Justice Committee

Community Justice (Scotland) Bill

Written submission from the Criminal Justice Voluntary Sector Forum

Introduction

1. We welcome the opportunity to provide input to this Call for Evidence and trust that our response will be of use and interest to the Justice Committee. Our response has been developed through discussions with our members, drawing on their experience of working closely with individuals, families and communities affected by the community justice system. Our previous consultation responses in relation to the community justice reforms are available on our website[1].

About CJVSF

2. The Criminal Justice Voluntary Sector Forum (CJVSF) is a collaboration of voluntary sector organisations working in the field of criminal justice[2]. CJVSF aims to:

- Support voluntary sector providers to continuously improve their own criminal justice services through collaboration and sharing of good practice
- Assist voluntary sector providers to understand, navigate and influence the complex and changing environment in which they operate
- Promote broader awareness of the activities, value and impact of Third Sector services within criminal justice.

3. CJVSF is hosted by the Coalition of Care and Support Providers in Scotland (CCPS) and receives financial support from The Robertson Trust and The Monument Trust. Further information about the Forum can be found on our website[3].

Summary of the main issues

4. Having reviewed the Community Justice (Scotland) Bill and accompanying documents, CJVSF believes that the main issues relate to:

- Engagement with individuals and families affected by the community justice system
- Engagement with Third Sector providers
- Commissioning arrangements
- Accountability.

Engagement with individuals and families

5. In principle, linking community justice in to community planning offers the opportunity to put the person at the centre and to enable local discussions and collaboration to take place more effectively around different life stages. CJVSF members raised concerns, however, that their experience of Community Planning Partnerships (CPPs) in relation to other policy areas is that this does not always happen in practice, with inconsistent engagement between CPPs and those using

[1] http://www.ccpscotland.org/cjvsf/hot-topics/redesigning-community-justice-system/
[2] A list of our current members can be found at: http://www.ccpscotland.org/cjvsf/cjvsf/cjvsf-members/
[3] http://www.ccpscotland.org/cjvsf/

and providing local services. The Bill specifies the statutory partners which will need to be engaged in local planning for community justice, however it does not clarify the routes by which people using services will be engaged in the new model. Given the ambition for a more collaborative approach, we would be keen to see the stated statutory Community Justice Partners having a specific role in facilitating the engagement of individuals and families affected by the community justice system.

Engagement with Third Sector service providers

6. Third Sector providers currently contribute to CJA planning activities and deliver a wide range of community justice services at both a local and national level. We are therefore concerned that the Third Sector is not listed as a Community Justice Partner within the Bill.

7. The Bill places a requirement on statutory partners to *consult* with 'community bodies' which they think are relevant for their local area but, if the legislation is to contribute to a more collaborative way of working, this will require a much higher level of engagement than consultation. Current guidance on engagement[4], developed for Health Boards and Third Sector providers, states: *"full engagement of Third Sector organisations means that they must be treated as partners in the planning, design and delivery of public services. They must therefore be an integrated part of the structures that support these functions."* CJVSF agrees with this view and would therefore support the strengthening of the Bill, to bring it in line with other legislation (e.g. the Children and Young People (Scotland) Act 2014 and the Public Bodies (Joint Working)(Scotland) Act 2014), so that it supports stronger engagement of Third Sector partners in the planning, design and delivery of community justice services. We suggest a 'duty to engage' should also be added, to ensure that statutory partners have a responsibility to facilitate the engagement of relevant Third Sector partners.

8. Greater clarity about how the national body will engage with Third Sector providers would also be welcomed.

Commissioning arrangements

9. The current uncertainty over future commissioning structures is creating challenges for Third Sector providers in relation to future planning and the sustainability of their services and we are keen to see this resolved as soon as possible. At both a national and a local level, those using and delivering services need to be fully engaged in strategic commissioning activities. Clear engagement pathways therefore need to be built in to the relevant structures.

10. At present, a number of Third Sector service providers deliver national programmes and it would not be an effective nor efficient use of resources for a service provider to engage with 32 different commissioning structures in order to deliver a nationwide programme. We therefore welcome the proposals to provide for commissioning at a national level as well as at a local level but are currently unclear about how this would work in practice.

Accountability

11. Whilst we support the ambition for local responsibility, it is not clear from the Bill what checks and balances are in place (or will be put in place) to improve the current

[4] Action Group on Improving Engagement between Health Boards and the Third Sector (2013), *The Engagement Matrix*, Available at: http://www.vhscotland.org.uk/engagement-matrix/

system. The Bill states that the role of the national body will be to suggest improvements, but that it will be up to local statutory Community Justice Partners to decide whether or not to act on these suggestions. The Policy Memorandum (para 107.) notes, *"ultimately, any serious and persistent performance concerns could be taken forward on a case-by-case basis with reference to the relevant accountability structures for the partners concerned"*. Audit Scotland has, however, previously highlighted concerns around current accountability arrangements for CPPs (e.g. Audit Scotland, 2011[5]; Audit Scotland, 2013[6]) and CJVSF would like greater clarity over accountability arrangements and what will happen if sufficient progress towards outcomes is not made at a local level.

Responses to the Call for Evidence Questions

Q1. Will the proposals in the Bill transform the community justice system in the way envisaged by the Commission on Women Offenders in its 2012 report, such as addressing the weaknesses identified in the current model, tackling reoffending and reducing the prison population?

12. In order to answer this question, we have reviewed the specific weaknesses identified by the Commission on Women Offenders (in Chapter 9 of the Commission's report) and considered how each of these compare to the proposals set out in the Bill. If these weaknesses were effectively addressed, we believe that the new model could help to achieve better outcomes for individuals and families affected by the community justice system and address some of the structural inequalities in the justice system. This in turn would be expected to lead to a reduction in reoffending and in the prison population. In addition to the structural reforms proposed in the Bill, there will be a number of other factors that will contribute to whether or not these outcomes are achieved. For example the use of remand, the use of diversion, improved funding arrangements, stronger performance management and improvements in working practice. Consideration therefore also needs to be given to what other changes may need to take place in Scotland in order to achieve the stated ambitions for community justice.

Weakness identified by the Angiolini commission: *Cluttered landscape*	
What needs to be improved to address this weakness?	Introduce more streamlined structures, which support collaboration and partnership working
To what extent are the proposals in the Bill likely to address this weakness?	The Bill states a national body will be established and, at a local level, statutory community justice partners will be responsible for preparing, delivering and reviewing a Community Justice Outcomes Improvement Plan for their local area. We understand that it will be up to local partners to decide the most appropriate structures for planning community justice services in their area. Not all of the Community Justice Partners listed in the Community Justice (Scotland) Bill are Community Planning Partners (e.g. the Scottish Courts and Tribunals Service). CJVSF members therefore had questions about how the local Community Justice Partnerships will link with existing community planning structures in each local

[5] Audit Scotland (2011) *The role of community planning partnerships in economic development*. Available at: http://www.audit-scotland.gov.uk/docs/central/2011/nr_111103_community_planning.pdf
[6] Audit Scotland (2013) *Improving community planning in Scotland.* Available at: http://www.auditscotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf

	area. We would welcome greater clarity around this. In principle, linking community justice in to community planning offers the opportunity to put the person at the centre and to enable local discussions and collaboration to take place more effectively around different life stages (e.g. young people in transition, adults of working age, older population). CJVSF members raised concerns, however, that their experience of CPPs in relation to other policy areas is that this does not always happen in practice, with inconsistent engagement between CPPs and those using and providing local services. The Commission on Women Offenders was clear that, in order to transform the community justice system, the structures need to be designed to ensure local liaison and joint working. The Christie Commission (2011, p42)[7] also observed that, *"What has long been identified as a key issue is that at a reasonably local level, the relevant public service organisations should be able to come together to work in partnership, to design and deliver an integrated pattern of service provision for the area. In doing so, they should involve fully the local public and communities (as discussed in Chapter 4), along with other stakeholders including the third and private sectors"*. The Community Justice (Scotland) Bill specifies the statutory partners which will need to be engaged in local planning for community justice, however it does not clarify the routes by which Third Sector service providers and people using services will be engaged in the new model. In the Scottish Government's response to the Future Model for Community Justice Consultation Responses, there was an explicit recognition of the contribution that the Third Sector makes towards delivering positive community justice related outcomes and the need for Third Sector service providers to be fully engaged in the development and delivery of a local community justice plan. From the Bill, however, CJVSF members are unclear how the proposed structures will support better engagement and who Third Sector providers should be engaging with in relation to community justice strategic planning. With potentially 32 new Community Justice Partnership structures (one in each CPP area) being established, in comparison to 8 CJAs, this could become a very complex system and a more cluttered landscape for Third Sector providers and people using services to navigate. In addition to 'community justice-specific' services, the new model should also ensure that a wider range of service providers (for example, those working in housing, substance misuse, family support) are engaged, since they too will have an important role to play in improving outcomes for people. In Annex A, we have collated some examples from other pieces of legislation, which may be useful for providing ideas for how the Community Justice (Scotland) Bill could be strengthened in relation to Third Sector engagement. As can be seen, in both the Children and Young People (Scotland) Act 2014 and the Public Bodies (Joint Working) (Scotland) Act 2014, explicit reference is made to the need to engage with Third Sector providers in relation to strategic planning of services. This is in line with the recommendations from the Christie Commission. We recommend that the Community Justice Bill should be amended to include this requirement as well.

Weakness identified by the Angiolini commission: *Short-term funding*	
What needs to be improved to address this	Improved funding and commissioning systems which support the sustainability of services

[7] The Commission on the Future Delivery of Public Services (2011) *The Commission on the Future Delivery of Public Services Report*. Available at: http://www.gov.scot/resource/doc/352649/0118638.pdf

weakness?	Improved systems and processes for measuring impact
To what extent are the proposals in the Bill likely to address this weakness?	*Short term funding* Currently, many Third Sector organisations are given short term funding which creates uncertainty around sustainable service provision. This impacts on service planning as well as staff turnover and morale, which in turn can have a negative impact on those using the service. The uncertainty also creates a lack of confidence amongst sentencers and other partners about the future availability of the service and therefore acts as a barrier to (i) partnership working (ii) increasing the use of viable community alternatives to custody. CJVSF members are keen to see the new model being used to improve sustainability of services in the medium term, with an increasing emphasis on supporting the reallocation of resources towards preventative activities. The Bill does not state how often the local Community Justice Outcomes Improvement Plans will be developed/reviewed nor what the link will be between the funding system and the improvement plans. At present, it is therefore not clear on what basis funding will be allocated to services and whether or not this current weakness in the system will be addressed by the new model. *Funding systems* The way in which funding is currently secured can act as a barrier to partnership working, since it is often through a competitive tendering process which pushes service providers in to a competitive, rather than a collaborative relationship. The Bill does not specify how the funding system will operate under the new model and we would welcome more detail on this, particularly in terms of how the funding system will link to the local Community Justice Outcomes Improvement Plans. The Financial Memorandum accompanying the Bill (p15, Schedule 2, part 1, paragraph 1) states that section 27 funding will flow directly from the Scottish Ministers to local authorities. CJVSF members raised concerns about this, and the impact it was likely to have on the Third Sector and its partnership working with statutory bodies. Third sector organisations have increasingly seen virement of section 27 funding from non-core to core activities, without a robust, transparent evidence base demonstrating that these decisions provide best value for money. They raised concerns that funding for non-statutory services may decrease further under this proposal. From the Financial Memorandum (p25, Table D), we understand that the national body (CJS) will have a budget to procure services at a national level and that this funding will be used to administer existing national programmes (currently administered by the Scottish Government). We are unclear whether the new funding system will enable CJS to procure other services that are identified as being more effectively delivered at a national level, or whether there is an expectation that local community justice partners in each area will cover the costs of these services between them. Further information about how funding of national services would work in practice would therefore be welcomed. The Policy Memorandum accompanying the Bill (p19, para 109) also makes reference to an Innovation Fund being established. We would welcome more information about how this would be used to promote innovative practice. *Impact measurement* Impact measurement will be determined by the National Performance Framework for Community Justice. This offers an opportunity for more consistent, higher quality evidence gathering of impacts and the Framework should link clearly to the new funding system. At this early stage of the Framework's development, it is too early to say to what extent the Framework will be able to adequately

	address this weakness in the current system but CJVSF would be keen to see the Performance Framework including person-centred outcomes, as well as process related ones. The National Performance Framework will need to link clearly to the national strategy and we would welcome more detail about how performance of all community justice services (both statutory and non-statutory) will be monitored and evaluated to help inform quality improvements. In particular, we would like to see involvement of those using services in monitoring and evaluation activities. The Bill states that CJS will have a role in receiving reports and in providing reports of its own, but it is unclear how these reports will be scrutinised or audited. We would welcome greater clarity around this.

Weakness identified by the Angiolini commission: *Lack of accountability and leadership*	
What needs to be improved to address this weakness?	The new structures need to have clear accountability and enable strategic leadership.
To what extent are the proposals in the Bill likely to address this weakness?	*Accountability* CJVSF members highlighted concerns about a lack of accountability within the Bill. The Policy Memorandum (para 107.) notes, *"ultimately, any serious and persistent performance concerns could be taken forward on a case-by-case basis with reference to the relevant accountability structures for the partners concerned"*. Audit Scotland has, however, previously highlighted concerns around current accountability arrangements for CPPs (e.g. Audit Scotland, 2011[8]; Audit Scotland, 2013[9]) and CJVSF would like greater clarity over what will happen if sufficient progress towards outcomes is not made at a local level. *Strategic leadership* The legislation focuses on reporting requirements and we welcome the ambition for a national strategy, which has buy-in from all relevant stakeholders. We are less clear, however, about the ability that the national body will have to drive forward significant improvements, since they will not have the power to hold local partners to account. At a local level, there is a risk that the expertise developed by the CJAs is lost in the transition and that this impacts negatively on leadership and strategic direction within community justice. Consideration should therefore be given to how we can best mitigate against this risk and support the development of strong strategic leadership at both national and local levels. We would also welcome clarification about the role, if any, that elected officials will play in the new local structures.

Weakness identified by the Angiolini commission: *Inconsistent service provision across Scotland*	
What needs to be improved to address this weakness?	Strategic planning of services at a national level, to ensure consistency of provision
To what extent are the	CJVSF would like to see equality of service across Scotland, with a consistent drive to enhance quality and to take a person-centred approach so that services

[8] Audit Scotland (2011) *The role of community planning partnerships in economic development*. Available at: http://www.audit-scotland.gov.uk/docs/central/2011/nr_111103_community_planning.pdf
[9] Audit Scotland (2013) *Improving community planning in Scotland*. Available at: http://www.auditscotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf

proposals in the Bill likely to address this weakness?	are led by the needs of service users, rather than the needs of community justice agencies. The proposal to introduce a collaborative planning process for services is therefore to be welcomed although, as stated above, it is vital that this process fully involves those accessing and delivering services as well as statutory community justice partners. People using services and Third Sector providers can play a valuable role in identifying service gaps, providing evidence of need and sharing good practice in relation to service provision. In order to enable this, the proposed structures need to have clearer routes for stronger engagement with Third Sector providers and service users. Engaging with up to 32 different commissioning and procurement processes across the country is likely to have significant resourcing issues for Third Sector organisations and there is a risk that inconsistencies in service provision grow, rather than decrease. It would therefore be helpful to have greater clarity around how common needs across different CPP areas will be identified and what the process will be for commissioning services that may be more effectively delivered across multiple areas. There is also a need to continually strive for higher and more consistent *quality* of services. There is already a strong international evidence base around what works in relation to reducing reoffending and it is good to see recognition of the need to embed the evidence base and what works within practice and to continue developing the evidence base over time. We would anticipate that this approach could help to raise quality standards across the sector although it is less clear to what extent the legislation will help to drive changes in practice in relation to evidence use.

Q2. Are you content that the definition of 'community justice' in the Bill is appropriate?

13. The definition currently covers many of the activities that take place within community justice and the role of different community justice partners from the public sector, Third Sector and private sectors. The definition could be enhanced by:

- **Ensuring that the definition has a clear focus on improving outcomes for people and meeting their individual needs**
- **Changing 'offenders' to 'people with convictions'** – There has been work undertaken recently in Scotland in relation to labelling and a move away from the term 'offenders'. It would be helpful to ensure that future legislation also supports this move.
- **Ensuring the definition also captures activities that take place to support other people affected by the community justice system** – For example, children and families of people with convictions, victims of crime and witnesses.
- **Ensuring that there is a clear reference to entry point in to the community justice system** – The definition would benefit from taking a more preventative approach to community justice. We would also be keen to see an explicit link between community justice and youth justice to help ensure that these activities are more strongly connected.
- **Clarifying what is meant by 'general services'**. In the Bill, the definition for 'general services' is given as *'services and support provided to people generally'*. It would be helpful if this definition could be clarified, to give a better indication of the range of services that this covers.

Q3. Will the proposals for a new national body (Community Justice Scotland) lead to improvements in areas such as leadership, oversight, identification of best practice and the commissioning of services?

14. As discussed in our response to Q1, whether or not the new body leads to improvements will be dependent on a number of factors, many of which sit outside the content of the Bill. These include, for example, how well designed the strategy and performance framework are, the staffing of the national body, the relationships that develop between community justice partners and the activities undertaken by the National Hub to support changes in working practice.

15. Across all the national body's proposed functions, we would welcome greater clarity and detail around the powers and responsibilities that CJS will have, to help us better understand the extent to which it is likely to be able to drive improvements.

Q4. Taking into account the reforms set out in the Community Empowerment (Scotland) Bill relating to Community Planning Partnerships, will Community Justice Partners have the powers, duties and structures required to effectively perform their proposed role in relation to community justice?

The role of Community Justice Partners in relation to community justice

16. The Bill states that local statutory Community Justice Partners will be responsible for preparing, delivering and reviewing a Community Justice Outcomes Improvement Plan for their local area. Community Planning Partnerships are not mentioned in the Bill and this has created some confusion amongst Third Sector providers (and other community justice stakeholders) about the proposed roles of the Community Justice Partners and the role of the CPPs. We suggest that this needs to be clarified as soon as possible in order to assist local areas with developing the appropriate arrangements.

17. Given the ambition for a more collaborative approach, we would also be keen to see the stated statutory Community Justice Partners having a role in facilitating the engagement of other community justice stakeholders (individuals and families affected by the community justice system, Third Sector service providers, etc.).

The powers of Community Justice Partners

18. We are unclear from the Bill what new powers (if any) the statutory Community Justice Partners will have in relation to community justice.

The duties of Community Justice Partners

19. The Bill states that statutory Community Justice Partners will have the following duties:

- In exercising their functions in relation to community justice in a local area, partners must have regard to the Community Justice Outcomes Improvement Plan for the area
- Each of the Community Justice Partners must, so far as reasonably practicable, co-operate with each other in the exercise of their respective functions in relation to community justice.

20. The redesign of the community justice system in Scotland offers an opportunity to ensure that the new structures are designed around the needs of those affected by the community justice system. Given the important contribution

that individuals and families affected by the community justice system and Third Sector staff supporting them can make to community justice in Scotland, we are concerned that there will be no duty on statutory partners to actively engage these people in the planning and delivery of services. This is at odds with legislation in other policy areas (e.g. children's services planning, health and social care services planning) and with the general principles of public services reform. At present, the Bill states that the local statutory community justice partners will need to *consult* 'community bodies' which they think are relevant for their local area. Third sector providers have a critical role to play in the strategic commissioning process, providing valuable evidence about local needs, availability of existing provision and what works in relation to supporting people with convictions, their families and victims and witnesses of crime. Audit Scotland (2012, p27)[10] found that 30% of services listed in the 'National Directory of Services for Offenders' are provided by Third Sector organisations. This contribution should be recognised when designing and planning community justice at both a national and local level.

21. It is vital that the new structures for community justice recognise and make best use of the assets available in the Third Sector, in order to improve outcomes for individuals, families and communities. This will require a much higher level of engagement than consultation. Current guidance on engagement[11], developed for Health Boards and Third Sector providers, states: *"full engagement of Third Sector organisations means that they must be treated as partners in the planning, design and delivery of public services. They must therefore be an integrated part of the structures that support these functions."* CJVSF agrees with this view and would therefore support the strengthening of the Bill, to bring it in line with other legislation, so that it supports stronger engagement of Third Sector partners in the planning, design and delivery of community justice services. We suggest that a further 'duty to engage' should also be added, to ensure that Community Justice Partners have a responsibility to facilitate the engagement of other individuals, families and organisations that can contribute to positive outcomes for those affected by the community justice system.

The structures for Community Justice Partners

22. Comments on the proposed structures are provided in the first table in our response to Q1.

Q5. Does the Bill achieve the right balance between national and local responsibility?

23. Whilst we support the ambition for local responsibility, it is not clear from the Bill what checks and balances are in place (or will be put in place) to improve the current system. The Bill states that the role of the national body will be to suggest improvements, but that it will be up to local Community Justice Partners to decide whether or not to act on these suggestions. CJVSF members raised concerns about what might happen if progress towards improved outcomes is not occurring in a local area. Who will be responsible for ensuring that individuals and families caught up in the community justice system receive the appropriate support that they require and how will individual partners/partnerships be held to account?

[10] Audit Scotland (2012) *Reducing Reoffending in Scotland*. Available at: http://www.audit-scotland.gov.uk/docs/central/2012/nr_121107_reducing_reoffending.pdf

[11] Action Group on Improving Engagement between Health Boards and the Third Sector (2013), *The Engagement Matrix*, Available at: http://www.vhscotland.org.uk/engagement-matrix/

24. Activities at a local level also need to be joined up at a national level, and the structures should enable cross-boundary collaboration and build on best practice. Again, this will require clarity over links and engagement routes.

Q6. Will the proposed reforms support improvement in terms of:

(a) leadership, strategic direction and planning?

25. As highlighted above, we welcome the move towards collaborative strategic planning for community justice services but this planning process must fully involve those accessing services and providing services if it is to lead to the desired improvements.

(b) consultation and accountability?

26. As discussed above, consultation will not be sufficient to bring about transformational change. The Bill needs to be strengthened to ensure it enables the full, active involvement of people affected by the community justice system and those supporting them.

27. As set out in our response to Q1, we continue to have concerns around accountability. If individuals and families are not receiving the support they require, there needs to be a clear line of accountability so that problems can be swiftly resolved.

(c) partnership and collaboration?

28. CJVSF members noted that, from their experience, partnership and collaboration is dependent upon strong individual relationships based on trust and open communication as well as a common purpose. The purpose of this redesign is to improve outcomes for people affected by the community justice system (including victims of crime, witnesses, people with convictions, families and other members of the local community), and this ambition is warmly welcomed. This purpose needs to be explicitly set out in all the work being undertaken as part of the redesign.

29. The Policy Memorandum accompanying the Bill (page 1, paragraph 5) states that, *"Successful delivery of better outcomes for victims, offenders and communities relies therefore on a wide partnership of agencies and services working together, engaging with local communities and listening to the voices of those affected by offending."* The redesign offers an opportunity to enhance the relationship and collaboration between statutory and Third Sector partners, however CJVSF members are not clear from the Bill how the proposed reforms will support this ambition or what role the Third Sector will be expected to play in the new system. Greater clarity of the Third Sector's role as a community justice partner is required within the legislation in order to support a more collaborative approach. We would also welcome the development of a set of clear principles of collaboration, based on evidence of need and putting the person at the heart of the process, to be developed and included in the guidance.

(d) commissioning of services and achieving best value for money?

30. It is important that a distinction is made between 'strategic commissioning' and 'procurement'. We would suggest that the definition used by the Scottish Government, COSLA and NHS Scotland in relation to Joint Strategic Commissioning across health and social care may be helpful in this regard: *"Strategic commissioning is the term used for all the activities involved in assessing and forecasting needs,*

links investment to agreed desired outcomes, considering options, planning the nature, range and quality of future services and working in partnership to put these in place. Joint commissioning is where these actions are undertaken by two or more agencies working together, typically health and local government, and often from a pooled or aligned budget."[12]

31. The current uncertainty over future commissioning structures is creating challenges for Third Sector providers in relation to future planning and the sustainability of their services and we are keen to see this resolved as soon as possible. At present, a number of Third Sector service providers deliver national programmes and it would not be an effective nor efficient use of resources for a service provider to engage with 32 different commissioning structures in order to deliver a nationwide programme. We therefore welcome the proposals to provide for commissioning at a national level as well as at a local level but are currently unclear about how this would work in practice. Similar to our comments about commissioning at a local level, it will be important to ensure that service users and Third Sector providers are fully engaged in national level commissioning activities. CJVSF would be happy to work with CJS to support this engagement.

32. There will also be situations where it is more appropriate and better value for money to commission services across multiple CPP areas, so the new structures must be flexible enough to enable that.

Q7. Are the resources, as set out in the Financial Memorandum, sufficient to transform the community justice system in the way envisaged by the Commission on Women Offenders in its 2012 report?

33. Until the functions of the new body are agreed in more detail, it is difficult to define whether the resources will be appropriate for the operation of the body itself. Consideration will also need to be given to the resourcing that will be required at a local level to support the delivery of the new system beyond the transition period.

34. Most importantly, consideration needs to be given to the allocation of resources for delivering high quality, sustainable services that deliver positive outcomes for people. It is not clear from the Financial Memorandum what resources will be available for this purpose.

Q8. Is the timetable for moving to the new arrangements by 1 April 2017 achievable?

35. Views about the timetable were mixed amongst CJVSF members, with many noting that the lack of clarity around future commissioning makes it very difficult for planning and developing services and keen to see this resolved as quickly as possible. Others suggested a longer timetable may be required, to ensure sufficient time for the legislation to be clarified and relevant resources (e.g. the National Strategy and Performance Framework) to be developed before appropriate structures and processes can be put in place and embedded at a local level.

36. It is also important to remember that the transition to the new community justice system is not happening in isolation. Other major public services reforms are also taking place, for example Health and Social Care Integration and Children's Services

[12] Taken from, *'Joint Strategic Commissioning – a Definition'*. Available to download from: http://www.jitscotland.org.uk/action-areas/commissioning/

Planning. It is essential that sufficient time is therefore devoted to ensuring that these different systems are integrated and engaged with each other.

Q9. Could the proposals in the Bill be improved and, if so, how?

37. As discussed above, the Bill could be improved by:

- Ensuring that it enables full participation of individuals and families affected by the community justice system in the planning, design, delivery and evaluation of community justice services
- Ensuring that it enables full participation of Third Sector service providers in the planning, design, delivery and evaluation of community justice services
- Testing the proposals against the 4 pillars of public services reform set out by the Christie Commission: (i) decisive shift towards prevention; (ii) greater focus on 'place' to drive better partnership, collaboration and local delivery; (iii) investing in people who deliver services through enhanced workforce development and effective leadership; and (iv) more transparent public service culture which improves standards of performance
- Clarifying commissioning arrangements for community justice services
- Clarifying accountability arrangements for community justice services.

Annex A: Examples of Third Sector inclusion in other legislation

How is the Third Sector defined/included in different pieces of legislation?		
Legislation	**Examples from relevant legislation**	**Relevant part(s) of legislation**
Public Bodies (Joint Working) (Scotland) Act 2014[13]	Third sector organisations are included as **service providers** in the legislation: • Commercial and non-commercial providers of health care • Commercial and non-commercial providers of social care. For the purposes of this Act, a provider of a service is a "commercial" provider if the aim of the person in providing the service is or includes making a profit	Part 1, section 5 (3) (Part 4, section 68, 2)
Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014[14]	"**'Third sector bodies'** includes non-commercial providers of health or social care, representative groups, interest groups, social enterprises and community organisations"	Section 1 (2)
Children and Young People (Scotland) Act 2014[15]	Third sector organisations are included as **service providers**: • Any other service provider (other than a local authority or Health authority service provider) • The organisations falling within this subsection are organisations (whether or not formally constituted) which — (a) represent the interests of persons who use or are likely to use any children's service or related service in the area of the local authority, or (b) provide a service in the area which, if it were provided by the local authority, the relevant health board, any of the other service providers or the Scottish Ministers, would be a children's service or a related service"	Part 3, section 7 (2) Part 3, section 10 (2)
Management of Offenders (Scotland) Act 2005 (Designation of Partner Bodies) Order 2006[16]	The following voluntary sector bodies are designated as **'partner bodies'**: *"(c) any individual or organisation that is in receipt of funding, in excess of such amount as may be specified by Scottish Ministers, from a local authority for an area comprised within the area of the community justice authority, for the provision of services or support to relevant persons or their families;"* *"(f) Victim Support Scotland (being a company limited by guarantee incorporated in Scotland; Company No. SC 110185)."*	Section 2 (Partner bodies):

[13] http://www.legislation.gov.uk/asp/2014/9/contents/enacted
[14] http://www.legislation.gov.uk/ssi/2014/285/pdfs/ssi_20140285_en.pdf
[15] http://www.legislation.gov.uk/asp/2014/8/contents/enacted
[16] http://www.legislation.gov.uk/ssi/2006/63/made?view=plain

How is the Third Sector engaged in service and outcomes planning activities under different legislation?		
Legislation	**Examples from relevant legislation**	**Relevant part(s) of legislation**
Public Bodies (Joint Working) (Scotland) Act 2014 & The Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Order 2014 & The Public Bodies (Joint Working) (Membership of Strategic Planning Group) (Scotland) Regulations 2014[17]	The Integration Planning Principles, set out in the legislation, include the principle that *"services should be provided in a way which, so far as possible is* ***planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users an those who are involved in the provision of health or social care"***	Act: Part 1, section 4 (1bx)
	The integration authority for a local area is responsible for preparing local strategic plans and must establish a strategic planning group. The **Strategic Planning Group must include non-commercial providers of health care, non-commercial providers of social care, non-commercial providers of social housing and Third Sector bodies carrying out activities related to health care or social care**.	Act: Part 1, section 32 (1d) Regulations: Section 2 (1e, 1j)
	Once an integration joint board is established it **must appoint at least one member from *"Third Sector bodies carrying out activities related to health or social care in the area of the local authority"***	Order: Section 3 (6&7) Order: Section 5 (6&7)
Children and Young People (Scotland) Act 2014[18]	"In preparing a children's services plan a local authority and the relevant health board must— (a) **give each of the other service providers and the Scottish Ministers an effective opportunity** (consistent with the extent to which the services they provide are to be the subject of the children's services plan) **to participate in or contribute to the preparation of the plan**, and (b) **consult**— (i) such organisations as appear to fall within subsection (2) (ii) such social landlords as appear to provide housing in the area of the local authority, and (iii) such other persons as the Scottish Ministers may by direction specify."	Part 3, section 10 (1)
Management of Offenders etc. (Scotland) Act 2005[19]	The functions of a community justice authority are— (a) at such intervals as the Scottish Ministers may determine— (i) to prepare, **in consultation with the partner bodies**, the Scottish Ministers, the appropriate local authorities and such other bodies as the Scottish Ministers may specify, a plan for reducing re-offending by relevant persons; and Management of Offenders etc. (Scotland) Act 2005 (asp 14)	Section 3 (5)

[17] http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/Regulations
[18] http://www.legislation.gov.uk/asp/2014/8/contents/enacted
[19] http://www.legislation.gov.uk/asp/2005/14/contents