

## PRE-BUDGET SCRUTINY 2021-22

### SUBMISSION FROM SOCIAL WORK SCOTLAND, TO SCOTTISH PARLIAMENT JUSTICE COMMITTEE'S CALL FOR VIEWS

**27.10.2020**

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome this opportunity to feed into the Justice Committee's scrutiny of the Scottish Government's budget for 2021-22.

#### **1. What is your view on the current trends in funding in the justice portfolio and the Scottish Government's rationale for these?**

Social Work Scotland supports the Scottish Government's Community Justice: Reducing Re-offending priorities set out in the Scottish Budget 2020 – 21, with its aim of "increasing the use of community-based interventions and reducing the use of imprisonment"<sup>1</sup>. Research points to "a number of studies (that) have found [...] community sentences are more effective in reducing reoffending than short-term prison sentences"<sup>2</sup>. However, whilst we endorse the presumption against short term sentences (PASS) we do not yet see the paradigm shift required in funding community sentences in Scotland that evidences a commitment to putting policy into practice. At 24 October the prison population was 7,439<sup>3</sup>.

In this current year we welcomed the specific additional funding for the Multi-Agency Public Protection Arrangements (MAPPA), to further extend bail supervision, and to develop or establish structured deferred sentence (SDS) schemes, which came in Part 2 of the grant allocation (referred to as s27) to criminal justice social work (CJSW). Prior to the Coronavirus pandemic there was an increasing focus on expanding early intervention measures such as Diversion from Prosecution and SDS. We support this for many reasons, e.g. they help individuals to avoid unnecessary contact with the criminal justice system and they enable swift interventions which can interrupt a cycle of offending and/or prevent further offending. However, looking ahead, increasing the number of cases without a concomitant increase in resources will undermine the potential for successful interventions. Many of the strategies now in place to deal with the backlog within the justice system

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<sup>1</sup> Scottish Budget 2020-21 (Scottish Government, 2020)

<sup>2</sup> What Works to Reduce Reoffending: A Summary of the Evidence, pp5, Dr. Maria Sapouna et al, Justice Analytical Services, Scottish Government, May 2015

<sup>3</sup> Scottish Prison Service 24/10/20 <https://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>

require heavy input from CJSW, but simultaneously the capacity of CJSW has reduced; (we discuss this further later in this submission).

Moreover, specific programmes of activity require greater investment if they are to deliver socially significant outcomes. For example, work currently underway to implement the expansion of electronic monitoring (EM) capacity, for bail and as a new requirement of a community payback order (CPO), promises to reduce the high numbers on remand in Scotland's prisons and support robust and effective community disposals. However, as the Electronic Monitoring in Scotland Working group report makes clear, "if longer term desistance is required it must be combined with measures which help individuals to change their behaviour"<sup>4</sup>. The expansion of EM will require additional funding to ensure this support is provided by both statutory and Third Sector services. Not to do so risks undermining the efficacy of EM policy.

The Scottish Budget 2020 – 21 refers to "appropriately resourced community-based interventions"<sup>5</sup> in order to achieve the community justice priorities. We argued in our submission to the Justice Committee in September 2019 that "Despite the seismic change in the demands and requirements placed on CJSW since the early 2000s, there has not been a comprehensive review to quantify and accurately cost the component parts of the work CJSW does"<sup>6</sup>. This state of affairs has not changed, and the perspective of CJSW managers and practitioners (the people SWS represents) is that current levels of funding do not accurately reflect the true cost of delivering a Community Justice agenda. This particularly applies to the core of CJSW work, such as CPOs and the associated delivery of programmes such as the Caledonian System for perpetrators of domestic abuse and Moving Forward: Making Changes (MFMC) for sex offenders.

The fact remains that unless and until this systemic underfunding is addressed, the ability of CJSW (in partnership with the third sector) to consistently provide high quality interventions is restricted or reduced. To illustrate, in reference to the Caledonian System mentioned above, funding for the original 13 local authorities involved has flatlined since its inception in 2011. Consequently, one local authority, Falkirk, is dismantling the Forth Valley Programmes team they host (on behalf of Stirling and Clackmannanshire) as the costs of running the service far outweigh the funding received. Falkirk can no longer afford to subsidise the funding from the core CJSW grant allocation. (Moreover, funding from Scottish Government for this flagship programme to tackle domestic abuse is still not available to all 32 local authorities leading to a postcode lottery for perpetrators and victims.) This is not an isolated example.

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<sup>4</sup> Electronic Monitoring in Scotland Working Group, Final Report pp4-5, Scottish Government 2016

<sup>5</sup> Ibid.

<sup>6</sup> Pre-budget scrutiny for 2020-21 Budget Submission from Social Work Scotland 27/9/20

[https://www.parliament.scot/S5\\_JusticeCommittee/General%20Documents/submissions\\_prebudget.pdf](https://www.parliament.scot/S5_JusticeCommittee/General%20Documents/submissions_prebudget.pdf) pp67 – 74

Without question there is a rich and diverse array of services provided by the Third Sector that are available across the country. We support the current delivery model where CJSW services procure and commission services from Third Sector partners according to identified local need and priority, e.g. for employability services for individuals that have offended, mentoring services or offending behaviour programmes. We would welcome increased core funding to CJSW to unlock this potential, building on the community justice partnership model that is now well established, implementing plans which are based on local needs assessments.

## **2. What has been the impact of the current COVID-19 pandemic on the activities of your organisation and its spending requirements?**

Social Work Scotland set out the impact of the pandemic relating to unpaid work in our position paper to the Cabinet Secretary on 16 July<sup>7</sup>. We understand this was forwarded to the Convenor of the Justice Committee on 20 July. We concluded that due to the accruing backlog of hours (now approximately 720,000) and the reduced capacity resulting from Scottish Government restrictions relating to Coronavirus that there was an urgent need to proactively address the pressures faced by CJSW. We made it clear that action was required under the Coronavirus (Scotland) Act 2020 to vary existing orders relating to unpaid work or other activity to the total number of outstanding hours to be worked by 450,000. This remains the case.

However, the pandemic continues to affect all aspects of CJSW business. During the initial phase of lockdown staff, particularly those facilitating unpaid work, were redirected to assist with the emergency response. COVID-19 has reduced our capacity to deliver all services, particularly those which require face-to-face activity or which are difficult with social distancing. Options are also limited by the individual restrictions involved with track and trace, local lockdowns, and pressure on the use of buildings and associated health and safety requirements. This means the number of staff in an office at any one time is reduced by up to two-thirds in order to protect both staff and individuals. Criminal justice social work reports and assessments take longer and whilst many areas have re-started group work this is with much reduced numbers. Some individuals are now finishing their CPOs or prison licence without completing crucial offending related interventions, e.g. sex offending programmes – “*There is accruing evidence that offenders who do not complete treatment are at greater risk of recidivism than those who do complete treatment*”<sup>8</sup>. The Third Sector and other statutory services have been similarly affected.

It is important to remember that when we talk about the ‘resources’ required for most public services we are actually talking about people; bodies on the ground, with the necessary

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<sup>7</sup> Coronavirus (Scotland) Act 2020 Position Paper, Submission from Social Work Scotland to Scottish Government 10/7/20 <https://socialworkscotland.org/briefings/reducing-the-backlog-of-unpaid-work-hours-coronavirus-scotland-act-2020/>

<sup>8</sup> Is treatment non-completion associated with increased reconviction over no treatment? Mary McMurran & Eleni Theodosi, Journal of Psychology, Crime & Law pp333-343, 9/7/07

skills, who can do the work. This is particularly true in CJSW, where typically 70 – 80% of overall budgets is personnel. Whilst private business has the autonomy to reduce their activities (however painful that might be financially), public bodies must still meet their statutory duties, and CJSW cannot reduce the demand on our services.

This will not change in the foreseeable future, and even if a vaccine were available soon, we expect the impact of the 2020 pandemic to affect CJSW capacity and activity throughout 2021/22 at least. Indeed, crucially, the backlog of outstanding court business (due to closures of courts this year) will extend far beyond 2021/22 – modelling<sup>9</sup> seen by SWS suggests that relative to the baseline of 2018/19, for example, there will be a significant year-on-year increase in CPOs until at least 2025 of up to 38%. Therefore, urgent action is required now by the Scottish Parliament to allow all justice sector agencies (a whole system approach is critical) to put plans in place to address the current and looming crisis. From a CJSW perspective, the risk of not doing so will lead to services being overwhelmed, individuals not receiving the vital services and interventions they require with a concomitant increase in the risk of reoffending. This will, in turn, undermine the confidence of the judiciary and the public in community sentences. And we would stress that there is not a viable alternative to community justice. Prisons are not only much more expensive, but also less effective in delivering the changes in individual behaviour a modern criminal justice system must seek to deliver. If we are, collectively, interested in ‘value’ from our public spending, our efforts must be focus on ensuring our community justice infrastructure is fit to meet the demand we put on it.

Over the last few months there has been significant strain in existing CJSW budgets. there have been additional costs to employ temporary, sessional staff to increase capacity in unpaid work squads. This is because CJSW has had to limit the number of individuals a supervisor can safely supervise, and due to a decrease in the availability of individual placements. There have been costs associated with making changes to buildings (new doors, flooring, chairs etc.) to meet health and safety guidance, e.g. increased cost for PPE, cleaning materials, transport for unpaid work, Portaloos (where public toilets are closed), installation of Perspex screens in interview rooms, the upgrading of IT connectivity – Smart Phones and headsets as well as equipment for safe working from home (chairs, desks etc.), increased welfare need and associated payments, predominantly related to mental health and drug and alcohol, and other essentials for individuals (e.g. phone, food etc.).

CJSW continue to use phone and virtual platforms to engage with individuals. However, for the majority of individuals they need to be seen and work needs to be carried out directly with them. We know that this professional relationship is critical to effective interventions<sup>10</sup>.

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<sup>9</sup> SWS acknowledges a degree of caution as to the precise accuracy of the modelling which is unpublished; however, that there will be an impact is undisputed. We urgently call for clear modelling in order to allow agencies to comprehensively plan during and after the pandemic.

<sup>10</sup> For example, see *A desistance paradigm for offender management*, Fergus McNeill, Universities of Glasgow and Strathclyde, Criminology & Criminal Justice. 2006 SAGE Publications

### **3. What is the likely change to your needs in the financial year 2021/22 because of COVID-19 and more generally?**

CJSW will need to manage the balance between the reduced capacity for staff to be in buildings, working from home, and having sufficient staff to cope with the expected increase in workload due to the backlog of court business, on top of the existing backlog of work. There will be the need to increase staffing to meet the demand and the reduced capacity in order to ensure individuals complete their unpaid work hours and receive the interventions on orders that they are assessed as requiring – in the coming year that is likely to mean employing locum social workers, paying existing staff overtime, recruiting additional unpaid work supervisors and para-professionals, commissioning services from the Third Sector etc.

We would argue for an increase in funding to allow plans to be put into action to increase capacity and meet these challenges in order to protect communities, keep victims safe and hold individuals to account. Recent increases in staff costs have been met from wider local authority budgets in some areas, whilst other areas face the prospect of a detrimental impact on non-staff funds/service delivery; some are not filling vacancies due to budget constraints. There have been other ongoing pressures, such as auto-enrolment for pensions which have driven up the cost of employer contributions (£100,000 in one council). The cross-subsidising of CJSW from other budgets is becoming unsustainable, when all public service budgets are under such strain. This is set against a backdrop of prolonged austerity for many parts of local government, with continued year-on-year budget reductions, now coupled with the impact of the pandemic.

As referred to above (in question 1), local authorities were awarded additional funding this year for SDS and bail services. Scottish Government stipulated this could be utilised as a response to the pandemic. This is welcomed but it remains unclear whether this is a recurring amount; this creates uncertainty – some CJSW have created short-term posts funded to March 2021 as a response to the pandemic.

There is also likely to be additional capital expenditure in the year ahead, e.g. additional workshop facilities or to replace existing infrastructure no longer fit for purpose.

The current funding formula was introduced 4 years ago and 2021/22 will be the last year of the transition period to protect those local authorities adversely affected by this, e.g. in one local authority the net reduction in the CJSW Budget from 2016/17, the last year of the old funding model, to 2019/20 was £672,000. The annual funding model currently used is not fit for purpose. It restricts our ability to plan and sustain services, including services purchased from the Third Sector. It leads to short-term contractual arrangements and undermines our ability to retain staff. As an outcome of the comprehensive review of costs associated with Scotland's community justice approach (which we have called for over a number of years), a new funding model should be adopted.

**4. How has your organisation adapted to working during the pandemic, what further changes are needed and what changes are you planning to retain after the pandemic has ended?**

Throughout the national lockdown, except for unpaid work (now restarted), CJSW maintained the delivery of services and continued to manage the risk of individuals, albeit remotely and at a reduced levels focussing on higher risk of harm and the most vulnerable individuals. MAPPA, MARAC (to protect those at risk of domestic abuse) and MATAC (targeting perpetrators of domestic abuse) continued uninterrupted, with meetings moving to virtual platforms or using phone conferencing. However, most offices were shut, and staff worked from home. As indicated above, whilst there has been a return to offices this is at a much-reduced capacity and the mix of home and office work will continue for the foreseeable future. The complex services CJSW deliver legally require specially trained and qualified social workers. However, there is greater capacity to deliver alternative to prosecution and custody services by para-professional staff and/or third sector partners. This will require further structural and financial change, introducing greater flexibility into the system.

CJSW continue to explore the virtual delivery of services. For example, the delivery of the 'other activity' component of an unpaid work requirement through online modules (mental health, employability etc.) which an individual can access from their home and discussions are ongoing with the Third Sector offering advice and guidance as to what is required.

The issue of digital poverty has been highlighted by the pandemic and well-articulated<sup>11</sup>. CJSW are engaged with the development of the virtual custody initiative. We believe there is the scope to further deliver services virtually to individuals. For example, establishing a secure and reliable platform to effectively 'FaceTime' individuals regularly whether they are in prison or the community. This will not be appropriate for all and would require assessment on a case-by-case basis, but for lower risk individuals or where a person has completed interventions and is effectively being monitored this would provide an efficient additional method of supervision, i.e. a blend of contact in person and remotely. This has particular, post-pandemic applicability in remoter rural and island authorities. Ideally, all justice sector agencies should use the same platform for improved reliability and connectivity.

**5. What other matters and pressures on spending do you wish to bring to the attention of the Committee?**

There are risks and opportunities in the urgent drive to 'build back better' across the justice sector. Local authority criminal justice social work will be central to that effort, given the range of statutory responsibilities it has. But securing long-term change requires capacity; people with the skills and time to facilitate the change, and sufficient numbers of people to

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<sup>11</sup> How having a mobile phone can save your life, Karyn McCluskey, The Scotsman 4/5/20

deliver the changed system that we're building. Lack of attention and investment in either of those elements will mean we are left with sound plans but limited success.

We have outlined above some of the many challenges and pressures on CJSW pre-dating coronavirus. These will continue to affect service delivery across Scotland for the foreseeable future, but now with the added complexity of covid-19. If we are truly serious as a nation in creating a modern human rights-based justice system that reflects and addresses the needs of individuals and victims, and one that is evidenced based, we cannot afford to continue to lock up so much resource in prisons. The 2020-21 budget is an opportunity to seize the moment and make the necessary paradigm shift. That requires courage and boldness from our political leaders and representatives; a willingness to stand up to vested interests and a commitment to a fundamental reappraisal of the funding and delivery landscape, led by the evidence and our country's belief in human rights and best value.

For further information, please do not hesitate to contact:

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