



**The Management of Offenders etc. (Scotland) Bill
Stage 1**

SUBMISSION OF EVIDENCE TO JUSTICE 2 COMMITTEE

SACRO welcomes this opportunity to contribute to the Committee's examination of this Bill because it is a significant piece of legislation that has the potential to improve criminal justice services in Scotland. It is important to SACRO not only because we support measures that can help to make our communities safer but also because we are a major service provider. We will be able to deliver more effectively if the environment in which we work encourages improved interagency co-operation in both planning and implementing sound strategies.

This submission follows the order of Sections in the Bill. Where there is no comment on a Section that signifies that we have no views to put forward because we do not have any special knowledge or expertise in the area.

Section 1 Duty to co-operate

SACRO contributed to the Reducing Re-offending Consultation in 2004, by assisting the process itself and in making a full response. We acknowledge that it was a positive exercise and that it exposed some weaknesses in criminal justice services, particularly in that different agencies sometimes appear to work to differing and compartmentalised agendas. That has sometimes resulted in poor information sharing, lack of continuity of service between prison and community and a lack of consistency in strategy across the country.

We, therefore, welcome this requirement on local authorities, the Scottish Executive, the Scottish Prison Service and the proposed new Community Justice Authorities to co-operate.

Sections 2-8 Community Justice Authorities (CJAs)

It appears that, in the first instance, the CJAs' primary responsibilities will relate to planning, co-ordination and performance monitoring. It is clear that the 32 local authorities retain their statutory duties to deliver criminal justice social work services. However, Section 7 allows CJAs to take over functional responsibilities should, at some time in the future, the local authorities deem that to be appropriate.

Strategic Direction

If the CJAs are not to become simply another layer of bureaucracy and conduit of funds to local authorities, they will need strong leadership and direction from Ministers and the non-statutory national advisory body proposed to support them. The strategic direction given to the CJAs and their chief officers will need to be clear if the required plans are to be framed in a way that is likely to bring about change. It is likely that immediate local interests will continue to colour constituent authority approaches and this may present real challenges in terms of reaching consensus on strategic issues. While it is right that local needs be taken into account in the planning process, this should not be allowed to lead to a piecemeal, fragmented approach resulting in significant “post code” variations in services.

Partner Bodies

SACRO particularly welcomes the provision in Section 2 (16) that the CJAs must consult not only the SPS but also “partner bodies”. Chapter 3 of the Executive’s current consultation document on the CJA’s makes it clear that the Police, the Crown Office and the Voluntary Sector must be “important partners in the planning and delivery of more integrated offender management”. Partner bodies will be entitled to be consulted on the area plans and performance reports for each CJA and to be brought within the information-sharing framework for each authority. These proposals should help voluntary sector organisations to contribute more effectively than has been possible to date. The volume and quality of consultation, in our experience, has been variable to date. It has ranged from a full and genuine partnership, through delayed and token arrangements, to virtually none. As a major provider of service in many areas we look forward to contributing at all stages. We are encouraged that the Consultation document’s proposed definition of partner bodies includes voluntary groups in receipt of public funding for working with offenders. SACRO falls into that category and should therefore become a “designated partner body”.

Contracting

Section 3(1) gives CJAs the power to enter into contracts if local authorities wish them to deliver services on their behalf. However, if local authorities do not transfer that responsibility, national voluntary sector providers will still have to enter into separate contracts with a large number of councils, each with its own approaches to purchasing and commissioning services and setting its own requirements in terms of standards. This can be a major burden for the voluntary sector, especially in a regulatory environment where a service like supported accommodation may already be subject to standards set by the Care Commission, The Scottish Social Services Council and Communities Scotland.

We would argue that the CJAs should co-ordinate the arrangements for purchasing services and agree a common framework for working with the Voluntary Sector within the area of their authority.

Chief Officers

We have some difficulty in understanding the intention of Section 4(1)(a). This places a special duty of the chief officer of a community justice authority to report to Scottish Ministers any failings on the part of that authority to exercise its functions. This would mean that the chief officer would be reporting on shortcomings of the body that employs him or her to enable the carrying out of these functions. Is the chief officer's primary duty to the employer or to Ministers?

Sections 9 and 10 Arrangements for assessing and managing risks pose by certain offenders

SACRO welcomes this provision which should consolidate, throughout the country, the kind of best practice that already exists in many areas. SACRO staff frequently work with local authorities in providing services which help to monitor and supervise high-risk offenders. In many instances these staff are part of the information-sharing network and contribute to risk management conferences. However, that has not been universal practice so these sections should help to ensure future arrangements are what they should be.

Section 9(3) provides for Ministers to specify the persons with whom the responsible authorities must co-operate. **SACRO strongly recommends that these persons should include any staff of "partner bodies" engaged in providing a service to the offender concerned.**

Section 11 Home Detention Curfews (HDCs)

SACRO is not opposed in principle to this measure but we believe its limitations should be acknowledged, particularly that tagging by itself does not address the factors associated with offending.

HDCs can fairly be described as a form of executive release that relies on electronic monitoring to restrict movements in the community. The "executive" description points out that the decision to release is taken by a prison manager rather than by automatic release or parole systems. There has been extensive use of this measure in England and Wales so we do know something about what it can and cannot achieve.

In the Policy memorandum that accompanies the Bill, two reasons have been put forward for introducing HDCs:

- To reduce re-offending
- To facilitate better integration of offenders on release.

SACRO is not aware of any evidence that HDCs have a positive impact on re-offending rates. Home Office Research Study 222 (2001) states that "analyses of re-offending suggests the impact is broadly neutral in terms of reconvictions for new offences". This is not surprising given the relatively short periods of early release and

the fact that, as mentioned, tagging by itself does not address the factors associated with offending.

The same Home Office research suggests that there is some evidence that the curfews can help to manage the transition from prison to community. However, it also warned that the English experience of widespread lack of advance notice of the release date and lack of information given to applicants about what HDC would mean for them created real problems. While prisoners were understandably happy to get out early, only good pre-release preparation would facilitate a better transition. Short notice of release would clearly work against that. It should be noted that a considerable proportion of those subject to the curfew in Scotland (those sentenced to less than 4 years) will not be subject to social work supervision so will not receive support unless they go out of their way to seek it.

The one outcome that is most likely to be achieved is that of relieving pressure on prison places. However, the Executive's policy statement does not state this as a policy objective. The English research showed that this could happen and indeed the Executive itself estimates that it could lead to a reduction in population of around 300.

While this is to be welcomed, SACRO argues that the only effective way to tackle the rising prison population is at the "front end", that is through changes in sentencing practice. This will require a specific political decision and political leadership to implement a strategy. Any strategy to change in sentencing practice to reducing the prison population, to be successful, would involve a combination of legislation and guidance from the Appeal Court. HDCs can contribute to slowing the growth of the prison population but on their own would not impact significantly on the goal to reduce re-offending.