

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

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Date:	Tuesday 14 May 2019
Organisation: (if required)	Sacro
Topic of submission:	Proposal to extend the presumption against short sentences

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JUSTICE COMMITTEE

PRESUMPTION AGAINST SHORT SENTENCES

SUBMISSION FROM [Tom Halpin, Chief Executive, Sacro]

Subtitle (Arial 12, bold, left aligned)

Body text (Arial 12, left aligned)

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Sacro welcomes the opportunity to provide evidence to the Justice Committee on the proposed presumption against short sentences. Sacro has over 40 years' experience working with people who have been sentenced to community based disposals and supporting people who have received short sentences.

1. How the current presumption against short sentences of up to 3 months has worked in practice, including the impact of the presumption on offenders, victims and their families, and criminal justice stakeholders

There is substantial evidence to suggest community-based disposals are better for **families** by reducing disruption and trauma in children and families. Community-based disposals also help to reduce disruption to existing employment, accommodation, medical care and family relationships of **offenders**. The change to a presumption against sentences less than 12 months should increase the number of individuals receiving community based interventions where a positive impact can be made.

Victims: Improved communication between courts, social work and service providers has resulted in improvements in the monitoring and placement of service users, reducing risk to victims. Speed in commencing community based robust and credible interventions are essential to maintaining the confidence of victims.

Presumption against short sentences has created more opportunities for all **stakeholders** to access person-centred, credible community-based services. The third sector has improved its support provision model and is now in a better position to tackle root cause of offending behaviour.

2. The proposed extension of the presumption to sentences of up to 12 months including:

- a. the potential impact of this change on offenders, victims and their families, and criminal justice stakeholders

Offenders: there is a wealth of evidence to suggest that short prison sentences are less effective in changing behaviour and rehabilitating individuals involved in the criminal justice system. Presumption against short sentences will potentially assist individuals retain their accommodation, prevent them accruing rent arrears while in custody, avoid the reclaiming of benefits given the issues associated with universal credit, while access to healthcare and education are also affected. The prospect of undertaking any cognitive behavioural therapy (CBT) or other programmes while serving a short sentence are minimal. The demands placed on an offender while subject to a credible alternative to custody (Community Payback Order or Structured Deferred Sentence) is arguably more demanding and the impact can potentially be longer lasting e.g. facing up to a victim to explain actions as part of a restorative process. The change to a presumption against sentences less than 12 months will increase opportunity to work with individuals who are caught up in the “revolving door” cycle.

Victims: While some victims may not necessarily wish to see an offender receive a custodial sentence, they will want reassurance that they will not be targeted in the future and that the offender is showing genuine remorse for their actions. The provision of robust credible alternatives to custody are critical to maintaining the confidence of victims.

CJ Stakeholders: Shine (national women’s mentoring service) is an excellent example of stakeholders and partners working collectively and collaboratively for positive outcomes through the mentoring process. Presumption against short sentences has the potential to increase the use of credible alternatives and interventions in order to change behaviour and reduce recidivism. There is an opportunity to provide evidence to Sentencers on the value of the presumption against sentences less than 12 months and enhance their confidence in credible alternatives to custody, whereby effective “behaviour change” work can be undertaken.

However, there must be a degree of discretion afforded to sentencers to deal with those offenders who are repeat offenders and are unable or unwilling to comply with community disposals. This is essential to maintain the confidence of both victims and sentencers.

b. the practical and financial impacts of this proposed extension, such as the resources or training that may be required

Resources and investment are required to build in resilience to meet outcomes more effectively. It is important not to assume current providers have capacity to deal with increased numbers of offenders receiving community based sentences.

Community-based services are often reliant on short-term funding cycles. These short terms, typically single year settlements, can be detrimental to sustaining the quality of the service, staff turnover and ultimately, service user experience. It is also difficult to accurately demonstrate the effectiveness of a service over such short time periods. It takes time to achieve outcomes that support sustained change in peoples lives, evaluate services, identify any shortcomings and initiate improvements to a service, Sacro would suggest funding cycles should be set at three years as a minimum. It is imperative that

sentencers have confidence in community-based alternatives to custody and this requires proper evidence of successful service outcomes; that takes time.

There is an opportunity to consider a range of diverse alternatives to imprisonment: Community Payback Order, Drug Treatment and Testing Order, Structured Deferred Sentences with group-work and/or mentoring, making strong links with education and employment. The learning from Community Payback Order is that “speed and immediacy” is effective in engaging with people as soon as possible following sentencing. The framework model of the national Public Social Partnerships in Community Justice i.e Shine New Routes, demonstrates how a nationwide, consistent and effective service can be achieved on a limited budget.

3. Any other views relating to the proposal, for example:

a. whether there are specific offences to which the presumption should not apply

No. There is trust that the court system will get this right and provide community-based disposals appropriately.

b. whether a figure other than 12 months would be more appropriate

Sacro believes 12 months is appropriate but the effectiveness and legitimacy of this approach should be reviewed to consider its impact, outcomes and supporting infrastructure (and reported annually to the Scottish Parliament).

c. whether there should be an outright ban against sentences of a particular length

Every individual case should be taken on its own merit but there is community-based support that Presumption Against Shorter Sentences can be rolled out effectively and an organic approach taken in future, based on a national review and evaluation. The retention and the ability for sentences to impose sentences of less than 12 months by exception is essential to maintaining victim and community confidence.

d. the effectiveness of short prison sentences and community-based alternatives

Short term prison sentencing is less effective and community based alternatives offer a more person-centred option to deliver meaningful and positive outcomes for people. There is a requirement for Criminal Justice and Community Justice agencies to improve their collaboration, improve communications, utilise community assets and improve access to community opportunities. People with lived experience tell us their recovery starts with the positive relations they build with staff they meet and the positive impact this has on the complex issues they face in their lives. People suggest they simply cannot access specialist services they need while serving sentences in prison.

There has been a great deal of learning on what works in relation to community alternatives which can be applied; RNR (risk – need – responsivity) highlighting the importance of the working relationship between worker and offender plus making sure that the intervention is

proportionate to the risk/need. In other words; not putting an individual into an expensive CBT programme if a minimal input would be more effective.

Consideration should also be given to the more effective use of remand, replacing this with bail support and supervision where appropriate - this approach has the potential to also be more effective and reduces the negative impact of short term imprisonment.