

The purpose of this briefing is to bring Sacro staff up to date with national developments in the criminal justice field since the briefing issued last July.

> Legislation

Criminal Proceedings etc. (Reform) (Scotland) Bill

This Bill was passed by the Parliament in January and will shortly become the Criminal Proceedings etc (Reform) (Scotland) Act 2007. A summary of its main provisions is attached as an appendix to this briefing.

Custodial Sentences and Weapons (Scotland) Bill

This Bill is currently going through Stage 2 of the parliamentary process during which the Justice 2 Committee scrutinises the Bill and amendments are lodged by both MSPs and the Executive. Sacro has major reservations about the Bill, which we believe will lead to an explosion in the numbers in prison and misdirection of scarce resources in the criminal justice system. We gave both written and oral evidence to the Justice committee at Stage 1 and are now joining with other agencies to seek amendments at Stages 2 and 3. Our views are summarised as follows:

The Bill would lead to:

- unnecessary imprisonment of many low risk prisoners
- unnecessarily longer periods of imprisonment for many prisoners
- increase in number of recalls to prison
- doubling the time served by the least serious offenders
- increase in prison population
- damaging effects of overcrowding
- unworkable risk assessment procedures
- unrealistic burden on SPS
- unrealistic burden on social work
- poor value for money from huge increase in expenditure
- reduction in time under community supervision for some serious ex-prisoners
- no contribution to making communities safer

Sacro Proposed Amendments

The proposed amendments seek to address these concerns by introducing an additional category of prisoner, short term, and by changing thresholds that will have a positive effect on the Bill in terms of targeting resources cost effectively to where they are most needed.

- Prisoners serving 0-14 days to continue to serve half sentence as at present
- Prisoners serving 15 days to 12 months to be subject to licence but not supervision
- Prisoners serving more than 12 months not to be detained beyond two-thirds of the sentence
- Courts to be required to re-calibrate the sentence in the light of previous sentencing regime

The amendments would not undermine the intention to end unconditional automatic release, apart from those sentenced up to 14 days. They would however target scarce resources where they would be most likely to have positive results.

At the time of writing several MSPs have indicated their support for the above approach but it remains to be seen what will happen in Parliament.

Sue Matheson and Donald Dickie have put a lot of time and energy into this attempt to influence policy because the Bill as it stands could have disastrous effects.

> **Community Justice Authorities**

All eight CJAs now have chief officers. Sacro senior managers and our Chief Executive have been meeting them to make sure they know what Sacro can contribute in their areas. They will all be producing plans in the autumn and clearly we want to influence their contents!

> **The Care Commission**

The Commission has now reported on its 2006 inspection of our supported accommodation services. The report will be published in due course and we will be acting on any recommendations and requirements in the report. The Commission's role is to ensure standards are maintained and to assist providers to continually improve their services.

> **Publication of Sacro Work on Restorative Justice**

An article written by Sacro staff Niall Kearney, Steve Kirkwood and Lucinda MacFarlane was published in the most recent issue of the British Journal of Community Justice. The article outlines the provision of restorative justice services in Scotland, highlights the associated benefits, and illustrates the feasibility of offering these services at all stages of the criminal justice system, arguing that this "would bring added value to people's experience of justice". Feel free to contact Steve Kirkwood skirkwood@national.sacro.org.uk if you would like to see a copy of this article.

> **Sacro Specific Subject Briefings**

- Multi-Agency Public Protection Arrangements (MAPPA)
- Integrated case Management (ICM)
- Sentencing Commission Reports
- Criminal Proceedings etc (Reform) (Scotland) Act 2007

All the above have relevance for all Sacro CJ staff and it is strongly recommended that staff set aside some time to read them. They are designed to increase staff awareness of criminal justice developments and to help them understand the context in which they work. See pages 3–8 for these four briefings.

> **Criminal Justice Adviser**

Tim Richley is making a good recovery from his September accident. He is keeping in touch with developments at Sacro and hopes to be back in March. Meantime Donald Dickie has been covering some aspects of the job on a sessional basis.

> **MAPPAs – Multi-agency Public Protection Arrangements**

Sacro Criminal Justice Briefing February 2007

The Scottish Executive Justice Department has recently issued a circular to police, social work and prison authorities asking them to prepare for the implementation of sections 10 and 11 of the Management of Offenders (Scotland) Act 2005.

When commenced in April 2007, the provisions will require the police, local authorities and the Scottish Prison Service (known as the responsible authorities) to jointly establish arrangements for the assessment and management of risk posed by sex offenders, violent offenders and those whose conviction lead the responsible authorities to believe that they still pose a significant risk of harm. The provisions also include Health Boards as a responsible authority in relation to those Mentally Disordered Offenders who are sex offenders or violent offenders.

The new joint arrangements will be based on the Multi Agency Public Protection Arrangements (MAPPA) currently operating in England and Wales.

The approach is based on assessment of the risk of harm posed to the community and the allocation of resources to match the level of risk. The MAPPA model and the guidance is therefore designed to deliver a consistent approach across the country to the management of high risk offenders in the community, allowing early identification of those high risk offenders who must be managed on a multi-agency basis, the sharing of relevant information involved in assessment of risk and the management of the risk posed.

The target group consists of offenders within the criminal justice system or subject to the notification requirements under the Sexual Offences Act 2003. The legislation covers children who have been convicted by the courts but it does not include those children who are part of the children's hearings system and have not been convicted by the court.

What This Means For Sacro

While Sacro is not a "responsible authority" in terms of the Act, we are one of a number of agencies who share the statutory "duty to co-operate" with all the statutory authorities in making the arrangements work.

Sacro, in a paper for the Justice Department on behalf of the voluntary sector, has defined our roles and responsibilities in the following terms:

The statutory authorities can commission services from the voluntary sector to support, complement and enhance their own provision.

The range of services that are provided to offenders that pose risks includes:

- Intensive support and monitoring
- Residential facilities
- Supported flats and tenancies
- Bail supervision
- Services related to alcohol and drug misuse
- Group work programmes
- Voluntary throughcare
- Employability support services

Through the provision of these services, voluntary sector staff are in a key position to share information. They observe their service users out with formal office settings, often when they are relating to other people in the community. Their contact with offenders is often more frequent and intense than is possible for statutory workers. This places them in a strong position to contribute to risk assessment and risk management.

By providing information, they can assist the statutory services in their assessment, monitoring and supervision roles. They themselves provide support that can help to reduce risk. Stable accommodation, training and employment are factors that can have a major impact in risk management.

Voluntary sector staff expect information sharing to be very much a two way process. They must also receive good information about risk factors in relation to the people they work with. This is necessary not only to ensure the safety of their own staff but also to more effectively monitor behaviour and report potential risks as they may develop.

Co-ordination of MAPPAs

The Justice Department is to fund Criminal Justice Social Work to employ co-ordinators and administrators in each of the Community Justice Authority areas. Their job will be to ensure the right offenders are identified, referred and effectively taken through the MAPPA system.

VISOR (Violent and Sex Offenders Register)

This is a recently introduced database that will support the work of the MAPPAs. It is already available across all police forces in Scotland and plans are being made to introduce it to the prison service and the local authorities.

If you would like more detailed information about MAPPAs, contact Sacro's Criminal Justice Adviser.

> Integrated Case Management (ICM)

Sacro Criminal Justice Briefing February 2007

Background

The Management of Offenders etc (Scotland) Act 2005 require partnership working between all the criminal justice agencies. Section 1 of the Act describes a duty to work together, to share information in order to ensure better work with offenders before, during and after a prison sentence.

Likewise, Sections 10 and 11 provide that local authorities, the police and the Scottish Prison Service (known as the responsible authorities) must establish joint arrangements for the assessment and management of the risk posed by sex offenders, violent offenders and those about whom the authorities are concerned.

ICM is a process designed to facilitate the joint working that both meets the above needs and incorporates best practice.

The Process

The project team along with the Scottish Executive Justice Department and ADSW has developed a single case management process to meet the aims of all the stakeholders of the process.

The ICM process will:

- Be delivered to all convicted prisoners (not just those sentenced to four years or more, as with Sentence Management);
- Differ in intensity according to risk and not, as previously, sentence length;
- Adopt a case conference approach to action planning involving all relevant service providers for prisoners subject to post release monitoring;
- Have the same entry and exit procedures for all prisoners regardless of sentence length, i.e., all prisoners undergo core screening and leave with a community integration plan (CIP).
- Provide prisoners with a clear process to encourage desistance and therefore greater engagement with the action plan;
- Sequence interventions appropriately according to risk, need and response;
- Ensure all information is shared with appropriate providers to facilitate holistic planning process
- Facilitate fully integrated service provision (e.g., addictions, learning skills and employability and social care) using assessment tools that have been consistently developed and support the IT-based case management file.
- All service providers will access, input and update the community integration plan (CIP)

Implementation

Phased implementation began in 2006 and was expected to complete by June 2006.

Significance for Sacro

Sacro criminal justice staff should be aware of this development, which will shape the way SPS and social workers work with prisoners and ex-prisoners. Our Throughcare and Supported Accommodation staff, particularly, are "providers" as defined by ICM so will be part of the process described above. So we will have a part to play in formulating and implementing a prisoner's community integration plan.

For more information, contact Sacro's Criminal Justice Adviser.

> The Sentencing Commission of Scotland Reports 2005–2006

Sacro Criminal Justice Briefing February 2007

Introduction

The Sentencing Commission for Scotland was an independent, judicially led body set up by the Scottish Executive in 2003. Its membership included representatives of all the major agencies in the criminal justice system, including the voluntary sector.

Its remit was to review and make recommendations to the Executive on:

- The use of bail and remand
- Arrangements for early release and the supervision of short-term prisoners on release
- The basis on which fines are determined
- The scope to improve consistency of sentencing
- The effectiveness of sentences in reducing re-offending.

It produced four reports but did not report on any consideration about sentences and re-offending. It was regarded as having fulfilled its remit, however, and was dissolved on 1 November 2006.

The Reports

All four reports are to be found on the Commission website:

www.scottishsentencingcommission.gov.uk

1. The Use of Bail and Remand

Previous briefings have described how Sacro contributed to the consultation that preceded this Report. We also submitted papers to the Scottish Executive. Some of the reforms proposed by the Report have been included in the recently passed Criminal Proceedings etc. (Reform) (Scotland) Act.

2. Early Release from Prison and Supervision of Prisoners on Release

Again Sacro contributed extensively to the Commission's consultations on this subject. Some of the points we made appear in the report. The Executive's response was to introduce the Custodial Sentences and Weapons Bill that seems to disregard many of the Commission's recommendations. The Bill goes through Stage 2 in the Scottish Parliament during this month (February 2007) and Sacro's efforts to have the Bill amended are described in this month's Criminal Justice Bulletin.

3. The Scope to Improve Consistency in Sentencing

The Commission accepted that there is inconsistency in sentencing practice and that this should be addressed in the following ways:

- The results of appeals should be made very explicit and published
- There should be more reference books and materials published about sentencing
- An electronic Sentencing Information System (SIS) has been developed to provide sentencers with quick and easy access to past decisions of the High Court but has fallen into disuse. This should be revisited and enhanced
- The Appeal Court should make more guideline judgements
- An Advisory Panel on Sentencing in Scotland (APSS) should be established
- The APSS should draft guidelines for consideration by the High Court
- The Appeal Court should have the power to approve/disapprove of draft guidelines
- The purposes of sentencing should be enshrined in statute.

As at early February, the Executive's response to this report is not known.

4. Basis on which Fines are Determined

The Commission noted that almost half of imprisoned defaulters have outstanding amounts of less than £200 and that the average period of imprisonment was 11 days. They considered the possibility of a unit or day fines income related system (as used elsewhere and recommended by Sacro) but rejected this idea because they felt courts did not have sufficiently reliable information about the offender's income. They did not explain, however, how courts were supposed to arrive at a feasible amount for an offender to pay. Instead they made the following recommendations:

- Abolish imprisonment as a first alternative to fine default for fines up to £5,000, replacing it with supervised attendance orders (SAO). Breach of the SAO could lead to three months imprisonment.
- Offenders with "very little or no income" should not be fined but given an SAO or a Community Reparation Order.
- Fine Supervision Orders should be "re-invigorated".
- Courts should make greater use of compensation orders

> **Criminal Proceedings etc. (Reform) (Scotland) Act 2007**

Sacro Criminal Justice Briefing February 2007

The Criminal Proceedings Bill was passed by the Scottish Parliament in January 2007 shortly thereafter to receive Royal Assent and to become an Act of the Scottish Parliament. At the end of January the actual commencement dates are not known but are likely to be in the course of 2007.

Main Provisions

Part 1 Bail

Sections 1-5 contain provisions about the criteria for:

- granting bail
- specifying bail conditions
- review and appeal

Part 2 Proceedings

This is the major part of the Act and is intended to speed up processes in the summary procedure. This has its origins in the McInnes Report that suggested many reforms that could make our summary courts more efficient.

Part 3 Penalties

Changes include:

- Sheriff's sentencing power in summary procedure increased from 3 months to 12 months
- Procurator Fiscal work orders (10-40 hours) as an alternative to prosecution
- Introduction of fines enforcement officers

Part 4 JP Courts

The Act replaces the District Courts by Justice of the Peace Courts. They will be administered nationally by the Scottish Courts Service instead of by the local authorities. They will belay judges but it is envisaged that they will receive more training and will deal with some cases that would previously been more likely to be dealt with by the sheriff court.

Part 5 Inspection of the Crown Office and Procurator Fiscal Service

This introduces a new inspectorate whose function is to inspect the performance of COPFS. This is analogous to the inspectorates we already have for the police, social work and the prison service.

If you want to learn more about this legislation, contact the Criminal Justice Adviser or find the Act itself on the Scottish Executive website.