

Community Justice Scotland (CJS) submission to the Justice Committee Pre-Budget Scrutiny October 2020

In October 2020, Scottish Parliament’s Justice Committee called for evidence submissions as part of their work on scrutiny of the Scottish Government's Draft Budget 2021-22. Community Justice Scotland submitted the following information.

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

The overarching purpose of the Justice portfolio in the Scottish budget is to keep our communities safe and secure, and to administer justice in its various forms. The stated national outcome is to enable our communities to be safe and resilient, reducing crime and offending, supporting victims and witnesses and improving wellbeing and life chances. Additionally the National Strategy for Community Justice wants to make Scotland “a safer, fairer and more inclusive nation where we: prevent and reduce further offending by addressing its underlying causes; and, safely and effectively manage and support those who have committed offences to help them reintegrate into the community and realise their potential for the benefit of all citizens”.

Despite the stated focus on prevention of offending and reducing further offending, promoting desistance, community well-being and improving life chances through a person-centred approach, using community rather than custodial options, **at present only 4.7% (£132.094 m) of the total justice budget of £2831.5 m is spent on community justice services and support.** Looking forward we consider that the funding for prevention of offending and reducing further offending should see an increasing proportion of Justice funding if the ambitions of the Community Justice Strategy are to be fulfilled.

Table 1 - Justice Portfolio Budget



Source: Scottish Government

The community justice budget includes funding for criminal justice social work to supervise and support people who are serving community-based sentences, electronic monitoring (e.g. through Restriction of Liberty Orders) and throughcare and mentoring services. It also supports the work of Community Justice Scotland (including the provision of statutory training, national outcome reporting, and the promotion of community justice) which had a total annual budget of just over £3 million in 2020/21. The allocations from the budget are provided in Table 2 below.

Table 2 – Community Justice Budget

Justice Budget (<i>Portfolio</i>)	£m	
	£2,831,500	<i>Includes £86.450m LG Funding</i>
Community Justice Services	£20.651	15.6%
Misc: Section 10 Third Sector	£3.200	2.4%
Misc: Parole Board Scotland	£2.394	1.8%
LG Community Justice Ser & Prog S27	£105.849	80.1%
	£132.094	4.7%

Source: Scottish Government

2. What has been the impact of the current COVID-19 pandemic on the activities of your organisation and its spending requirements?

CJS has been working closely with our justice colleagues in the Scottish Government and across the wider sector to take a multi-agency approach to emerging issues such as the emergency early release of prisoners, the provision of mobile phones to provide redress to the reduction of face-to-face support services and the rapid shift to online service provision, compounded by the discontinuation of SPS throughcare support services CJS has also been working within the framework of the Criminal Justice Board to address court delays, dealing with the rise in prison numbers and those being held on remand as a result of such delays, as well as working with Scottish Government, COSLA and Social Work Scotland on efforts to specifically address the impact of this unprecedented upheaval in the justice system on Community Justice Services – more information is provided in the response to questions 3 and 5 below.

While CJS recognises its statutory duty to annually report on CPO activity across Scotland it is equally aware of the impact of the pandemic on Local Authority partners. CJS has made concerted efforts to explore with Government the postponement of this duty against Local Authorities and CJS using the discretions permitted in the Coronavirus (Scotland) Act 2020. Despite these efforts this requirement must be fulfilled. The impact on gathering the information and preparing the reports will also be compounded by a shift in CJS internal resources and activity redirected to the Criminal Justice Board’s Recover Renew and Transform (RRT) activity.

The pandemic meant there was a cessation of CJS face-to-face training delivery while alternatives were identified and designed. The current circumstances have led to the identification of challenges in terms of disparities in local authorities’ policies around staff travel (compounded by public health restrictions) and IT access. This has led to a revision of the technical requirements for a CJS digital learning hub and has required a re-focus of

spending priorities on technology rather than venues. This will continue for the foreseeable future.

CJS also hosts the Caledonian Programme which provides an integrated approach to address men's domestic abuse and to improve the lives of women, children and men. Currently this is used across 19 local authority areas although as a result of the pandemic Caledonian resources have been made available to non-Caledonian areas (see Annex 1). Should there be any further expansion of the Caledonian Programme, the pressure on the CJS training budget will obviously increase. CJS will be unable to accommodate this without an increase in funding. There is almost no group work ongoing at present because of social distancing. Programmes such as Caledonian and Moving Forward Making Changes now require a 1:1 approach in most areas (although some are operating in small groups of 1:4 where social distancing provisions can be met). This places greater demands on the resource of the Caledonian Team which is already operating at maximum capacity and this will continue for the rest of this financial year.

3. What is the likely change to your needs in the financial year 2021/22 because of COVID-19 and more generally?

Pressures on wider community justice provision

As part of its wider national leadership role for community justice, CJS will continue to work with justice sector colleagues on the Criminal Justice Board to lead the recovery, renewal and transformation efforts, in addition to its existing duties to support local CJ partnerships, to provide learning and development for practitioners and to promote community justice and support improvement in both policy and practice. As part of its statutory leadership role for community justice CJS wishes to highlight the following pressures arising from COVID-19 on the community justice provision.

The Chair of Community Justice Scotland wrote to the Cabinet Secretary in July 2020 highlighting the impact of the lockdown on Unpaid Work (UPW) hours, following information supplied by Social Work Scotland (SWS), which proposed that Ministers use the powers under the Coronavirus (Scotland) Act 2020 to reduce UPW hours. This is still being explored but CJS feels that urgent attention should be given to this matter to enable the community justice system to operate safely and to retain confidence in community sentences as the criminal courts begin to process the backlog of cases which have built up during the pandemic

Notwithstanding the outcome of any future decision around amending the number of outstanding UPW hours, JSW will continue to have limited capacity for delivering UPW. This would be exacerbated by a potential for additional hours being handed down by the courts, creating exceptional pressure on JSW services. CJS feels that this situation needs to be speedily addressed at a national level to avoid undermining the credibility of community justice as well as the impact on already stretched JSW services.

The increase in court activity will lead to a corresponding requirement for court reports, which will take resource from other parts of the JSW system, which is likely to come under increasing pressure as the backlog of cases is processed. A current estimate based on baseline figures for 2018/19 indicates a 25% increase to approximately 2841 per month.

The potential for early pleas in virtual courts will reduce impact on victims and witnesses and other services but may lead to quicker throughput to JSW without an increase in resource available to manage clients.

Maintaining the quality and level of intervention for cases with supervision requirements may be impacted because of the need to undertake 1:1 intervention, requiring greater specialised JSW resource and therefore impacting elsewhere in the system.

JSW caseloads will increase with a concomitant impact on the ability of social workers to continue to deliver a quality service to all individuals on community orders and alternatives to prosecution. This potentially impacts on managing the risk of serious harm and public protection.

The desired drive to increase appropriate diversion in line with the new [Diversion Guidance shared by CJS in March 2020¹, has the potential to take pressure off courts and lead to better outcomes. Multi Agency Groups in Local Authorities are an ideal vehicle for managing Diversion but additional third sector services are required. This also creates additional pressure for JSW. Again provision of resources to support the crucial work of both the third sector community justice service providers and the statutory JSW services will be necessary.

Pressures on Community Justice Scotland

Since it was established in April 2017, CJS has been, until this year (2020/21), allocated an annual budget of £2.2m (approx.) as a flat cash settlement. In the period since it was established CJS has however experienced a significant increase (93%) in operational (non staff) costs outwith its control.

This year CJS was awarded a £400,000 uplift in its funding, to deliver on new priorities agreed with Scottish Government. This will permit the recruitment of 6 staff (3 permanent and 3 temporary). Additional staff may however exacerbate the effect of unfunded pressures as outlined in Annex 2.

In the absence of relief to meet unfunded budget pressures, CJS has had to adjust its operational budget significantly. Our ability to do so has been limited by the fact that a significant proportion of operational costs are essentially fixed (shared services; rent, HR, IT and audit) and a relatively large proportion of our budget is of necessity allocated to statutory functions; such as training and information/communication. Consequently, the operational budget lines not in these categories, such as research, have borne the brunt of the need to make efficiencies to meet unfunded pressures in order to return a balanced budget. Research has had an 85% reduction (from £100K in 2017/18 to £15K in 2020).

As an organisation 2021/22 brings the prospect of unfunded budget pressures and further degradation caused by flat cash settlements– with a particular focus relating to salary and associated on-costs which now account for 77% of our budget.

CJS is currently mid-way through year 4 of its operation and is only now reaching full staffing capacity (although still short of full capacity in front line Learning & Development

¹ https://communityjustice.scot/reports_and_stats/diversion-from-prosecution-guidance/

roles). CJS is not large enough to generate cash-releasing efficiencies to cover these pressures. If CJS receives a flat cash budget in 2021 and there are further increases in cost as well as endeavouring to meet the additional demands and challenges of the impact of COVID-19 on services, this will have significant impacts on overall delivery of CJS functions.

4. How has your organisation adapted to working during the pandemic, what further changes are needed and what changes are you planning to retain after the pandemic has ended?

CJS is located in a Scottish Government building which was closed down at the start of lockdown and remains closed. All CJS staff have been home working since mid-March 2020 and anticipate that this will continue for the foreseeable future. CJS will review future accommodation needs in the light of this experience and in view of potential ongoing social distancing requirements as well as the positive impact of reduced staff travel on contributing to carbon reduction targets.

CJS introduced an interim business plan for the period April-September which focused on the entire organisation working remotely from home. It successfully implemented its Resilience Plan and has focussed much effort on the Criminal Justice Board's Recover Renew and Transform (RRT) activity. Working with justice partners and stakeholders CJS has been looking at ways to support and improve the justice system during the pandemic and beyond, based on a whole systems collaborative approach. This work has identified a lack of capacity for community justice services to deal with increased court activity as the system restarts which requires to be addressed as a matter of urgency.

As an employer CJS is also acutely aware of the impact of COVID-19 and remote working on our staff and have introduced measures to support employee well-being and good mental health. We intend that these will continue beyond the pandemic.

As with many organisations the pandemic has accelerated the use of technology to allow us to continue to meet and to engage with our stakeholders and partners. This has highlighted some significant issues in terms of technological compatibility and information security requirements. As a national provider of learning and development courses for community justice practitioners there have been practical issues that CJS has had to address in relation to the variety of IT platforms used by its partners.

To provide learning and development to community justice practitioners requires a stable and useable digital solution for CJS training and engagement activities. This ensures that existing and new community justice practitioners are fully trained and up-to-date, particularly in the light of changes arising from recent legislation. CJS has therefore directed a significant effort to provision of online training where this is possible (programmes such as Caledonian must be provided face-to-face).

CJS has also continued to engage with local Community Justice Partnerships using a variety of approaches as well as with our national partners and stakeholders.

To enable us to do so, CJS as an organisation invested in a range of IT services and digital platforms for meetings and stakeholder engagement. It is anticipated that this way of working will continue beyond the pandemic as part of a 'blended' offer given the benefits in

terms of accessibility and reduced travel and accommodation costs. This will also contribute to climate change reduction targets.

CJS is committed to providing a safe working environment to all staff and as such has some (minimal) increased spending on office equipment to support safe remote working and PPE for face to face training and meetings.

5. What other matters and pressures on spending do you wish to bring to the attention of the Committee?

Working with colleagues on the Criminal Justice Board CJS has identified the following pressures on the justice system.

The pausing of almost all criminal trials initially reduced the overall prison population but it started to increase again from May, reaching 7,460 by 23 October. 23% of the prison population is now on remand (1717 people untried). It is anticipated that the average monthly increases in custodial sentences could be as much as 11% for the year to March 2021 and 25% for the year to March 2022. Without policy interventions Scotland could reach a permanently higher prison population of around 8,900, of whom 2,700 would be remand prisoners. This of course comes at a cost to the public purse. This would be unprecedented in terms of the volume and complexity of the prison population and could not be managed safely.

A key focus for the justice system pre- and during lockdown has been in reducing the size of the prison population and in promoting community over custodial sentences. Recently of course there are the added public health priorities arising from COVID-19 which also require limitations on prison numbers to maintain the health and safety of staff and inmates with appropriate social distancing. Any activities which reduce the prison population by increasing community sentences will of course increase pressure on Justice Social Work and other public and third sector services and will require appropriate resourcing.

Justice Social Work (JSW) staff during early lockdown were diverted to other urgent COVID-19 related work as all programmes relating to unpaid work or other activity requirements were suspended for the duration. This has created a significant backlog in the Unpaid Work element of Community Payback Orders amounting to a figure in excess of 700,000 hours. The impact of COVID-19 and social distancing measures which has created this backlog will continue long-term in community justice service provision. Appropriate and safe social distancing and supervision requirements will need to be resourced unless options to unilaterally reduce the backlog using powers under the Coronavirus legislation are introduced by the Government.

In relation to parole, there is a need to mitigate the impact of lack of access to programmes in prisons and opportunities for progression including home leave etc., which in turn is likely to lead to less evidence being available to the Parole Board to indicate progress on the rehabilitative journey. Investment is required in alternative approaches focused on the relational aspects of recovery and rehabilitation, for example, online learning and life skills.

There is a compelling need to scope out, develop and agree on the range of evidence available to the Parole Board to support risk based decision making to release prisoners back into the community with appropriate support. This is the key to reducing the numbers

of long term prisoners who present a lower risk. The provision of transition ‘hostels’, staffed by experienced third sector staff, and with concomitant Electronic Monitoring (EM) could provide a suitable avenue for release. Again such an option would require resourcing.

Unlike the majority of these policy interventions, EM can be up-scaled relatively quickly and can contribute to both ‘reducing the prison population’ (as an alternative to remand) and to ‘reducing the use of imprisonment’ (as an alternative to custody). However, it is important that EM is accompanied by supervision and support (e.g. potentially provided by a mix of social work, third sector, prisons and police capacity). Taken together, the upscaling of as an alternative to remand and as an alternative to imprisonment, alongside homelessness prevention for people on remand and the expediting of warrants while people are in custody, will help to mitigate the risk of a permanently higher prison population.

The use of EM will require additional resourcing as even without planned increase use, the number of Restriction of Liberty Orders (RLO) is projected to increase by approximately 57 per month with increased courts activity.

The Scottish Government’s Budget for 2020/21 gave a commitment to increase investment to further improve the effectiveness and capacity of community justice services, including diversion from prosecution and alternatives to custody and remand. It stated that it will ‘continue to support a shift away from ineffective short-term prison sentences, which do little to rehabilitate people or reduce reoffending, with a focus on stopping people entering the justice system and protecting the public. Effective community justice helps prevent parental imprisonment which is an adverse childhood experience.’ However as SWS has stated in its evidence submission to the Justice Committee , the policy of a presumption against short term sentences (PASS) has not been followed by a change in practice. We endorse their position that a ‘paradigm shift in funding CJ services in Scotland’ is required.

The announced delay to the UK budget, its concomitant impact of Scottish Government budgetary processes, will create financial and planning uncertainties for public and third sector organisations who provide community justice services and who are reliant on funding support from the Scottish Government. CJS would urge the Committee to highlight that any delay is resolved to minimise any potential negative consequences for the effective delivery of community justice across communities.

CJS would hope that despite the acknowledged pressures facing the public purse as a result of both the pandemic and the anticipated impacts of Brexit that funding to support an increase in community justice services across the public and third sector will continue during 2020/2021.

Community Justice Scotland
October 2020

Annex 1 – Caledonian Programme activity during COVID-19

A series of guidance notes were developed to help support Caledonian System Managers. This guidance was written primarily for areas that are implementing the Caledonian service, but we hope that this and future notes will be useful in other Local Authorities too. The latest guidance notes are available below:

1 [Guidance Note 1 issued 19 March 2020](#)

<https://communityjustice.scot/wp-content/uploads/2020/03/Caledonian-guidance-re-Covid-19-002-003-final-25.3.20-.pdf>

2 [Guidance Note 2 issued 27 March 2020](#)

<https://communityjustice.scot/wp-content/uploads/2020/03/27.3.20-Issue-2-Caledonian-guidance-re-Covid-19.pdf>

3 [Guidance Note 3 : COVID-19 guidance notes for Criminal Justice Social Workers in relation to domestic abuse prisoners being released during lockdown, issued 17 June 2020](#)

<https://communityjustice.scot/wp-content/uploads/2020/06/16.6.20-Guidance-Prisoner-Release-Domestic-Abuse-003.pdf>

4 [Guidance note 4: Guidance for children's workers during the COVID-19 pandemic issued 19 June 2020](#)

<https://communityjustice.scot/wp-content/uploads/2020/06/Guidance-for-childrens-workers-during-the-COVID-19-pandemic.pdf>

Advice in non-Caledonian areas:

■ We have created guidance specifically for areas that do have access to the Caledonian Programme.

<https://communityjustice.scot/wp-content/uploads/2020/04/1.4.20-Guidance-re-Covid-19-areas-without-access-to-the-Caledonian.pdf>

■ Download this document for an update from the National Procurator Fiscal for Domestic Abuse in relation to domestic abuse cases during the COVID-19 crisis.

<https://communityjustice.scot/wp-content/uploads/2020/04/Update-in-relation-to-domestic-abuse-cases-during-the-Covid.pdf>

Additional information about The Caledonian Service

We have issued a manual of activities for working with men who abuse their partners in the context of the COVID-19 crisis. You can download the document at

<https://communityjustice.scot/news/covid-19/>

The exercises contained within this document have been adapted from the Caledonian System Men's Programme, and can be used by workers who are not Caledonian trained.

We have issued 'Technology Tips and Techniques for Working Safely with Women' to supplement existing working practices and assist workers in considering the best and safest methods of using technology during the COVID-19 crisis. Contact the CJS Caledonian Team for further advice and support. (info@communityjustice.scot)

Annex 2 - CJS Budget pressures 2021/22 and beyond

CJS uses Scottish Government civil service pay and conditions; including grades and pay progression scales. Changes to CJS pay and conditions are therefore determined by the SG pay negotiations and decisions of Scottish Ministers.

Following establishment of the agency in 2017 an entirely new staff; with no legacy transfers, was recruited. The majority of these staff were recruited at the lowest point on the incremental scale for their grade and were therefore entitled (based on satisfactory performance) to progress on that scale for the next few years. From 2019, Scottish Government introduced a new incremental scale for grades up to and including C3. This created fewer points on the scale but significantly larger salary increases between each point. This meant that the impact on the CJS budget would be greater each year than originally envisaged, although that pressure would be shorter in duration.

In addition, CJS is bound to Scottish Government's annual pay award settlement which since 2017 has been 2% for higher paid staff (usually earning above £37,500) and 3% for those earning less than that. The costs of funding these increases has come from the flat cash approved budget as outlined below.

CJS pay award and incremental increases since 2017

	2017/18	2018/19	2019/20	2020/2021	Total
No of staff (fte as at 31 March)	21	29	31	31	
Pay Award £	0	19,726	30,334	34,875	84,935
Incremental Rises £		51,943	83,209	79,990	215,142
TOTAL		71,669	113,543	114,865	300,077

In essence CJS has absorbed £300,000 of salary increases within a flat budget of £2.2m. This year CJS was awarded a £400,000 uplift in its funding, to deliver on new priorities agreed with Scottish Government. This will permit the recruitment of 6 staff (3 permanent and 3 temporary). Additional staff may in effect exacerbate the effect of unfunded pressures such as those described.