



Summary Justice Review Secretariat
Criminal Procedure Division
Scottish Executive Justice Department
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The Summary Justice Review Committee : Report To Ministers

SACRO Response To Consultation

SACRO welcomes this report for a number of reasons outlined below. Overall, it does appear to offer the prospect of more efficient and effective responses to crime through the increased use of diversionary measures and a more efficient court system without sacrificing fairness. That is clearly to be welcomed.

This response does not attempt to respond to each and every recommendation. Rather, it focuses on issues in which SACRO has some direct interest and knowledge.

Recommendations

22 We recommend that steps are taken to ensure that custody cases are dealt with earlier in the court day. We recommend that the police, procurators fiscal and courts work together closely to identify ways of speeding up the process - and that their joint efforts be monitored by local criminal justice boards.

We welcome the proposal that steps be taken to ensure that custody cases are dealt with earlier in the court day. This would allow bail information and supervision schemes (such as those operated by SACRO with local authorities) to work more effectively by giving sufficient time to investigate suitable alternatives to custodial remand.

23 We recommend discussion between the Crown Office and Procurator Fiscal Service, COSLA and other specialist reporting agencies on what needs to be done to secure the consistently effective prosecution of environmental and other similar regulatory offences.

We strongly endorse the recommendation that alternatives to prosecution should be made more widely available, more flexible and more robust. This would enable the courts to focus on the more rapid handling of serious crimes and offences while giving police and procurators fiscal the range of powers they need to respond quickly and appropriately to minor offences.

We welcome the proposed “opt-out” changes in relation to fixed penalty notices and the raising of the maximum level of fiscal fine and the intention that they should be more effectively enforced. If these measures were to be taken there would be more confidence in measures that make court proceedings unnecessary.

39 *We received very positive feedback from sentencers, procurators fiscal and social workers about the value of diversion schemes and recommend that effective schemes be made available nationally. We note, however, that little has been done to evaluate the costs and benefits of diversion schemes compared with other types of disposals.*

We note that the Committee received very positive feedback about diversion schemes and welcome its recommendation that effective schemes be made available nationally. SACRO provides diversionary Mediation and Reparation schemes in four local authority areas and these are particularly appreciated by procurators fiscal. As yet, funding has not been made available to extend these services to other local authority areas. This fact limits the alternatives open to the fiscals and would work against
The Committee’s push for alternatives for prosecution unless the Executive provides local authorities with the means to deliver this form of diversion.

63 *We recommend that, where possible, all outstanding complaints against an accused should be dealt with in the same court, in most cases preferably the court in whose jurisdiction the accused lives.*

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68 *We recommend that the law be changed to enable all previous convictions to be taken into account irrespective of whether the offences were committed prior to or subsequent to the offence under consideration.*

These recommendations in relation to outstanding complaints are welcomed because they should allow a more rational approach to sentencing. At the present time, an offender may be sentenced to Probation and begin to undergo a programme to challenge and change the offending behaviour, only for it to be interrupted by a new sentence, sometimes in another court and often for an offence that pre-dates the one leading to the original court order. The Committee’s recommendations would encourage sentencers to look at the offending episodes in the context of the whole circumstances of the offender.

115 *We consider that a sentencing information system would have benefits in furthering consistency in sentencing and reducing the phenomenon of "sheriff shopping", thereby encouraging more early pleas. We recommend that this issue be examined further by the Sentencing Commission.*

SACRO shares the Committee’s view that there should be a sentencing information system for the summary courts, building on the model already operating for the High Court. This would encourage consistency in sentencing.

118 *We recommend that social workers be provided with a short summary of the evidence against an accused (similar to that which would be provided to the accused with the complaint) along with a copy of the complaint and details of the accused's previous convictions to assist in the production of accurate SERs.*

We agree that social workers compiling social enquiry reports should be provided with a short summary of the evidence against the accused together with previous conviction information. Not only would this enable better assessments for the court, it would also provide a clear and firm basis for work with offenders subsequently made subject to court orders.

130 *We recommend that the Executive should take responsibility for fine enforcement away from individual courts and bring it together within a single delivery organisation - which could be a separate arm of the Scottish Court Service or a free-standing public sector organisation.*

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134 *We recommend that a thorough examination of the unit fines system should be undertaken in the context of the revised approach to Summary Justice proposed in Scotland.*

These recommendations are also to be welcomed. The credibility of the fine as a sentence is undermined by poor enforcement so an agency dedicated to fines collection could greatly assist.

We also share the Committee's view that there should be a thorough examination of the unit fines system. We take the view that the fine, if related to income, can be the most appropriate sentence in the many cases where more intrusive interventions are unnecessary and potentially damaging.

Susan Matheson
Chief Executive

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