

Report

Report to: **Social Work Resources Committee**
Date of Meeting: **6 March 2024**
Report by: **Director, Health and Social Care
Chief Executive**

Subject: **Justice Social Work Whole Systems Approach:
Service Development and Capacity Building**

1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ update the Committee on the Whole System Approach (WSA) within Justice Services re-design to support early and effective interventions and preferred outcomes for young people in conflict with the law

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the contents of the report are noted;
- (2) that Justice Social Work services re-design preferred outcome model for the WSA service are noted; and
- (3) that the posts to be added to the establishment on a 23 month basis, as detailed in Section 8, be approved.

3. Background

- 3.1. In March 2023, Justice Services embarked on a service re-design scoping exercise to explore alternative models of service delivery as part of the locality based social work modernisation programme. This work concluded in November 2023.
- 3.2. Evidence from this review endorsed Justice Services' commitment to increasing an early intervention and trauma informed approach to working with young people. This included drawing from national research that supports an extension of the WSA model to some areas of support for young people up to the age of 25, particularly those who are care experienced and have neurodiversity issues.
- 3.3. The Scottish Sentencing Council published sentencing guidelines in 2022 for people under the age of 25. These guidelines noted that in sentencing a young person, particular regard should be had to the maturity of the young person and rehabilitation. The guidelines also noted that the court, in selecting the sentence, should:-
 - ◆ ensure that the sentence imposed takes account of the particular and individual circumstances of the young person
 - ◆ have regard to the fact that some sentences could have more of an adverse effect on a young person than on an older person because of the young person's age, maturity, and/or personal circumstances

- 3.4. Research published by the Children and Young People's Centre for Justice (CYCJ), *Rights Respecting Justice for Children in Conflict with the Law*, has identified a renewed appetite for diversion practices in Scotland, diverting children and young people not only away from criminal justice systems but into welfare services they required.
- 3.5. The experience of young people on remand in Scotland has raised serious concerns in recent time, particularly in relation to self-harm, violence, isolation and removal from education. The review of remand for young people across the UK evidenced that often young people are subsequently released on bail or do not receive a custodial sentence.
- 3.6. This paper proposes a responsive person centred approach to young people aged 16-25 years old who are at risk of entering the justice system to beyond custody.

4. Early Intervention and Preventative Justice

- 4.1. The current WSA service supports young people between the ages for 16–21 years old who have received diversion from prosecution disposals, bail assessment and supervision, including Structured Deferred Sentences (SDS). These disposals all support young people from entering further into the justice system and receiving formal criminal convictions and sentencing.
- 4.2. Analysis of data over the last three years in all three disposal areas have shown the following for 16-25 year old service users:
 - ◆ 10% increase in Diversion disposals
 - ◆ 50% increase in Bail Supervision assessments
 - ◆ 40% increase in Bail Supervision orders
 - ◆ 50% increase in SDS disposals for 18-21 year olds
- 4.3. The Bail and Release from Custody (Scotland) Act 2023 was passed by the Scottish Parliament in June 2023. It introduces a number of reforms designed to deliver on the Scottish Government's commitment to refocus how imprisonment is used. These reforms are intended to ensure that, as much as possible, the use of custody for remand is a last resort for the court, and that a greater focus is given to the rehabilitation and reintegration of individuals leaving prison custody.
- 4.4. The significance of this legislation for under 25 year olds is that this provision gives a new explicit right for Justice Social Work to offer information to the court to help inform the court's decision on the question of bail at all first appearances. There is also explicit provision expressly enabling the court to proactively seek information from Justice Social Work on a question of bail throughout the life of a case. It gives the opportunity to Justice Social Work to provide information to the court to inform the bail decision without mandating them to do so where no information is held.
- 4.5. This provision refocuses the legal framework which is used to make decisions as to when custody is able to be imposed by a criminal court, so that accused persons who do not pose a risk to public safety or to the delivery of justice should be admitted to bail as the criminal process proceeds. As part of how a court determines the question of bail for an accused person, consideration of the safety of complainers from harm in a given case is explicitly recognised as forming part of the court's consideration of public safety.

- 4.6. The introduction of these new measures has the potential for a significant increase in both the assessment of bail supervision but also imposing of bail supervision orders.
- 4.7. Given this it likely that there will be a significant increase in young people under the age of 25 placed on bail supervision.
- 4.8. This report describes a welfare and restorative justice approach that provides confidence to the Crown Office and Procurator Fiscal Service and judiciary in placing young people on alternatives to prosecution and custody.

5. Secure Care and Release from Custody Transitions

- 5.1. In addition to the bail and custody reforms that will imminently change the justice landscape, the Children (Care and Justice) (Scotland) Bill, if passed, will have a significant impact on 16-18 year old children being placed in custody. The Bill proposes to stop all 16-18 year olds going into custody and providing secure care arrangements where appropriate.
- 5.2. As part of the Justice Social Work strategy to build capacity within the WSA Service, the importance of supporting young people under the age of 18 years old who are placed in secure care accommodation as an alternative to remand is essential.
- 5.3. Whilst numbers are relatively low in respect of young people who are not subject to compulsory supervision orders within the Children's Hearing System, remanded or bailed within secure care, there is an intensity of support required to manage these service users and their families. This requires additional staffing and risk management planning that is both responsive and immediate at the point of need.
- 5.4. Analysis indicates that there are approximately 10 young people under the age of 21 per year in South Lanarkshire who are released from custody either due to being sentenced to a short term sentence or released from remand.
- 5.5. Release from custody can often be at short notice or unplanned, with defence agents supporting bail release for those on remand. In these instances, it is important that the Service can develop and respond to release planning that promotes public protection and safety of the young person as determined within their Care and Risk Management plan.

6. Peer Mentor Approach

- 6.1. Justice Social Work have successfully embedded those with lived experience within its workforce and third sector commissioned services. This is most notably through the Justice locality Peer Navigator and Alcohol and Drug Problem Solving Court initiatives.
- 6.2. A peer mentor approach is supported by South Lanarkshire's Alcohol and Drug Partnership strategy within priority 3 *Getting it Right of Children, Young People and Families*, specifically within planning, developing and delivering services with young people and their families.
- 6.3. Further to this Justice Social Work supports the Drug Deaths Taskforce report, *Changing Lives 2022* cross government approach, which pledges to "put lived and living experience at the heart of what we do".

9. Financial Implications

- 9.1. The posts will be funded from the existing Section 27 budget, specific ring-fenced Justice funding, through funding that has previously been identified for short term contract arrangements with the third sector.

10. Climate Change, Sustainability and Environmental Implications

- 10.1. There are no Climate Change, Sustainability or Environmental implications associated with this report.

11. Other Implications

- 11.1. The proposals outlined in this report help to mitigate the following within the Social Work Risk Register:

- ◆ Funding and Budgetary Pressures – very high
- ◆ Workforce Availability and Capacity – very high
- ◆ Meeting Public Protection and Legislative Duties – very high

- 11.2. There are no other issues associated with this report.

12. Equality Impact Assessment and Consultation Arrangements

- 12.1. This report does not introduce a new policy, function, or strategy, or recommend a change to existing policy, function, or strategy and, therefore, no impact assessment is required.

- 12.2. Trade Unions have been advised of this increased statutory duty and service re-design.

Professor Soumen Sengupta
Director, Health and Social Care

Paul Manning
Chief Executive

19 February 2024

Link(s) to Council Values/Priorities/Outcomes

- ◆ focused on people and their needs

Previous References

None

List of Background Papers

The development of cognitive and emotional maturity in the adolescents and its relevance in judicial context

- <https://www.scottishsentencingcouncil.org.uk/media/4d3piwmw/sentencing-young-people-guideline-for-publication.pdf>
Sentencing young people - Sentencing guideline
- [20200219-ssc-cognitive-maturity-literature-review.pdf](https://www.scottishsentencingcouncil.org.uk/media/20200219-ssc-cognitive-maturity-literature-review.pdf)
Rights Respecting Justice for Children in Conflict with the Law
- <https://www.cycj.org.uk/wp-content/uploads/2024/01/Rights-Respecting-Group-Paper-8.pdf>
Children (Care and Justice) (Scotland) Bill

- [Overview | Scottish Parliament Website](#)
South Lanarkshire Alcohol and Drug Partnership Strategy 2020-2023
- [South Lanarkshire Alcohol and Drug Partnership Strategy 2020-2023 Health and medical information - South Lanarkshire Council](#)
- Changing Lives Drug Death Task Force publication 2022 Final Report
- <https://drugdeathtaskforce.scot/news-information/publications/reports/final-report/>
- National Collaborative Need Change - Need Rights Summary (appendix 1)

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact: -

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