

Report

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Report to:	Social Work Resources Committee
Date of Meeting:	7 February 2018
Report by:	Director, Health and Social Care

Subject:	Youth Sentencing Court
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise the Social Work Resources Committee that a Youth Sentencing Court is being piloted for a period of 18 months for 16-21 year olds at Hamilton Sheriff Court

2. Recommendation(s)

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

- (1) that the piloting of a Youth Sentencing Court from 1 February 2018 for 16-21 year olds be noted.

3. Background

- 3.1. South Lanarkshire Justice Services are committed to the Whole System Approach (WSA), a Scottish Government programme for addressing the needs and managing the risks of young people involved in offending. This approach requires practitioners to work together to support young people and take early action at the first signs of any difficulty, rather than only getting involved when a situation has already reached crisis point.
- 3.2. Many young people appearing before the adult court struggle to comply with statutory orders, resulting in breach of orders and young people being placed in custody. South Lanarkshire Justice Services has been working in partnership with the Court Service to explore options to reduce reoffending and the use of custody for young people aged 16-21 years. The statutory disposals currently available to the court are outlined in Appendix 1.

4. Current Position

4.1. South Lanarkshire Project

- 4.1.1. South Lanarkshire Council has, in comparison with other local authority areas, a high proportion, of young people aged 16-21 years incarcerated in Polmont Young Offenders' Institution; presently, there are 35, which is approximately 10% higher than comparator council areas. A recent in-house scoping exercise indicated that young people are receiving community based disposals which they struggle to comply with. Findings are reflective of national research and are attributed to young people's chaotic lifestyles and maturity.

- 4.2. South Lanarkshire Council has been awarded Scottish Government funding of £219,999 for a period of 18 months to improve employability outcomes for young people involved in offending behaviour. £108,267 has been issued for the period 2017/2018 and £111,732 for the period 2018/2019. Funding has been provided to work with young people involved in offending behaviour, make connections with the third sector and improve employability outcomes for this group of young people.
- 4.3. Following a series of meetings between North and South Lanarkshire Justice Services and the Sheriff Principal, a decision was reached to pilot a Youth Sentencing Court for young people aged 16-21 years. A dedicated court, which will sit on a bi-monthly basis, will take place at Hamilton Sheriff Court as of 1 February 2018. Approximately 60% of service users attending Hamilton Sheriff Court are from South Lanarkshire and 40% are from North Lanarkshire.
- 4.4. The court aims to promote public protection and reduce victimisation through breaking the cycle of offending for this group. Recent research from Robinson, Leishman and Lightowler (2017) outlined that young people who are looked after or formerly looked after and accommodated are over represented in the Justice system. Social Work and partner agencies have a corporate parenting responsibility for many of these young people, who will be prioritised for available supports.
- 4.5. The Youth Sentencing Court will have two dedicated sheriffs and will take place in a smaller area of the court in Hamilton. Structured Deferred Sentences are being introduced as an early intervention disposal available to the Youth Sentencing Court for 16-21 year olds. Structured Deferred Sentences can be imposed in terms of section 202 of the Criminal Procedure (Scotland) Act 1995. A further breakdown of the details of the Youth Sentencing Court is attached at Appendix 2.
- 5. Detailed Breakdown of the Model and Structured Support Provided**
- 5.1. South Lanarkshire Council are seeking to pilot a specifically tailored model of Structured Deferred Sentence for 16-21 year olds as part of a Youth Sentencing Court in Hamilton. A Structured Deferred Sentence offers an additional disposal to the court and will most likely be imposed for a period of six months.
- 5.2. A Social Worker registered with the Scottish Social Services Council, who has the required skills to write court reports, is allocated to the young person. A court report and action plan is devised to provide a background to the offending behaviour and outline a plan to address underlying issues associated with the offending.
- 5.3. Progress with the plan is reviewed by the Sheriff Court on a four weekly basis. The young person, if compliant, can be admonished at the end of that period. If the young person does not comply with this Order, then they can be sentenced to the full range of disposals available to the court.
- 5.4. Interventions would be led by Justice Services as the young person is the subject of a court sanctioned disposal and Social Workers would be introduced at the earliest point of the young person being sentenced. The young person will be supported by a Social Worker who will attend at court and account for the progress the young person has made with this statutory disposal.

5.5. A Social Work Assistant would offer welfare based assistance such as supporting attendance at appointments to enhance compliance with the Order. The pilot is reflective of elements of other problem solving courts in Aberdeen and Forfar. The key difference with the Youth Sentencing Court is the specific link to employability which is strongly associated with a reduction in offending behaviour. The Social Worker and Social Work Assistant will link with the third sector and other agencies to ensure specific and relevant support is provided.

6. Evaluation

6.1. In order to consider the effectiveness of Structured Deferred Sentences and the Youth Sentencing Court, the University of the West of Scotland, Criminal Justice Department have agreed to evaluate this initiative over an 18 month period. This will enable an independent appraisal of the effectiveness of the Youth Sentencing Court Pilot.

7. Target Group and Project Deliverables

7.1. The target group are young people aged between 16-21 years who are involved with the justice system, have been convicted and are awaiting sentence. The target group, whilst a priority for many agencies, remains an unserved group in terms of employability, mainly because of the difficulties of connecting with the target group as a result of their chaotic backgrounds and keeping them connected in employability services.

8. Aims of the Pilot

8.1 The aims of the pilot are as follows:

- ◆ to provide an alternative community based disposal in the form of a Structured Deferred Sentence to 50-60 young people aged between 16-21 years old
- ◆ undertake suitability assessments using appropriate risk assessment tools
- ◆ to provide intensive support packages to be tailored to individual needs at the point of contact with the justice system
- ◆ offer social work support to individuals throughout the court process while arranging ongoing short term support and guidance as required
- ◆ to develop pathways to training and employment pertinent to the individual. This will involve working closely with employability organisations including the third sector
- ◆ to develop opportunities for meaningful reintegration and community involvement in a pro-social manner
- ◆ to independently evaluate the effectiveness of this initiative with the assistance of the University of the West of Scotland

9. Employee Implications

9.1. There are no employee implications from the introduction of this court. At the Executive Committee on 6 December 2017 approval was given for the recruitment of two Social Workers and a Social Work Assistant. The funding for these posts will be from the Scottish Government Grant.

10. Financial Implications

10.1. There are no financial implications of this project as the costs will be met by the Scottish Government Grant funding.

11. Other Implications

11.1. A failure to address offending behaviour of young people will increase risks in our communities. There is a reputational risk for South Lanarkshire Council if we are seen as an outlier for youth offending.

11.2. Public Protection risks are managed as only young people assessed as suitable will be processed through the youth sentencing court.

12. Equality Impact Assessment and Consultation Arrangements

12.1. There was no requirement for an equality impact assessment for the introduction of the Youth Court.

12.2. This initiative will run for the duration of the funding. The service will then be reviewed to establish a long term intervention model of delivery.

Val de Souza

Director, Health and Social Care

12 January 2018

Link(s) to Council Values/Ambitions/Objectives

- ◆ make communities safer, stronger and sustainable
- ◆ protect vulnerable children, young people and adults

Previous References

- ◆ Executive Committee report 6 December 2017: Structure Deferred Sentence and Youth Court Pilot for 16 to 21 year olds

List of Background Papers

- ◆ Scottish Government paper produced for the Youth Justice Improvement Board, "Children and Young People in Custody in Scotland: looking behind the data", authors Jennifer Leishman, Claire Lightowler and Gill Robinson

Contact for Further Information

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

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Appendix 1

Appendix 1: Detailed Background Information relating to the Unpaid Work Service

Context of Criminal Justice Services

South Lanarkshire Justice Service is a statutory service fulfilling an essential role in the Criminal Justice System. The introduction of Community Justice (Scotland) Act 2016 dissolved the Community Justice Authorities (CJA) and introduced new governance arrangements in the form of Community Planning Partnerships (CPP). A new funding formula was introduced at this time. South Lanarkshire Council (SLC) funding allocation for 2017/2018 was £5,269,583.

Accountability

Social Work Justice Services are part of the Community Justice Partnership (CJP) and report on key performance indicators on a quarterly and annual basis to the (CPP) and the Scottish Government. Justice Services are delivered in accordance with the National Outcomes and Standards for Social Work in the Criminal Justice System (2010).

Pan-Lanarkshire Services

There are several services that are jointly delivered by SLC and North Lanarkshire Council (NLC) and are referred to as Pan-Lanarkshire Services. A review of Pan-Lanarkshire Justice Services commenced in June 2017. SLC Justice Services currently host the Court and Drug Treatment and Testing Order (DTTO) service for both North and South Lanarkshire Councils. NLC Justice Services host Throughcare. The outcomes of reviews of these services are likely to have an impact on how these services are delivered and also on future funding for Justice Services in SLC. The reviews are scheduled for completion by November 2017.

Statutory Duties

Social Work Justice Services are underpinned by statutes imposing legislative duties to deliver their services. Multi Agency Public Protection Arrangements (MAPPA) are delivered in terms of the Management of Offenders (Scotland) Act 2005 and Community Payback Orders (CPO) and Fiscal Work Orders (FWO) are delivered in terms of the Criminal Justice and Licensing (Scotland) Act 2010. Court Reports including an assessment of suitability for a CPO with an Unpaid Work requirement are completed in terms of Section 27 (1) (a) of the Social Work (Scotland) Act 1968.

Community Payback Order

The CPO came into force in 2011 and replaced Community Service Orders, Probation Orders and Supervise Attendance Orders. The legislation introduced a "Presumption Against Short Sentences" (PASS) which were viewed by the Scottish Government as ineffective in meeting needs to reduce offending while in custody. The presumption against short term custodial sentences has substantially increased the use of the Unpaid Work element of the CPO since 2011.

People sentenced to a CPO can be ordered to carry out between 20 and 300 hours of Unpaid Work. A level 1 Order can last from 20-100 hours and should be completed within 3 months. A level 2 Order can last between 101-300 hours and should be completed within 6 months.

Up to 30% of an Order can consist of activity other than Unpaid Work. Other Activity can include service users learning skills to help secure employment, for example how to write a Curriculum Vitae (CV).

Requirements of the Community Payback Order

The CPO must contain one or more of the following requirements:

- ◆ an element of unpaid work or other activity
- ◆ offender supervision

It may also contain any of the following 7 requirements:

- ◆ compensation
- ◆ programme
- ◆ mental health treatment
- ◆ drug treatment
- ◆ alcohol treatment
- ◆ residence
- ◆ conduct

Unpaid Work is the most common disposal introduced by the court and in SLC a dedicated service delivers this work on behalf of the court.

Fiscal Work Order (FWO)

In July 2015, under the legal framework of Criminal Justice and Licensing (Scotland) Act 2010, the Scottish Government, along with partners in the Crown Office and Procurator Fiscal Service and local authority Criminal Justice Social Work departments, made FWOs available in all 32 local authorities across Scotland. FWOs provide Procurators Fiscal with the option of offering an "alleged offender" a period of community-based reparative work (of between 10 and 50 hours), completion of which discharges the right to prosecute for the related offence.

By extending the range of measures available to prosecutors in dealing with offences which do not require a court hearing, FWOs are designed to benefit victims and communities through the speedier and more appropriate resolution of cases. They provide constructive community work activities or programmes for "alleged offenders" with the aim of encouraging personal and social responsibility and self-respect.

Appendix 2

Youth Court

What is the Youth Court Pilot

The Youth Court meets at Hamilton Sheriff Court once per fortnight and aims to target young people aged over 16 and under 21 years from North and South Lanarkshire Council. Approximately 60% of service users attending Hamilton Court are from South Lanarkshire and 40% are from North Lanarkshire.

The Court aims to promote public protection and reduce victimisation through breaking the cycle of offending for this group. Recent research from Robinson, Leishman and Lightowler (2017) outlined that young people who are looked after or formerly Looked After and Accommodated are over represented in the Justice System. Social Work and partner agencies have a corporate parenting responsibility for many of these young people, who will be prioritised for available supports.

The Court will be able to take advantage of the additional funding for Structured Deferred Sentences currently available in South Lanarkshire.

How it works

The Youth Court is not a soft option for young people involved in frequent and serious offending behaviours but rather a Court tailored to responding proportionately to the behaviours displayed by this group of young people. Potential candidates for the Youth Court will be frequent or serious offenders and NOT young people who could otherwise be remitted to the Children's Hearing for disposal, or who do not require intensive inputs.

Young people appearing for sentencing (and where appropriate review) will attend a small dedicated Court where the relatively intimate environment offers an opportunity for a discourse to take place between the young person and the Sheriff. Discourse can encourage a young person to feel they have a working relationship with the Sheriff and be more invested in the complying with the Order. Two Sheriffs will be dedicated to this Court which will allow for continuity of judicial office and in the relationship between sentencer and offender. The A dedicated Court Social Worker will also attend the Youth Sentencing Court at the point of sentence and offer advice, guidance and support to the young person as well as providing verbal reports to the Sheriff where this is required.

Young people will primarily be identified post conviction, but can be identified at the pre-sentencing stage by Procurator Fiscals, Sheriffs or Court Social Workers. Young people can also be identified post conviction by the Criminal Justice Social Workers (CJSW) who will within 7–14 days, complete an expedited court report, to assess and outline the suitability of this young person for the Youth Sentencing Court.

With the cooperation of Police Scotland and COPFS, new cases against potential candidates could also be directed to the specialist court, at Undertaking/Cited Court stage. The possibility of electronically monitored bail, both at pre and post conviction stage, for qualifying offenders, is also being investigated, and there would be encouragement to Sheriffs to consider such approaches.

Sheriffs have the full range of disposals available to them including the option of a Structured Deferred Sentence (SDS) outlined below.

Structured Deferred Sentence

A Structured Deferred Sentence would be available for a young person who is not suitable for remittance back to the Children's Hearing System. A Structured Deferred Sentence is an opportunity for a young person to engage with a specified action plan that will be tailored to meet their individual needs, based upon their LSCMI or YLS/CMI initial risk/needs (**Medium - High**) and will take place prior to the final disposal of their case at Court. They will be provided with a tailored action plan and supports for the required period of time, with regular four weekly reviews of progress taking place between the Sheriff and the young person. The hope will be that if the young person engages and makes progress during the period of deferment, the Sheriff will take this into consideration when making their final disposal which could be that they are admonished.

A Structured Deferred Sentence allows increased support over a period of time, most likely 6 months but tailored to meet the needs of the individual offender. A worker will be allocated to the young person during the period of deferment and will where possible attend the 4 weekly reviews with the young person, and provide reports and recommendations to the Sheriff.

The worker will assess the issues associated with involvement in offending behaviours, engage in individual work with the young person and make referrals to agencies offering supports to address underlying issues.

The following are examples of available supports but this is not an exhaustive list:

- ◆ **Employability:** Skills Development Scotland and Access to Industry to help the young person enhance their employability and offer training opportunities and promote constructive use of their free time.
- ◆ **Substance Misuse Issues:** Facilitate and support access to specialist resources including the Integrated Addiction Services and Addiction supports for young people with substance related difficulties.
- ◆ **Health:** Make links with local health centres and ensure registration with a G.P. Where appropriate support referrals and attendance for mental health supports.
- ◆ **Therapeutic Interventions:** Enable access to interventions such as mindfulness to assist with young people who may have experienced trauma.
- ◆ **Accommodation:** Assist with the completion of housing application forms and support the young person to access relevant supported accommodation projects in both North and South Lanarkshire.

Evaluation

In order to consider the effectiveness of the Youth Sentencing Court, the University of the West of Scotland, Criminal Justice Department, have agreed to evaluate this initiative over an 18 month period. This will enable an independent appraisal of the effectiveness of the Youth Sentencing Court Pilot.

FLOW CHART: Youth Court

