



SAFEGUARDING COMMUNITIES – REDUCING OFFENDING

Police, Public Order and Criminal Justice (Scotland) Bill

Thank you for your invitation of 3 October to submit our written views on this piece of legislation.

We will confine our response to two areas, namely, the introduction of football banning orders and the introduction of mandatory drug testing and referral for certain arrested persons.

Introduction of Football Banning Orders

Sacro accepts that violence and racist behaviour may be a serious problem at football grounds in Scotland. Accordingly, we have no objection in principle to the use of Football Banning Orders.

In the case of Orders made following conviction of football related offences in court, we wonder whether existing criminal justice measures might be used. An Order might be made in conjunction with deferring a sentence for good behaviour, for example. Similarly, could an Order be inserted as an additional condition of bail or, indeed as a condition of a probation order?

Introduction of Mandatory Drug Testing and Referral for Certain Arrested Persons

Sacro operates arrest referral schemes in Edinburgh and Lanarkshire and therefore has direct experience of work in this field.

As we understand it, the proposal is, in effect, an attempt to boost the volume of people going into drug treatment services. Arrestees would be required to subject themselves to compulsory drug testing and compulsory assessment for drug dependency.

Sacro has two reservations about these proposals.

Firstly, one of the strengths of the current services is that they are provided on a genuinely voluntary basis to people who have not been convicted of an offence. Their participation or otherwise has no bearing on any subsequent court appearance. This encourages them to trust the service providers and take advantage of the help and treatment offered. Our experience, particularly in Edinburgh where the arrest referral scheme has been established over a considerable period of time, is that there is no shortage of arrestees willing to make use of the services offered. Our experience is that administrative arrangements, including access to arrestees in police stations and court cells, is the most significant factor in service uptake. Where service providers have ready access to arrestees and vice versa, uptake is at a good level.

Secondly, it would appear that the new proposals would require people who have not been convicted of an offence to participate in testing and assessment. We take the view that any participation at this stage in the criminal justice process should be voluntary.

The proposal involves a sanction that in fact could, and probably would, create more offenders out of arrestees with drug problems. To refuse a test would be an offence with a punishment of up to £2,500 or three months imprisonment. Such a proposal runs counter to any attempts on the part of the Scottish Executive to reduce the number of people being sent to prison for short periods. Creating a new imprisonable offence is inconsistent with that policy objective. We believe that criminal justice legislation should meet two criteria. Any new measures should limit state intervention to the minimum necessary and there should be proportionality between the act and the penalty. We believe this proposal fails both these tests.

In conclusion, we would argue that the current arrest referral scheme arrangements are positive and productive and that the proposed measure has the potential for undermining them.