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Chief Social Work Officers – by email

Cc JSW Managers, COSLA, SWS, CJS, CJVSF,
SCTS, Care Inspectorate, Judicial Institute, CJP
Co-ordinators and CJP Chairs

18th June 2020

Dear Colleague,

CORONAVIRUS IN SCOTLAND - UPDATE FOR JUSTICE SOCIAL WORK SERVICES ON PRIORITIES AND EXPECTATIONS

Although some restrictions have and will be eased as part of Phases 1 and 2 of Scotland's Route Map through and out of the coronavirus pandemic, there continues to be a significant impact on justice social work services across the country. The dedication and professionalism you and your colleagues demonstrate on an ongoing basis is highly valued and plays a vital role in safeguarding vulnerable individuals and communities.

We know that careful planning will be underway in relation to how services can continue to be delivered and how these may be adapted as restrictions are eased. Consideration will be taking place both in your local area and more widely, with a Justice Social Work Covid-19 Recovery Strategy Group (led by Social Work Scotland) supporting collaboration and development of advice both from an operational perspective and to inform policy around community orders. Wider collaboration and engagement is also being taken forward on a whole range of issues impacting on community justice, including through Community Justice Scotland.

This letter is intended to provide further advice in relation to the delivery of unpaid work; to give an indication of likely developments as work to restart the justice system continues; and to reiterate our support for the continued creative, pragmatic decisions and planning that your services have made while continuing to prioritise risk of harm and the needs of the most vulnerable.

Operation of unpaid work

The delivery of Community Payback Orders with an unpaid work or other activity requirement has, with few exceptions, stopped since the onset of the pandemic. As noted in previous correspondence, the time limit for the completion of this requirement was extended

by 12 months by the Coronavirus (Scotland) Act 2020, ensuring that no orders are inadvertently breached simply as a result of this pause in the delivery of unpaid work programmes.

With pandemic restrictions beginning to be gradually relaxed, we recommend that the delivery of unpaid work and other requirements be restarted, on a limited basis, over the next few weeks.

We do not underestimate the challenges involved in this, and it is anticipated that resumption of unpaid work, as with the easing of restrictions, will be incremental. It is likely that there will need to be a significant reduction in capacity in order to ensure physical distancing and the requisite health and safety measures to ensure both staff and individuals on orders are protected from Covid-19. Based on discussions with Social Work Scotland, we anticipate that during Phase 1 there could be a reduction to approximately 30% of pre-pandemic capacity, given the restrictions on travel and the number of people in work vehicles and on work sites. There might be an increase in requirements for PPE to be available, although we would emphasise that full PPE is only required in a health or social care setting.

We would encourage you to think creatively and take a flexible approach to the distinction between unpaid work and other activity requirements (for example, increasing the use of other activity where possible through online opportunities, or the completion of work books on offending behaviour over the telephone or by post). There may be opportunities for an increase in individual placements through liaison with third sector partners, and we would encourage the continuation of proactive discussions with local Community Justice Partnerships to explore the potential of partner agencies to provide support. The pandemic brings into sharp focus the need for community justice partners to work collectively to find solutions.

If there is clear evidence that certain employment opportunities in an area cannot be filled, it may be appropriate to give consideration to whether unpaid work could be used on a time-limited basis, provided you are satisfied that this is fair to the individual on the order – for example, not preventing them taking up employment - and that it supports a social and economic need locally. An example could be supporting voluntary or third sector agencies which are providing aid and assistance to communities, where appropriate.

However, it is acknowledged that managers in local areas remain best placed to assess what activity can safely and equitably be taken forward, while taking into account best practice and guidance available nationally, and we have confidence that this will be approached in a proportionate, risk-based manner. The work carried out now to explore the extent to which unpaid work can be restarted will be vital in informing future phases of lockdown, and in allowing local authorities to test out what works in the context of Covid-19.

Restarting the justice system

All parts of the justice system are affected by the impact of Covid-19. The resumption of business is likely to be a co-ordinated and gradual one across the country, with ongoing monitoring to ensure that, as far as is possible, one part of the system does not create a capacity issue for another. This is particularly relevant in terms of the restarting of the criminal courts. The Scottish Courts and Tribunals Service (SCTS) is currently putting plans in place to gradually resume solemn and summary criminal business over the coming weeks and months. With the exception of custody courts, which will remain at 15 Hub courts, SCTS expect summary criminal business to move back to their own local courts from the week

commencing 15 June. However, SCTS anticipate that with physical distancing requirements, their building and physical hearing capacity will be reduced by around two thirds in the immediate term. We will continue to work closely with Social Work Scotland and others to contribute to the restarting of the justice system, of which the recovery of justice social work is a critical part.

We also acknowledge the wider impact on and unique role of justice social work and the interruption to normal business caused by Covid-19. For example, Moving Forward: Making Changes and the Caledonian System men's group work will not resume for some time and one-to-one or two-to-one interventions will become the norm for the foreseeable future. Coupled with limited access to office accommodation and interviewing facilities to see individuals, we acknowledge that this will directly impact on capacity and lead to challenges and difficult choices. Third sector partners will continue to play a vital role in the delivery of justice social work services at a time when the collective use and deployment of resources will be imperative. Community Justice Scotland has published some helpful guidance in respect of this: <https://communityjustice.scot/news/covid-19/>

While the process of relaxing the pandemic restrictions has now started, we continue to expect that the timescales set out in national guidance will not be met in all cases and ask that you continue to make risk-based decisions on prioritisation, taking account of risk of harm and vulnerability. As we set out in our letter of 20 March 2020, we wish to reassure you that this will not result in any penalisation or additional scrutiny but ask that you continue to evidence approaches based on risk and the health and safety of staff and service users.

The Scottish Government and Social Work Scotland continue to liaise closely to monitor and manage the impact of Covid-19 on justice social work. For this reason, data on social worker absence and unpaid work is being regularly gathered and analysed. Your assistance with this is very much appreciated at such a challenging time. We know there is ongoing communication by Social Work Scotland with key justice sector agencies, especially SCTS and COPFS. A further letter has been sent by Social Work Scotland to update the Judicial Institute on the impact of Covid-19 on justice social work business as it is critically important that the pressure and challenges facing social work are articulated to and understood by the judiciary.

Additional powers in the Coronavirus (Scotland) Act 2020

Along with provisions to extend unpaid work by 12 months, the Coronavirus (Scotland) Act 2020 enables the Scottish Ministers to, where necessary, vary and revoke orders through secondary legislation. As you will be aware, to date these powers have not been used, and we would stress that any decision to do so will not be taken lightly – the alteration of orders put in place by the courts would not normally be contemplated, and there will rightly be a high bar to the use of such unprecedented measures. To inform our consideration of whether these powers require to be used - which would likely only be in a situation where the backlog of community orders was simply unmanageable and presenting a risk to the continued delivery of high priority services - we will continue to closely monitor capacity levels for justice social work, as well as the anticipated impact of court business, and continue our regular dialogue with Social Work Scotland.

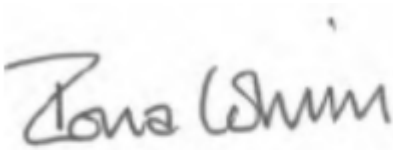
In the event that any of the powers under the 2020 Act were to be used, we would engage closely with Social Work Scotland, COSLA, Community Justice Scotland and other key stakeholders in advance of any regulations being laid in Parliament. Any regulations would, of course, be subject to Parliamentary scrutiny and approval.

Route map – Justice Social Work guidance

The Social Work Scotland Justice Standing Committee is actively developing operational guidance to help local authorities navigate through the different phases of Route Map that was published on 21 May. This will consider the short-term implications for all aspects of JSW business and will draw together examples of flexible and creative practice that are being applied now and in the medium term. This will be issued separately by Social Work Scotland in the near future. It is important that whilst local areas will often need to find local solutions, there is an overarching consistency of approach and that dialogue within and between justice social work services continues to ensure the learning and best practice of delivering services in a Covid-19 environment is available to all.


In the meantime, if you have any queries, these can be directed to cpo@gov.scot, though please note that we are not able to provide advice on individual cases and may not be able to respond immediately to all correspondence.

With thanks and best wishes to you and your colleagues.



Iona Colvin

Chief Social Work Adviser/Interim Director of Children and Families



Neil Rennick

Director for the Justice Directorate