

# scottish justice matters

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## **WOMEN AND JUSTICE ARE WE MAKING PROGRESS?**

# SHIFTING THE MONEY

**Tom Jackson** on commissioning for equality and community justice

**AT THE** Apex Scotland Annual Lecture on 1<sup>st</sup> September 2015, the Justice Secretary Michael Matheson asserted that the priority for the Scottish Government was “reducing the inequality that still scars too many communities in our country”. People living in areas of highest deprivation generally experience the poorest health outcomes as well as the highest levels of crime. Health and justice systems are left “responsible for dealing [ . . . ] with the consequences of social inequality” (Matheson, 2015).

Matheson went on to press, that in pursuing equality, justice policy needs to reflect “the values of a modern and progressive nation”, which is not reflected in the scale of the Scottish prison population. There is “no good reason” why the prison population is so high. Addressing this requires an “emphasis on robust community sentences focussed on actively addressing the underlying causes of offending behaviour” (Matheson, 2015).

One of Michael Matheson’s early decisions as Cabinet Secretary was to cancel the building of a new women’s prison at Inverclyde. This decision reflected a commitment to shift the focus from custody and to “ensure the availability of effective and evidence-based community alternatives” in place of short-term custody. He affirmed a view of Scotland with a “smaller prison population and a Scotland in which we have redefined what custody looks like” (Matheson, 2015).

In 2017, how well placed are we to deliver this vision of a reduced prison population and a justice system which underpins fairness and equality?

## **Investing in justice: but not prisons**

Most professionals across the justice system would suggest they know what works to reduce re-offending and to make communities safer, but when you look at how the public purse is spent in relation to justice, there is little evidence that our spend reflects this knowledge. Re-offending costs an estimated £3 billion pounds a year in Scotland (Audit Scotland, 2014). Reoffending also costs our communities, victims of crimes, families of those convicted and those caught in cycles of reoffending. Analysis of spend suggests that while we spend £254m in restricting liberty, and a further £67m supporting the reintegration to communities from custody, we only spend £61m (16% of criminal justice spend) on rehabilitation (Audit Scotland, 2012).

For women, following a custodial sentence we saw 42% reconvicted within 12 months, but for those completing a Community Payback Order, the figure is under 27% (Scottish Government, 2016). What is required is a shift in our use of justice tools, and that is most effectively achieved through a shift in our justice spend - a *justice reinvestment* from custody towards community, to ensure our community response to offending and to those convicted is as robust as our custodial response.

The Scottish Government has initiated small scale tests of justice reinvestment. Following the report from the Commission on Women Offenders (2012), the Government provided time-limited investment (£3m) for new community based justice services for women, seeing the initiation of 16 projects across Scotland, including a number of new Women’s Justice Centres, such as *Tomorrow’s Women* Glasgow. In 2015, they announced a top-slice of £1.5m from the Scottish Prison Service budget, to be distributed via Community Justice Authorities to focus on reducing our over-reliance on custody for women. A number of interesting areas of work were launched, and the Government continued this investment in 2016/17 announcing an intention to sustain the reinvestment moving forward.

While such investment can have an impact, £1.5m top sliced from an SPS budget of £396m (2015/16 Scottish Budget) is arguably a marginal shift, and spread thinly across the country is likely to have marginal impact. A further national investment of £4m to support Community Sentencing was announced in September 2016 (not gender specific). These investments continue to point in the right direction, and perhaps give hope for further scale as success is demonstrated.

## **Commissioning change**

It is however also to the local arena we need to look for leadership. Within the estimated £3bn cost of reoffending (data does not currently provide a gender specific costing), it is a range of public agencies which bear the cost, including local authorities, NHS, Police, Courts, Procurator Fiscal and the SPS. Therefore it is through local leadership, within the new Community Justice arrangements, where progress towards

savings might be made. That leadership must be reflected through clear, long-term, robust commissioning strategies.

As we look across Community Justice partners, we see few examples of justice oriented commissioning planning, and fewer still which embrace the breadth of “commissioning”, from Needs Assessment to Procurement to Monitoring and onward in a cycle. Fewer still provide a focus extending 10 or more years, the period over which any meaningful justice reinvestment would need to occur to achieve measurable impact on justice spend. There are virtually no examples of Joint or Collaborative Commissioning Planning.

The opportunities to focus on the positive impact a shift in resource planning can achieve, for individuals and for reoffending levels, can be played out centred on women. The progress of existing investments, and the relatively small numbers of women within the totality of justice services, has allowed more creative and collaborative responses. As the new Community Justice partnerships develop their plans, and emerge to take on the leadership mantle, it is for all of us to support efforts to tackle the entrenched reactive spend on justice, and move to a preventative model.

### **Preventative rather than reactive spend**

Nationally, the evidence suggests preventative spend is marginal in comparison with the reactive spend. This mirrors a wider public sector pattern, as highlighted by the report of the *Christie Commission on the Future Delivery of Public Services* published in 2011. This report identified a need to “prioritise preventative measures” and stated that “unless Scotland embraces a radical, new, collaborative culture throughout our public services, both budgets and provision will buckle under the strain” (Scottish Government, 2011). As Community Justice Scotland continues to develop, partners will look for their national leadership in relation to commissioning and the necessary collaboration across sectors.

Joint Commissioning is more than public sector and allied partners organising and buying services. It is how responsible bodies work together to understand need, jointly prioritise action and plan services that will meet future demands and make effective use of their combined resources. This joint strategic approach to commissioning can help provide joined-up services and achieve a preventative approach, avoiding more costly reactive justice responses. Ultimately, jointly-planned investment in community justice can save expenditure on the most costly elements of the justice system.

There is no shortage of guidance on good commissioning practice for the public sector. For example *Commissioning for Better Outcomes: A Route Map* (Local Government Association, October 2015) identified nine qualities of good commissioning:

- ❖ Person centred and outcome focused
- ❖ Coproduced
- ❖ Well led
- ❖ A whole system approach
- ❖ Evidence based
- ❖ Promoting diversity, sustainability and equality in the market
- ❖ Value for money
- ❖ Developing the workforce
- ❖ Positive provider engagement

A key element is the focus on *whole systems*. “Good Commissioning convenes and leads a whole system approach to ensure the best use of all resources in a local area through joint approaches between the public, voluntary and private sectors” (Local Government Association, 2015).

In Glasgow, Community Justice partners have taken progressive steps towards a more collaborative commissioning approach, including:

- ❖ As with all partnerships, setting out a shared Vision and set of priority objectives through the Glasgow Community Justice Outcomes Improvement Plan (CJOIP <https://www.glasgowcpp.org.uk/index.aspx?articleid=20986>)
- ❖ The partners have established a *Joint Commissioning Working Group*, which established a shared *Commissioning Framework* and set of *Principles*, and now is taking the work forward
- ❖ Glasgow partners have agreed the principles for *co-production with Service Users*, and underpinning commitments to Service User Involvement, in acknowledgement that good commissioning is bottom up
- ❖ There are established *Information Sharing Partnership* agreements linked to shared services, supporting the necessary flow of information in the commissioning process
- ❖ A *Community Justice Mapping* exercise was undertaken, to gauge partners’ understanding of Community Justice and their resource commitments which could track to Community Justice.

Achieving the Cabinet Secretary’s vision of ‘Fairer Justice’ requires us to commit to the commissioning realities of the shift in our justice spend and to establish a long-term vision and plan in line with the vision.

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