

## **DUNDEE CITY COUNCIL**

**REPORT TO:** SOCIAL WORK AND HEALTH COMMITTEE - 23RD FEBRUARY 2009

**REPORT ON:** PROTECTING SCOTLAND'S COMMUNITIES: FAIR, FAST AND FLEXIBLE JUSTICE

**REPORT BY:** DIRECTOR OF SOCIAL WORK

**REPORT NO:** 93 - 2009

### **1.0 PURPOSE OF REPORT**

- 1.1 To inform Committee of the proposals contained in the Scottish Government's report, Protecting Scotland's Communities: Fair, Fast and Flexible Justice, which was published in December 2008 and outlines a coherent offender management strategy. The plan brings together the reforms of the Scottish criminal justice system and the 2007 review of Community Penalties (Report No 130-2008) and the work of the Scottish Prisons Commission (Report No 413-2008).

### **2.0 RECOMMENDATIONS**

- 2.1 Protecting Scotland's Communities outlines the Government's commitment to a policy that will deliver immediate, visible, effective, high quality, flexible and relevant justice which is central to helping communities become stronger, safer places to live. This report highlights the proposed changes, particularly those which will have an impact on service delivery. It is recommended that the Social Work and Health Committee:
- 2.1.1 note the proposals contained in the report and implications for service delivery;
- 2.1.2 endorse the actions being taken locally to implement proposals and improve services within Dundee.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 A number of the recommendations have financial implications for local authorities. Work in relation to this will be progressed as more information on implementation becomes available.

### **4.0 MAIN TEXT**

- 4.1 Protecting Scotland's Communities recognises that communities want to feel safe and have a justice system that is fair, fast-acting and flexible, and has public safety at its core. It recognises, not only the importance of early years and early intervention, but also the critical role the justice system has in breaking the cycle of offending. The report outlines a framework of custodial and community sentences which protects the public by imprisoning those who commit serious crimes, or are a threat, and give communities payback from those who offend against them. It also provides an opportunity for offenders to turn their lives around. The report recognises that the key to successful delivery lies not only with the Government but local authorities, health, third sector providers, Community Justice Authorities and the judiciary.

The recommendations are broadly based around the following themes:

- sentencing;
- community payback;
- managing sentences effectively;
- young people who offend;
- structures, people and communication; and
- community reintegration.

## 4.2 Sentencing

- 4.2.1 There will be legislation to create a judicially-led Scottish Sentencing Council which will develop and oversee a national system of sentencing guidelines to bring greater consistency and transparency to the sentencing process. This body will also take a lead in providing clear information on the sentencing process, and how it operates, in order to inform the public about sentencing policies and decision making.

## 4.3 Community Payback

- 4.3.1 The report recognises that there is a need to provide judges with a clear, flexible community sentencing framework, with custody being used only when it is needed to reflect the seriousness of the offence, and for those who present a risk of harm and community sentences being the norm for less serious offenders. There will be legislation to make it clear that judges should not impose a custodial sentence of six months or less unless the particular circumstances of the case lead them to believe that no other option would be appropriate. If a sentence of six months imprisonment or less is deemed appropriate the sentencing judge will be required to explain in court the circumstances which led them to believe only a custodial sentence could be imposed. Annually, approximately 200 offenders from Dundee are sentenced to six months or less in custody so an increase in the numbers of offenders supervised in the community is anticipated.
- 4.3.2 In addition, the Government plans to introduce a new Community Payback Sentence which will enable the court to impose one or more of a range of requirements on the offender for example, unpaid work, supervision, alcohol/drug interventions or attendance at a specific programme to address offending behaviour. This new, single order will replace Community Service, Probation and Supervised Attendance Orders - approximately 700 such orders are made annually within Dundee. Drug Treatment and Testing Orders and Restriction of Liberty Orders will be retained as separate sentences.
- 4.3.3 These proposals represent a significant change to the way in which sentences are currently imposed and managed and work is underway internally to consider what changes may be required. Steps, including receipt and signature of all Court Orders at the point of sentence and unpaid work availability and instructions in the first week of sentence, have already been taken to enhance the delivery of social work services within the court in order to improve immediacy.

## 4.4 Managing Sentences Effectively

- 4.4.1 The report recognises that judges can make a considerable contribution to the successful completion of community sentences, primarily by regularly reviewing progress which can serve both to motivate and offer encouragement, or identify potential problems. Scope already exists to allow judges to set review hearings for a number of sentences, particularly drug treatment and testing orders, and legislation will be introduced to ensure these hearings can be set whenever a Community Payback Sentence is given. In addition, there is recognition that breaches of a sentence should result in swift and effective action and that judges need to have a range of sanctions available to them. It is therefore proposed to make it possible for the court to impose a curfew condition, monitored electronically, in situations of breach. This recognises that not every breach constitutes a risk to public safety but that compliance with community sentences is not optional.

## 4.5 Young people who offend

- 4.5.1 The report outlines the Government's commitment to continuing to strengthen the Children's Hearing System, and recognises the complexities involved in dealing with young people who offend in the criminal justice system. Further work will therefore be undertaken to explore the recommendation of the Prisons Commission in relation to establishing a specialist hearing for 16 and 17 year olds. Around ten 16/17 year olds are sentenced to custody annually from Dundee.
- 4.5.2 It is recognised that some young people cannot remain in their communities because of the risks they present, and they may need to be managed within a secure environment however, the Government believe there should never be a need to send children to prison given the range of alternatives which are currently available. The Government will therefore abolish the legislation that allows for 14 and 15 year olds to be remanded to adult prisons. The intention is to place all sentenced under 16s in secure accommodation and,

wherever possible, retain them there until they are 18. The next area of focus will be 16 and 17 year olds in custody specifically around trying to ensure that they are kept separate from adults. No children from Dundee were placed in prison during 2008.

#### **4.6      Structures, People and Communications**

- 4.6.1      The Report confirms that there are no plans for major structural changes, and no need to create another criminal justice body given the recent significant investment in reconfiguring the strategic oversight of offender management in Scotland which involved the creation of Community Justice Authorities and the establishment of the National Advisory Body. The Convener of Social Work and Health in her role as Convener of the Community Justice Authorities and the Director of Social Work continue to be members of the National Advisory Body.
- 4.6.2      There is, however, a recognition that Social Work resources and social workers are valuable and finite resources. There is a need to make best use of them and ensure that the services delivered are flexible enough to allow for a proportionate response to the differing risks and needs presented by offenders. Work is ongoing within Criminal Justice Services to review the roles and functions of social workers and those of para professionals. In addition, the Tayside Criminal Justice Partnership is reviewing the availability and delivery of specialist treatment programmes.
- 4.6.3      The report again highlights the importance of informing the public of the work being undertaken in relation to offender management. This has been an area of priority and Criminal Justice Services have promoted their work in the media, both locally and nationally. In addition, staff from the service have been to all the local community planning partnerships across Dundee to discuss potential opportunities for Community Service projects and the Service has recently distributed its first newsletter which focuses on the work being undertaken across the City by Community Service. It is hoped that this approach will be further developed through the Community Justice Authority.

#### **4.7      Community Reintegration**

- 4.7.1      The report recognises that reducing re-offending and stopping people coming into the criminal justice system cannot be achieved through criminal justice interventions alone. Strategies aimed at redressing the inequalities created by poverty and poor health also needs to consider the needs of offenders. Early intervention strategies continue to be a priority and there needs to be clear linkage between strategies for youth and adult justice. Locally this is achieved through the Youth Justice Strategy Group, which includes representation from all key agencies.
- 4.7.2      Community Justice Authorities have been tasked with developing and delivering local plans aimed at reducing re-offending and are working closely with health, third sector agencies and the full range of criminal justice agencies to achieve this across Tayside. In addition, there is representation on the Community Safety Partnership.

### **5.0      POLICY IMPLICATIONS**

- 5.1      This report has been screened for any policy implications in relation to sustainability, strategic environmental assessment, anti-poverty, equality impact assessment and risk management.

There are no major issues.

### **6.0      CONSULTATIONS**

- 6.1      The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance and the other authorities in the Tayside Partnership have been consulted in preparation of this report.

### **7.0      BACKGROUND PAPERS**

- 7.1      Scotland's Choice - report of the Scottish Prisons Commission July 2008, and the Scottish Government's Protecting Scotland's Communities: Fair, Fast and Flexible Justice December 2008 were consulted in the preparation of this report.

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DATE: 27th January 2009