ABSTRACT

This report informs the Social Work and Health Committee of:

1. the proposals contained in Scotland’s Choice – Report of the Scottish Prisons Commission. This Commission was convened to examine Scotland’s use of imprisonment in the 21st century;
2. the potential implications arising from the report; and
3. the actions which can be taken locally to progress the recommendations.

For information, Scottish Prison Service figures indicate that in March 2008 there were 96 people from Angus in Scotland’s prisons, a substantial number of whom will either be on remand or serving sentences of six months or less. Copies of the Scottish Prisons Commission report have been placed in the Members’ Lounge.

1 RECOMMENDATION

Scotland's Choice contains a range of recommendations which, taken together, offer a response to the challenges of rapidly growing and overcrowded prisons. It is therefore recommended that the Social Work and Health Committee note both the contents of the report and potential implications for service delivery. Further updates will be provided by the Director of Social Work and Health as the recommendations are progressed nationally.

2 INTRODUCTION

The report of The Scottish Prisons Commission (published July 2008) is currently being considered by the Scottish Government. The report emphasises that public safety and reducing the damaging effect that crime has on victims and communities is paramount but recognises that rapidly growing and overcrowded prisons are making it increasingly difficult to secure public safety and respond effectively to serious crime. The guiding principles contained in the report are: punishment must be visible, swift and fair; communities should be at the heart of penal reform and action; punishment should work to secure public safety and support victim recovery; prison populations must be controlled to achieve wider strategic objectives and that Scotland can be recognised internationally for just and effective penal practices.

The recommendations are broadly based around seven themes as follows:

- rethinking punishment;
- prosecution and court processes;
- sentencing and managing sentences;
- community justice, prisons and resettlement;
- Custodial Sentences and Weapons (Scotland) Act 2007;
- the Open Prison Estate;
- the future.
The work of the Commission was informed by a series of consultations, visits to specialist resources, oral and written evidence and public events.

Rethinking Punishment

The Commission recommends that imprisonment should be reserved for people whose offences are so serious that no other form of punishment will do and for those who pose a threat of serious harm to the public. It recommends moving away from imprisonment as a way of punishing offenders so that paying back in the community becomes the default position in dealing with less serious offenders.

Prosecution and Court Processes

The Commission recognises the importance of exploring the whole criminal justice process, specifically in relation to prosecution and use of remand. It therefore recommends that the Government extends the types and availability of alternatives to prosecution and extends bail information and supervision operated through enhanced court-based social work units. Locally work has been ongoing through the Community Justice Authority to review bail and diversion services and an operational working group has been established specifically to progress bail services. Angus Criminal Justice Services already has dedicated members of staff operating a successful Bail Supervision Scheme and has recently reviewed the diversion from prosecution scheme with the local Procurator Fiscal Service. In addition the Commission recommends legislative changes to ensure the Crown can deal with an accused person's outstanding charges at the same time.

The Commission recognises that younger offenders have specific needs and recommends exploring options for detaining 16 and 17 year olds in secure youth facilities which are separate from older offenders and those under the age of 16. It also suggests there would be merit in examining the case for specialist Youth Hearings.

Sentencing and Managing Sentences

The Commission suggests that, in order to command public support, both sentencing and the management of sentences needs to be more consistent, transparent and intelligible to the public. It therefore recommends establishing an independent National Sentencing Council (NSC) to develop clear sentencing guidelines that can be applied nationwide. Additionally, it recommends that, where sentences involving community supervision are imposed, there should be one single Community Supervision Sentence (CSS) which would encompass a wide range of conditions and measures. The central ethos would be that of payback to the community by, for example, finding constructive ways to compensate or repair harms caused by crime. It involves making good to the victim and/or the community whether by unpaid work, engaging in rehabilitative work that benefits both victims and the community by reducing re-offending, or some combination of these and other approaches. In order to drive forward these changes it is recommended that a National Community Justice Council (NCJC) is established.

Additional recommendations include:

- the introduction of legislation to require a sentencing judge, who would have otherwise have imposed a sentence of six months imprisonment or less, to instead, impose a Community Supervision Sentence, except in particular circumstances;
- the establishment of progress courts to enable swift and regular reviews which would also tackle compliance issues;
the introduction of a conditional sentence whereby a period of custody is imposed but suspended subject to the offender keeping to a strict set of conditions;

subject to the full implementation of the other recommendations that the current system of Home Detention Curfews (electronic tagging which facilitates early release) be terminated.

These recommendations offer a significant change to the way in which sentences are currently imposed and managed and would have considerable implications for the way in which local authorities supervise offenders and commission services from other organisations involved in managing offenders.

Community Justice, Prisons and Resettlement

The Commission recognise that resettling offenders so they are less likely to re-offend and be recalled to custody is a challenging task which requires the involvement of a number of agencies and the support of the public. It therefore recommends that the proposed National Community Justice Council be tasked with developing the status, visibility, credibility, consistency and quality of criminal justice social work and resourced accordingly. It also recommends that the Government promote a general duty to reintegrate offenders and increase the range of options available to the Parole Board in order to better manage release and compliance.

Tayside Criminal Justice Partnership already has a well established Resettlement Service which is currently subject to review in order to ensure it continues to meet the demands and priorities of the three local authorities.

The report highlights that social work services in the Criminal Justice System are pivotal to the proposed changes and emphasises the need for renewed vision, visibility and leadership. Crucially the report also recognises the need for proper resourcing in terms of finance, specialist knowledge and skills.

Custodial Sentences and Weapons (Scotland) Act 2007

The Commission recommends that the Custodial Sentences and Weapons (Scotland) Act 2007 should only be implemented after the implementation of the Commission’s other recommendations and after a reduction in the prison population is achieved. Full implementation of this Act in its current form would have substantially increased the number of offenders requiring supervision on release from custody and would have had significant resource implications for criminal justice social work.

The Open Estate

The Commission recommends that there is an on-going need for the Prison Open Estate in order to prepare offenders for release and prepare them for freedom.

The Future

The current prediction, based on the fact that the average prison population has increased year on year this century, is that the prison population will reach 8,700 inmates by 2016. The Commission recommends that the Government pursue a target of reducing the prison population to an average daily population of 5,000 - and estimates that, if the full range of recommendations contained in the report are implemented, this is achievable.
3 FINANCIAL IMPLICATIONS

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 HUMAN RIGHTS IMPLICATIONS

There are no Human Rights implications arising as a result of the recommendations contained in this report.

5 EQUALITIES IMPLICATIONS

The issues dealt with in this Report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

6 CONSULTATION

The Chief Executive, the Director of Corporate Services, the Head of Finance and the Head of Law and Administration have been consulted in the preparation of this report.

7 CONCLUSION

This report has provided members with an overview of Scotland’s Choice – Report of the Scottish Prisons Commission and the potential implications for service delivery.

A further report will be prepared when the recommendations contained within the Report are progressed nationally.

R Peat
Director of Social Work and Health

NOTE: The under noted background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report:


A copy of this document is available in the Member’s Lounge or at www.scotland.gov.uk/Resource/Doc/230180/0062359.pdf