms of the profile above and on the basis of the available evidence in relation to these distinctive characteristics and needs; the Commission concludes that services and programmes have to be tailored to the specific and complex needs of women offenders.

The Commission made 37 recommendations 33 of which the Scottish government have accepted with a commitment to further consider the remaining four. These relate to proposals for new sentencing options, a review of services for women with borderline personality disorders and two proposals to make significant changes to the leadership and delivery of services, involving the creation of a national Community Justice Service.

Within the local context Criminal Justice Social Work services are managed and delivered in a formal partnership with Argyll and Bute and East Dunbartonshire Councils. Governance arrangements include accountability to a Partnership Committee to which member authorities have remitted their respective powers and duties with regard to the provision of Criminal Justice Social Work services.

4. Main issues

It should be noted that although much of the public coverage of the Commission's findings have focused on the use of custody, the future of HMP Cornton Vale and to a lesser extent the recommendations for a Community Justice Service, the Report focuses principally on the reintegration of prisoners in the community, measures to divert women from prosecution, alternatives to remand and a new and more consistent approach to sentencing.

The Scottish Government's response acknowledges that many of the Commission's recommendations could equally apply to men and can be seen as contributing to other proposals for reform arising from a performance audit of Criminal Justice Services being undertaken by Audit Scotland and the Commission on the Future Delivery of Public Services in Scotland (2011).

The recommendations affecting community justice services also occur within the context of a wider integration agenda affecting Health and Social Care and Children's Services and carry within them significant implications for Social Work and partner services and the role of the local authority. The recommendations are under seven headings.

- Service redesign:

Involving the establishment of Criminal Justice Centres (CJCs) where women would have access to a range of professionals and services including social work, health (including mental health) and addictions. The Scottish government intends to allocate £1 million to pilot CJCs and a problem solving court (see below) in 2012-13. The Commission also recommends the wider availability of supported accommodation, (accommodation with support). With regard to mental health there are recommendations regarding the availability of psychiatric reports for courts better arrangements regarding transition from prison based mental health services to the community and a greater focus on the needs of women offenders within the Scottish Government's Mental Health Strategy. The Mental Health Strategy 2012-15 will include a focus on women offenders.

- Alternatives to prosecution:

The commission recommends the national roll out of Fiscal Work Orders; Unpaid Work as an alternative to prosecution (West Dunbartonshire hosts one of the pilot schemes in partnership with APEX Scotland, with availability extending to the Helensburgh/ Lomond Area).

There are also recommendations to extend the powers of the Procurator Fiscal to impose alternatives to prosecution which embrace both unpaid work and rehabilitative elements and to enable the Police to impose cautions, conditional upon attendance at a CJC. Diversion from prosecution has existed in various forms for many years but has suffered from inconsistent referral rates owing to turnover/ changes in the fiscal service and competing priorities within Criminal Justice Social Work services. From a Criminal Justice Social Work perspective the proposals with regard to the use of CJCs under the terms of the recommendations affecting diversion raises questions with regard to their role within the context of convicted offenders subject to statutory orders.

- Alternative to remand:

25% of women in Custody are on remand of these 70% do not ultimately receive a custodial sentence. The potential for greater, more productive and more consistent use of bail supervision is recognised as is the

recommendation that its availability is extended to include provision for access to services, including mental health and addictions, again contingent upon the availability of CJs.

The potential merits of electronic monitoring within a supportive context are also noted.

- Sentencing

The Commission recommended the piloting of problem solving courts supported by a multi disciplinary team, drawn from the experience of Drug Courts. There are also recommendations regarding the use of rapid reports (within two working days) and progress review hearings. These recommendations will be taken forward by the Scottish Government through a pilot project in the first case and in consultation with the Scottish Court Service and ADSW in the second. Cost effectiveness given the low volume of women offenders in many areas might suggest a need to concentrate resources with regard to problem solving courts.

Two new sentencing options are suggested, the first a combined sentence comprising custody and a community element. The second is for suspended sentences involving suspension of custodial sentences on condition of compliance with a rehabilitative regime. There are serious valid concerns regarding the danger of increased use of custody though the use of suspended or composite sentences which the Scottish Government acknowledges. These recommendations will be considered in consultation with the judiciary.

There are recommendations regarding improved judicial training and links between community services, prisons and the judiciary in localities. This is accepted with the proviso that judicial training is statutory responsibility of the Lord President via the Judicial Studies Committee.

A persistent and unhelpful feature of penal policy in Scotland over many years has been the location of prison at its heart, with Community Sentences posited as alternatives rather than being constructive and of merit in their own right despite persistent evidence of better outcomes in terms of re-conviction. Recent changes and in particular evidence underpinning the introduction of Community Payback Orders in 2011 marked a positive step towards a more constructive approach to community sentences. The commission's recommendations regarding new sentences are regarded as unhelpful by Criminal Justice Social Work Services in this regard in addition to the risks noted above.

- Prisons

The Commission recommends that Cornton Vale be replaced with a smaller specialist prison for women serving longer sentences and those who pose a significant risk to the public. In addition, it recommends that there should be more places in local prisons to improve family contact and integration with

community services. This fits to some extent with the current development of community facing prisons but would place significant demands on an already overstretched prison estate and suggests, as do other elements of the report, that there are significant congruities between the recommended changes and the use of custody for women and the wider need for reform across the criminal justice system.

The Scottish Government will consult over the summer regarding the size, nature and location of a new facility and in the meantime will invest to improve facilities within HMP Cornton Vale. Members should note that since 2009 there has been a facility to accommodate around 50 women in HMP Greenock, mainly from the west of Scotland and that similar facilities have been developed more recently in HMP Edinburgh for the east of the country. Facilities for women approaching the end of their sentences have been developed in HMP Aberdeen and Inverness for women from those areas.

- Community reintegration

The Commission recommended the establishment of interagency protocols and immediate access to benefit entitlement to prisoners on release (UK Government). The Scottish Government recognises that local protocols exist in many areas but that greater consistency is required. The importance of access to housing is recognised. There is also a recognition that to effect community reintegration and continuity between services within prison and the community, practical assistance is required. In this connection the Commission recommends that all prisoners are met at the gate on discharge. The merits of pro-activity in relation to community reintegration from prison extends to provision of services to women offenders in the community and would be a significant challenge for both statutory and third sector agencies.

- Making it work: leadership, structures and delivery:

The Commission's report refers to a grossly cluttered landscape and concludes that the current arrangements in which Community Justice Authorities have a critical role do not provide "the opportunity for overall strategic and operational responsibility for the delivery of offender services in the community". The Commission recommends the establishment of a Community Justice Service to provide national strategic leadership and operational responsibility in terms of a range of functions including the commissioning of services from the statutory and third sector. It should be noted that within this context, the Commission briefly considers and rejects the notion of a national service combining the Scottish Prison Service and Community Justice Services. The proposed service should be designed in such a way to ensure local liaison and joint working with local authority, police, COPFS, NHS and third sector with a national community justice and prison delivery board set up to promote integration between the Community Justice Service and Scottish Prison Service.

Notwithstanding concerns from officers via ADSW and local authorities via COSLA regarding the rationale and consequences of this recommendation, the Justice Secretary has made it clear that the status quo cannot continue. The Scottish Government will publish and consult on structures later this year.

- Wider strategic/ policy context

As noted above the cluttered landscape referred to in this report should be interpreted within the context of other critiques of delivery of public services in general and of the criminal justice system in particular (Commission on the Future Delivery of Public Services in Scotland: 2011 and an Overview of Scotland's Criminal Justice System: 2011).

The Reducing Reoffending Programme phase two launched by the Scottish Government in April 2012 will focus on five areas, all of which relate to issues identified in the work of the Commission on Women Offenders and the overview of the Criminal Justice System.

These are:

- A comprehensive review of funding arrangements
- Overhauling performance management
- Services and throughcare
- Reforms to improve responses to women who offend
- A cross cutting work stream on community justice structures

The Commission recommended that Scottish Ministers report to the Scottish Parliament within six months of the publication of the report on these steps taken to implement the Report's recommendations.

5. People Implications

There are no personnel arising from this report.

6. Financial implications

The financial implications of implementation of the recommendations in whole or part have not been costed at either national or local level. The Commission's recommendations are predicated upon the opportunity for more effective use of the current resources committed to community justice services through re-configuration of services and organisational change.

The Commission noted some of the difficulties with regard to current funding arrangements for Community Criminal Justice Services which combined with the effects of financial retrenchment within the public sector have contributed to and exacerbated the various inconsistencies noted in the overall report. The chief problem is a funding formula based largely on activity levels over which services have no control and which inhibits innovation.

7. Risk analysis

The nature of the Scottish Government's response to the Commission's recommendations will determine the shape of any full/detailed risk analysis. However, with reference to the cluttered landscape noted above there is a view that some of that clutter derives from Scottish Government Policy with regard both to criminal justice policy, new demands on services and an increasingly complex landscape in terms of strategy and accountability. At another level what may appear from a higher level perspective to be clutter is on closer acquaintance an entirely appropriate response to local need. In responding to proposals re: structural change a key question in terms of risk will be how responsiveness to local needs is reconciled with the means of achieving consistency with regard to accessibility, efficiency and positive outcomes for offenders and communities.

Within the context of wider organisational change it is important to acknowledge that the Criminal Justice Social Work Services principle supports and partners in achieving positive outcomes are colleagues within Children and Family Teams, Mental Health Teams, Addiction Services, Housing and local third sector organisations in addition to national/regional organisations including the Scottish Prison Service, third sector providers and the Police Service. Full risk analysis of options for change will require to take the impact on these relationships into account.

8. Equalities Impact Assessment (EIA)

The report does not have implications in terms of equality at this stage.

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