



## **Community Justice Scotland's Response to the Consultation on a National Care Service**

In August 2021, the Scottish Government launched a public consultation on proposals for [A National Care Service for Scotland](#). Drawing on the findings of the [Independent Review of Adult Social Care](#), the scope of proposals expanded to other areas, including community justice.

Community Justice Scotland responded to the Consultation in November 2021, focussing specifically on the questions most closely related to the governance and delivery of community justice in Scotland. Our response reflected on the proposals for reform and other options available to improve the delivery of community justice, and included the following key points:

- Incorporating Justice Social Work into a National Care Service would not in itself result in improvement of the coordination and delivery of justice social work services, or community justice services more widely
- The specific problems faced by the justice-involved population and the challenges for those delivering justice services merit specific consideration outwith the analysis drawn primarily from experiences of adult social care, and should draw on the evidence, learning and progress in the justice agenda developed over recent years
- Other structural reform is required to deliver the long-desired shift in outcomes for people involved in the justice system, and their families and communities
- The suggestion of using a public health approach to justice problems through development of a National Prevention Service should be explored further with partners, and could be transformational for not only the delivery of services, but people's lives.

## **Justice Social Work**

**Q37. Do you think justice social work services should become part of the National Care Service (along with social work more broadly)? Yes/No**

### **CJS response**

No

### **Please say why.**

We do not support the inclusion of justice social work within the National Care Service. We recommend that alongside the NCS with its focus on adult social care, a National Prevention Service (NPS) be established inclusive of justice social work and the other services involved in community justice and focussed on secondary and tertiary prevention of offending. This conclusion draws on an assessment of the cumulative findings of the many detailed reports on this area, such as A Better Way (2002), Scotland's Choice (2008), Angiolini Commission on Women Offenders (2012), Audit Scotland's Reducing Reoffending (2012) and the Christie Commission (2011). A NPS would work closely with the NCS on issues of care and treatment but its main focus will be on how to prevent offending, a distinct area with specific nuance and complexity. For greater detail, please see our answer to q41.

We recognise the overarching rationale behind the proposed inclusion of JSW services in an NCS, and the aspirations for inclusion to improve service delivery and benefit of the workforce as well as users of the service. These are desirable outcomes, however they could only be achieved with reforms rooted in current evidence, collaboratively scoped, developed, understood, and implemented with substantial support and additional resource. There is little specific detail in the proposals as to how this would be achieved, however from other available evidence we are clear that brigading existing JSW into a national organisation will not achieve the outcomes set out in the Justice Strategy and broader Government preventative ambitions.

In considering our response to the proposals set out in this consultation, we first reflected on the current challenges facing the delivery of community justice in Scotland, and the previously identified weaknesses in the present model of community justice. These include:

- Lack of access to data required in order to identify local need, plan accordingly and drive and measure outcome improvement,
- Insufficient accurate data on cost and resource for community justice interventions, and an outdated funding model limiting our collective ability to invest, improve and measure impact,
- A lack of clear accountability within community justice, with varying levels of local and national collective and collaborative leadership required to drive improvement in a complex landscape
- Inconsistent local strategic planning within community justice partnerships
- Inequity and inconsistency of services across the country
- People and communities are not at the heart of design and delivery of community justice

- Lack of public understanding of and confidence in community justice
- The third sector is not consistently engaged in the local design and delivery of community justice, with short-term unstable funding
- Continued (comparatively small) churning population experiencing remand, reoffending, custody and community sentences, and not recovery or rehabilitation.

(source: [CJS Annual Reports](#))

We then considered if the consultation, in particular the proposal to include justice social work as part of social work more widely within the National Care Service, would address these identified issues, or otherwise improve access to services for people involved with the justice system.

This was challenging, because the evidence base and rationale underpinning these particular aspects of the proposals is not clearly identified. Justice Social Work (JSW) Services were explicitly not considered in the Feeley Review which focussed on adult social care. This aspect of the consultation is not predicated on any evidence arising from that Review and no rationale is given for their inclusion in a National Care Service as the most appropriate route for required change in the delivery of justice services.

The consultation often uses the terms 'community justice' and justice social work in a manner which implies the two are completely synonymous. For clarity, justice social workers are highly skilled professionals delivering specific duties to a required standard, fulfilling statutory obligations placed by courts in the form of interim and sentence disposals. They deliver expert services in risk assessment and mitigation, supervision and support, in the interests of public protection and rehabilitation. People are usually obligated to engage with such services as part of their sentence, and often experience it as part of their punishment. Taken together, these characteristics establish justice social work as a distinct and specialist branch of the social work profession, and significantly different to social care services.

Community justice itself is necessarily a broader term. Community justice at its best is collaboratively planned by locally engaged statutory and non-statutory partners, responding together to local needs and driving improvement for people. The workforce delivering these services are not just justice social workers, but a larger, disparate group of professionals with their own range of specialisms and expertise, and includes the public, third and also private sector. There is recognisable affinity between community justice and social care services in their rationale of addressing unmet need and supporting people to live better lives in their communities, however the distinctions are important.

The group of people who access community justice services are diverse, and distinct from those accessing social care more generally. Part of the difference comes from the compelled nature of their engagement with some services, such as justice social work. Some require risk assessment and management in the interests of public protection. Moreover, their involvement with the justice system can mean they face additional barriers to accessing universal services, in part due to stigma. A small but significant proportion of this group lives with a high and complex level of unmet need, including issues with homelessness, addiction, and mental and physical health.

These people are often excluded from accessing universal services, because the services do not make themselves accessible to them.

Proposed reform must take into account the mandatory nature of justice social work services, and consider the implications of the inclusion of supervisory services that are often experienced as 'punishment', which sit incongruously within a national care system. We must also recognise the stigma, social isolation and relational deficit often present in those in receipt of justice social work services, and the implications that has for service coordination and delivery. The NCS proposals fail to mention the public protection role of justice social work (e.g. their pivotal statutory contribution in relation to Multi-Agency Public Protection Arrangements within Scotland and the UK). This would also need to be fully considered.

There needs to be a recognition that justice social work services are specialist and that the problems they face cannot be resolved just by locating them in a health and care dominated service, but rather by considering in more detail the specific needs and challenges faced by the justice system and those who come into contact with it. Beyond the specialist delivery role of justice social work, structural reform must also consider the wider network of agencies involved in delivering services to justice-involved people, fostering improvement in people's lives. In particular, the services provided by the third sector to contribute to improving outcomes should be considered as part of further specific proposals around justice social work reform.

Scotland has long held progressive ambitions to address offending and reoffending, and shift the long established trends away from imprisonment and toward community-based options to improve outcomes for people and communities. Repeated structural reforms around justice, the most recent with the Community Justice (Scotland) Act 2016, have not yet achieved this ambition. The issues we have identified will require more radical reform to address, alongside additional investment and support.

We do not believe that the inclusion of justice social work within a National Care Service is the right way to address these issues.

**Q39. What opportunities and benefits do you think could come from justice social work being part of the National Care Service? (Tick all that apply)**

- More consistent delivery of justice social work services
- Stronger leadership of justice social work
- Better outcomes for service users
- More efficient use of resources
- Other opportunities or benefits - please explain**

## **CJS response**

### **0 Other opportunities or benefits - please explain**

As CJS does not support justice social work / community justice being included in the NCS, cannot cite specific opportunities and benefits in the context of this consultation. The above options highlight several desirable outcomes we would wholeheartedly support, but the proposals set out in this consultation provide little evidence-linked detail in the proposals to justify their deliverability.

CJS supports evidence-based change which improves the delivery of justice social work services and gives people access to the support they require, and we agree with our partners in justice that there is clear need for improvement. Reform must also take into account not just the delivery role of justice social work, but also the wider range of partners involved in the coordination and delivery of community justice services, and the challenges that they face.

### **Q40. What risks or challenges do you think could come from justice social work being part of the National Care Service? (Tick all that apply)**

Poorer delivery of justice social work services.

Weaker leadership of justice social work.

Worse outcomes for service users.

Less efficient use of resources.

**0 Other risks or challenges - please explain:**

## **CJS response**

**0 Other risks or challenges - please explain:**

CJS does not support justice social work being included in the NCS, as per our reasons set out in the answer to question 37. Furthermore, there is insufficient detail in the consultation proposals to allow us to consider the relative severity and likelihood of the potential risks referred to in this question - though we agree all those identified appear viable and necessary to consider in the future development of proposals for reform. Many of the risks are highlighted in our response to question 37 above. Additionally, we feel it is important to highlight that justice social work is essential to the effective functioning of community-based justice and, wherever this role is diminished, it devalues that critical partnership.

In the context of health and social care however, justice accounts for only a small fraction of resource commitment. In some areas, this relative insignificance has led to justice-focussed discussions being given insufficient strategic focus that would be required to drive improvement and investment. There is a risk of replicating this inequity at a national level, rendering justice social work a 'Cinderella service' within a health/care dominated model.

Similarly, the proposals do not consider the potential adverse impact of moving to a health/care model may impact on strategic and operational engagement with justice partners within a justice context, (e.g. Crown Office & Procurator Fiscal Service (COPFS), Scottish Courts & Tribunal Service (SCTS), Police Scotland (PSoS), Scottish Prison Service (SPS) as well as other statutory community justice partners and stakeholders). This would need to be considered further and would lend support to the option of a dedicated justice/prevention-focussed national body rather than inclusion in health/care dominated model.

CJS would highlight the following as specific challenges that are distinct from those identified in relation to social care, that must be addressed in any consideration of structural reform, and will contribute to risk in this context:

- there is no accurate or consistent mechanism for costing the funding of community-based justice services– CJS believe there is a priority to understanding what the human economic costs is related to this
- discussions around resource often fail to recognise the distinction between the ring-fenced Section 27 funding for justice social work and funding for community justice more widely, which ought to be drawn across budgets and resources from the range of statutory partners involved in delivery and include commissioning of services from the third sector, etc
- Justice social work delivers specific skilled services in relation to the assessment and management of risk in the interests of public protection, and this must be given specific consideration
- there is no single system to look at cases managed, case load and the level of risk managed by individual case workers – this is necessary to look at workforce demands and ensuring that justice is seen to be delivered and people’s needs met.
- the outcomes for Justice Social Work are narrow and output focussed. Future models must look at wellbeing as an outcome, reflecting the multiple interventions required to support people to change their offending behaviour, seek help with health issues and move into sustainable employment
- the current model of community justice needs to change to ensure that justice social work are fully supported by services / agencies as partners – in particular this must include the third sector
- there is a significant risk of repeating previous policy / strategic mistakes in the sector if the sufficient and appropriate attention is not paid to the voice of lived experience – this includes hearing what people and communities say, listening to what they are telling us and then acting upon that information

We recognise that risk and challenge are integral parts of the change process which can be threatening, anxiety-provoking and, at times, painful. However, in undertaking the necessary change – including wholesale reform and transformation that is so needed – we create the opportunity to make a real difference in the lives of people, families and communities across Scotland.

This paradigm shift will require systemic sequencing and synchronisation of the various constituent parts of justice on a scale previously not envisaged – as all are parts of a complex and dynamic system that must flex as one and adopt the ideology of ‘whole system approach’.

**Q41. Do you think any of the following alternative reforms should be explored to improve the delivery of community justice services in Scotland? (Tick all that apply)**

- 0 Maintaining the current structure (with local authorities having responsibility for delivery of community justice services) but improving the availability and consistency of services across Scotland.
- 0 Establishing a national justice social work service/agency with responsibility for delivery of community justice services.
- 0 Adopting a hybrid model comprising a national justice social work service with regional/local offices having some delegated responsibility for delivery.
- 0 Retaining local authority responsibility for the delivery of community justice services, but establishing a body under local authority control to ensure consistency of approach and availability across Scotland.
- 0 Establishing a national body that focuses on prevention of offending (including through exploring the adoption of a public health approach).**
- 0 No reforms at all.
- 0 Another reform – please explain:

**CJS response**

Option selected: **Establishing a national body that focuses on prevention of offending (including through exploring the adoption of a public health approach).**

In our answer to Q37, we set out our understanding of the present challenges facing community justice in Scotland. It is our view that in order to address these and other justice system-wide challenges, reform is required. We do not believe the National Care Service is the vehicle to deliver this reform for justice, but we welcome the wider discussions around care, community, and unmet need that this consultation has initiated.

The time is right to reflect on what can be done to improve the justice system and the services required to transform community justice in order that the whole is fit for the 21<sup>st</sup> century, and serves the needs of a vulnerable population whose need is great.

Of the options presented in Q41, we support ‘Establishing a national body that focuses on prevention of offending (including through exploring the adoption of a public health approach)’.

**Context and rationale**

Stakeholders across Scotland largely share the view that effective, robust community sentences are key in reducing offending and reoffending, and making communities safer, healthier and more resilient. The use of custody cannot in itself deliver the required shift in outcomes for people involved in the justice system, or for their

families and communities. Responses to offending and victimisation must address the complexity of people's lives in context with their family and community..

The group of people who access justice social work and community justice services are diverse, as are the range of services with which they engage. Justice social work assess and respond to risk and needs, which includes people with low risk of further offending and serious harm, through to the critical few who require close supervision in the interests of public protection. A significant volume of their client group have a high degree of multiple complex needs across a range of factors related to health mental and physical, housing, addiction, homelessness and more. Level of risk and level of complex unmet need are sometimes but not always analogous. Justice social work, and community justice services more widely, are working in a complex landscape to deliver a wide range of interventions to a diverse population. This means that in community justice, one size cannot not fit all. This is one of the reasons why there is huge diversity of practice across Scotland in the local model of community justice, while the complexity means it is hard for local areas to address the range of challenges. Sentencers feel this inconsistency keenly, and report frustration at the lack of resources available to target specific needs as part of community sentences.

There is a substantial evidence base currently available to inform a transformation of community justice and the associated services, and discussions around structural reform including the development of a single national agency of some description, are not new. The current model of community justice in Scotland set out by the Community Justice (Scotland) Act 2016 is itself the most recent example of substantial structural reform with the ambition of shifting the balance in Scotland's longstanding justice challenges. It has not yet had the degree of impact intended and, although there are areas which are exemplars of good practice in community justice, progress overall is neither consistent, sustainable nor does it focus sufficiently on the needs of the people it was designed to serve.

As outlined in Q37 there has been extensive, detailed reports into the change required to deliver the outcomes required for those who enter the justice system, delivering better outcomes for those who remain in the community and those who leave the prison estate to transition back home. A Better Way (2002), Scotland's Choice (2008), Angiolini Commission on Women Offenders (2012), Audit Scotland's Reducing Reoffending (2012) and the Christie Commission (2011) have outlined the foundations for change. In 2021 there is an opportunity for a seismic shift into prevention in Scotland; drop in recorded crime to the lowest levels since 1974, the ambitions and commitment to 'The Promise', the transformation of Youth Justice, and the critical work of transforming the lives of those in addiction, the transformation of housing and 'housing first', and critically a broad understanding and application of trauma aware approaches that are transforming how services understand and support people to better outcomes.

The status quo is not a sustainable option and is failing people. Scotland has not achieved the scale of its ambitions. Reform is required to enable a true public health approach to offending, and to move to a more person-centred, trauma-responsive focused response, delivering a safer, healthier Scotland.

Proposals for reform for community justice must address these issues, and should consider the following aims:



- Create consistency, availability and access to key services across boundaries be they local authority, regional or sheriffdom
- Support justice as a specialised service – responding to the increasing complexity of crime and offending in Scotland
- Increasing visibility, awareness and confidence in community justice as an effective means to prevent offending and improve outcomes for people and communities
- Consider and amplify the views of and potential impact on people who come into contact with the system.

## **A national prevention service**

Work undertaken by CJS suggests the following are factors which would support improvement:

- a greater, clearer degree of leadership for accountability and improvement
- a focus on earlier intervention to avoid people progressing further into the justice system, e.g. Police warnings, Diversion, etc.
- a more coordinated local approach to the delivery of services based on strategic needs and strengths assessments.
- a more consistent and cogent nationally-coordinated delivery of justice social work – locally embedded delivery with sets of minimum standards but national leadership and strategic direction
- an evidence-based operating model which supports the delivery of court- and prison-based JSW across the country.
- nationally commissioned and coordinated services where appropriate (e.g. Throughcare, Restorative Justice, etc.)
- resources for the development and delivery of specialised support which adapts to the nature of offending and specific need e.g. cyber / sexual offending
- a clearer focus on the role of the third sector in helping to deliver outcomes – for example in unpaid work, but also specialist support services.
- accessible and responsive processes to ensure that both the voice of the people experience the justice system are heard, and that the action taken as a result is trauma-responsive at its heart.
- procedural justice, empowering people to participate and engage in their justice journey, would be a core tenet to achieve better outcomes for people and wider society
- improved strategic and operational links to non-justice systems, in particular to health treatments and care through bodies such as the NCS to ensure the wider needs of this neglected group of people within the justice system are met.
- As a national service it would establish itself as a *body corporate* which would bring benefits of budgetary control, data controllership, etc.

We hold the view that a National Prevention Service could deliver these changes.

## **What it could look like**

We propose the following structure:

- A National Prevention Service, to drive national leadership, strategic coordination, monitoring and improvement of locally-embedded community justice services aimed at delivering secondary and tertiary prevention
- National body would host specialist teams with skillsets required to target multiple and complex needs and risk (including forensic mental health, domestic abuse, sexual offending, cybercrime, etc.) associated with offending
- Locally embedded, nationally resourced teams with links with community planning, connection to other social work teams and paraprofessionals, unpaid work coordinators and liaison with families, victims etc.
- Service level agreements for treatment/care with the NCS/ and other appropriate health bodies
- Nationally-based links with other services / arrangements, e.g. MAPPA, etc.

We believe the NPS could bring the following benefits:

- Centralised resource to bolster resilience and capacity for consistency of provision, service development and improvement, data sharing and analysis
- Centralised expert teams for specialist requirements to deliver value for money not scalable at present at local level, and allow resources to be flexed across country as needs require
- Clear lines of accountability and governance to improve consistency in leadership and progression
- Potential to improve data access and analytic capacity in contributing to improvement
- Improved consistency, standards of service, reduction in inequity
- Improved professional development and progression for justice social work and wider workforce
- Coherent, evidenced funding model with clear outcomes
- Focus on secondary and tertiary preventative support to negate wider involvement in Justice System; family support, diversion services, addressing multi need individuals through multi agency needs groups and problem solving approached.
- The ability to embrace and trial innovative interventions and technology to support people into better outcomes and create a safer society.
- Focussed and funded approach to the training and ongoing development of the workforce delivering community justice services, including justice social work and the third sector
- National workforce planning both strategic and operational, taking account of crime changes, demand, expanding/developing of community based sentencing, reducing prison population, demography, secondary and tertiary preventative support services, strategic government direction
- Improved local partnership arrangements and effective delivery of services at a local level
- Increased visibility and public confidence
- Locus for national strategic commissioning where appropriate
- Built into local structures, could enhance local planning and service provision

We present the above as a basis for further discussion and development with the range of partners involved in delivering a transformation in community justice. We recognise that there is no one structural solution to this complex set of challenges, however there are examples internationally where single agencies specialising in

justice achieve great things, such as the Finnish Community Sanctions Agency model. To achieve transformation for community justice, it is appropriate and necessary to explore bold and ambitious options with the potential to realise our collective ambition.

**Q42. Should community justice partnerships be aligned under Community Health and Social Care Boards (as reformed by the National Care Service) on a consistent basis?**

Yes

No

Please say why

**CJS response**

This question does not recognise the current legislative context of community justice arrangements, therefore we are unable to recommend the proposed alignment. 'CJP' is the commonly used term for the collective grouping of statutory community justice partners described in the [Community Justice \(Scotland\) Act 2016](#) that have responsibility for developing, implementing and reporting on a local community justice outcomes improvement plan. The partnerships do not have a specific statutory basis however. Furthermore, the proposals in this consultation also do not acknowledge the statutory role of Community Planning Partnerships (CPPs) which are statutorily referenced in the [Community Empowerment \(Scotland\) Act 2015](#) as a potential mechanism to support improved community justice outcomes.

The Community Justice (Scotland) Act 2016 places duties on specific national and local statutory partners who have a key role to play in improving community justice outcomes as described in the National Strategy for Community Justice, evidenced by the national Outcomes & Performance Improvement Framework and delivered by means of Community Justice Outcomes Improvement Plans developed for each local authority area. It also created a duty for statutory partners to engage non-statutory partners (including the third sector, private sector, communities, etc.) in planning, identifying and responding to local challenges, in order to achieve the desired community justice outcomes.

Every local authority area utilises a Community Planning Partnership (CPP) to bring agencies together in order to design and deliver public services to the communities that need them, producing Local Outcome Improvement Plans and Locality Plans to target the populations who would benefit most greatly. Following the launch of the present model of community justice, each of the 32 local authority areas formed local arrangements (generally referred to as Community Justice Partnerships, or CJPs) within their community planning structures, through which they facilitate their delivery of their duties (including the production of their Community Justice Outcome Improvement Plan). They include a range of justice partners including COPFS, SCTS, PSoS, SPS and others. At present there are some issues regarding the extent to which national justice agencies engage in local CJPs where the focus is on community justice issues (as raised by CJS in our annual reports on [Community Justice Outcomes](#)). It is not clear how these justice bodies would routinely engage

with Community Health and Social Care Boards. This alignment would require further specific development and consultation.

There is considerable variance between areas in how these partnerships deliver their statutory functions around community justice. If greater consistency and accountability within local governance is required, Scottish Government should consider legislative reform to provide CJPs with a statutory basis.

Prisons

**Q43 Do you think that giving the National Care Service responsibility for social care services in prisons would improve outcomes for people in custody and those being released?**

Yes

No

Please say why.

**CJS Response**

No evidence is provided in the consultation to support the premise of this proposal, however there is clear inconsistency across the prison estate and across Scotland which could hypothetically be addressed by support from a national agency.

There may however be an opportunity to learn from the needs assessments currently being carried out in the prisons. Could we potentially have a national approach to the needs of prisoners - that way we could include third sector and other partners. This may help address the variability and inequality that we can see now - local governors locally currently make decisions about what services access their prison (non-commissioned) and that usually depends on what is getting delivered outside of prison, with a limited prison in-reach remit. There should be consistent core elements of enabling access to what people in prison need – health, social work support, housing, addictions support and other supports could (more routinely) be commissioned and delivered equitably across the system.

**Q44 Do you think that access to care and support in prisons should focus on an outcomes-based model as we propose for people in the community, while taking account of the complexities of providing support in prison?**

Yes

No

Please say why.

**CJS Response**

Yes, on the basis that people in prison deserve the same rights of access to services that will enable them dignity, recovery, and so on. It is necessary however to give more detailed consideration to the needs and challenges associated with the imprisoned population, their transition to community services, and service

coordination and delivery within and between these stages, so that the desired outcomes can be achieved.

### **National Social Work Agency**

**Q55. Do you think there would be any risks in establishing a National Social Work Agency?**

### **CJS Response**

Brigading up services is not transformation in and of itself. Without a fundamental shift to a public health model of prevention based on evidence of effectiveness and the importance of multi-agency partnership working it is unlikely that colleagues will be able to achieve the level of change required.