From a Criminal Justice Social Work perspective the implications of the Part 1 of the Bill are generally welcomed. The emphasis on reducing the unnecessary use of custody and increasing the use of community disposals, which was highlighted in Scotland’s Choice, is to be commended. Part 1 of the Bill proposes a range of actions to achieve this and the following specific comments are made.

The presumption against custodial sentences of less than 6 months (Section 17) is particularly welcomed and could be described as the basis on which the rest of the Bill relevant to Criminal Justice Social Work is built. Criminal Justice Social Work have been tasked since the introduction of National Objectives and Standards for Social Work Services in the Criminal Justice System eighteen years ago with reducing unnecessary custody through well targeted community disposals. However, this was completely premised on Criminal Justice Social Work through Social Enquiry Reports being able to persuade the judiciary that a community sentence would be appropriate in the circumstances. The introduction of a presumption against imposing custodial sentences of under 6 months, whilst clearly not restricting the judiciary's use of custody, should improve targeting of community disposals.

The establishment of a Scottish Sentencing Council (Section 3) is also welcomed. The aims of the sentencing Council of promoting consistency of sentencing, developing sentencing policy and promoting greater awareness and understanding in the public of sentencing policy and practice is much needed. In terms of consistency it had historically been the experience of Criminal Justice Social Work in the Ayrshire Partnership that sentencing at the two Sheriff Courts could be at odds with the rest of Scotland. There is a need to improve and develop sentencing practice and the introduction of sentencing guidelines by the Sentencing Council should minimise any sentencing lottery.

The major implication of the Bill for Criminal Justice Social Work will be the introduction of a Community Payback Order (Section 14). It is recognised that following the Government Review of Community Sentences and the Reforming and Revitalising Report there were concerns regarding the public’s understanding of community sentencing. The ending of probation, community service and supervised attendance and replacement with a single Community Payback Order, with 7 possible conditions that can be added, may well be more understandable to the public, whether this improves the sentencing process is perhaps more difficult to answer. There are some concerns regarding the introduction of the unpaid work condition to District Courts [Sec 14, 227A(5)]. Community Service is currently not available to District Courts and potentially this important resource could be diluted through use with lower tariff offenders.
It is assumed that should this legislation be passed and Part 1 of the Bill implemented there will be significant costs incurred. The financial memorandum by using 10% to 20% assumptions of increases in workload reflects uncertainties of costs. Part 1 of the Bill’s focus is the reduction of short custodial sentences and a commensurate reduction in the daily prison population. In order for this to be successful there will be a need to increase the amount of funding Criminal Justice Social Work receives. It is recognised that a reduction in custody would allow the transfer of resources from the prison to the Community.

Other aspects of the Bill in relation to targeting serious crime and changes in criminal justice procedures are also welcomed.

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