

scottish justice matters

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CHANGING TIMES

Special features on the reforms facing Scotland's criminal justice system

Also

Problem-Solving Courts

Interview with
HM Chief Inspector of
Prisons, Hugh Monro



REFORM
IN SCOTTISH CRIMINAL JUSTICE

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Reform? Revisit? Replace?



With the Scottish Government committed to redesigning the community justice system, Scottish Justice Matters asked two leading voices in social work for their view on how social work with offenders should be organised in Scotland.

Michelle Miller is Chief Social Work Officer for City of Edinburgh Council and a former President of the Association of Directors of Social Work. Michelle argues in favour of keeping criminal justice social work in local authorities.

Fergus McNeill is Professor of Criminology and Social Work at the University of Glasgow and argues in favour of a new national community justice social work service. He will co-edit the next issue of Scottish Justice Matters on the topic of desistance from crime.

Michelle Miller argues in favour of keeping criminal justice social work in local authorities

THE Association of Directors of Social Work in Scotland is committed to working to reduce not just re-offending, but offending, and to tackle the underlying causes of both. High numbers in prison and levels of re-offending that can be reduced further confirm that the current system for dealing with offenders in Scotland requires review and improvement. However, this should not imply that the 'end agencies', criminal justice social work and the Scottish Prison Service, are failing in what they do, or indeed that the responsibility somehow rests with these agencies alone. The immensely complex nature of offending, its causes and the things which support desistance are precisely why we have to resist an apparently simple structural solution. Complex problems require the application of intelligent, complex solutions.

There is evidence of change. It may not be at a pace which sits comfortably, but we should focus on supporting the change and addressing the barriers to its effectiveness, rather than jumping to an unproven alternative.

I have seen no evidence that structural reform will improve delivery or have better outcomes for people; or that centralising social work with offenders will support better engagement of offenders in and with their local community.

Rather, I believe we should build on what is already in place. The untapped potential of Community Planning Partnerships is one example. Historical funding and reporting arrangements for criminal justice have bypassed Community Planning Partnerships, discouraged them from taking ownership of the reducing offending agenda and kept their focus elsewhere. Addressing that would allow us to focus on improving the model that needs the least change. Restructuring comes at a cost, not just financial, but the distraction and disruption to services: we take our eye off the ball, maybe because we draw some comfort from the displacement activity, the belief that once complete, the new structure will deliver what we seek. Let's focus on defining what we seek and achieving that instead.

Nonetheless, the Angiolini Commission raises a number of valid concerns.

Yes, we need to examine the variation and availability of some services. Perhaps some key services should be available nationally; but variation in provision may also reflect local priorities and need.

Yes, we should support strategic commissioning, Public Social Partnerships, which include the Scottish Government, the 3rd sector, independent funders, local government, local communities and offenders; but why should any of these things depend on a national agency for criminal justice social work? It's a pity the Angiolini report didn't acknowledge some of the existing innovative and creative approaches. We should find a mechanism to celebrate them and roll them out, rather than assume they can only derive from a centralised service.

We have to acknowledge some shortcomings in current local delivery, and we need to improve how best practice is

identified and shared. Community Planning Partnerships ought to be the key to this. Yes, they have a variable track record; and they are subject to review. But instead of writing them off, we should consider what we need to do to make them the driving force behind the improvements we want to see. Give them the power and the statutory duties they need, and demand that they deliver; that they use the Single Outcome Agreement to translate national priorities into shared local priorities and outcomes. Hold them (and us through them) to account for reducing re-offending; because their membership reflects all those elements on which that reduction depends.

If there is lack of strategic leadership and accountability, this may be addressed by more effective engagement with local government leaders, better clarity about national performance standards, including an intelligent performance framework, which is truly outcome focused and which recognises the complexities of trying to measure 'hard outcomes'.

If a 'cluttered landscape' is perceived as a problem, how will a new agency for one relatively small part of the whole not add to the clutter? A coherent, local strategic plan for reducing reoffending, prepared in consultation with service users and the local community will de-clutter the landscape without fracturing it.

We should organise our policies around what we know will aid desistance

We certainly do need to shift from our 'pilot' culture and short-term funding, which result in 'chasing the money', rather than responding to locally expressed need and linking it with national outcomes: but how will a single agency for criminal justice do that, if current government grant funding doesn't?

'Inconsistent service provision' or 'proportionate resource deployment'? The highest risk offenders tend not to be spread thinly across Scotland, but are concentrated in the cities. For example, Edinburgh has a significantly higher proportion of very high risk offenders than the rest of Scotland. Our response has been to develop highly specialised services: but there has been nothing precious or exclusive about these developments. Sharing of good practice, creating a centre of excellence (or more than one) can be done from within a local model.

Of course, we need to improve on certain aspects of delivering criminal justice services through local authorities, but I think we should be very clear that we have some excellent elements on which to build and that we need some additional capacity to ensure that we get the best out of what we have. Such additional capacity would be a lot less expensive, and in my view a lot more effective, than the cost and distraction of restructuring and creating an unproven model. Is it wise to uproot existing structures and services when reoffending rates are at their lowest in over a decade and recorded crime now stands at a 37 year low?

Local planning, delivery and accountability are key to our effectiveness. Shifting responsibility for criminal justice social work to a national agency, while we manage locally the other services on which positive outcomes depend does not make sense. Chief Social Work Officers have an important role to

play here; an important contribution to the professional leadership of the whole, not just parts of it. That means a clear and focused responsibility for public protection at the interface between individual liberty and the state. However, for me to be accountable for something, I have to be responsible for it, have authority over it.

A local model supports the key elements of desistance, focusing on individualised interventions and the local community. It uses core social work practice to develop local responses, of which the community can feel part and which focus on prevention and the building of social and human capital; and it reflects the intentions and recommendations of the Christie Commission to build services around local communities. Fergus McNeill argues that social work is marginalised and that a national agency would change that. Seductive as it might be to think that being part of a national agency would elevate the status of social work, this is not realistic, and I would argue, isn't supported by history or experience from elsewhere.

Promoting national approaches does not depend on a national structure. Criminal justice social workers deliver against nationally defined outcomes and standards. We also have a good track record of regional commissioning, of developing and delivering services on behalf of more than one local authority.

To summarise, I am arguing that a national agency would disconnect criminal justice social work from the mainstream services, on which offenders depend. This disconnect would extend to the effective relationships, which criminal justice social workers have with colleagues in other parts of the local authority and with other critical services in the local area. Criminal justice social work is a core component of an integrated, multi-agency public protection and social justice response. To remove from local determination such an essential contributor to the shared responsibility for reducing reoffending is a really serious concern.

Structural reform would disrupt current services and programmes to tackle reoffending at a time when we need to build on the progress we have made already; when we need to recognise the complex interaction of factors on people who offend or are at risk of offending.

The establishment of a national agency would have resource implications, and at a time of significant financial constraints in the public sector, we should not justify diverting resources from direct service provision in favour of creating a new agency. We can spend those resources more efficiently by tackling the things we know don't work so well in the current model.

Finally, we should base what we do on what we *know*, not on what we *feel*. We should organise our policies around what we know will aid desistance. We know what those things are: re-integration into families and communities, access to housing, employment, health and substance misuse services, and parenting skills. These activities are more effectively delivered as part of an integrated approach, which includes social work as a core, local component.

Fergus McNeill argues in favour of a new national community justice social work service

THE Scottish Government has recently issued a consultation paper on the future of community justice in Scotland. There are three options, one of which is a national social work community justice service. Currently we have 32 local authorities as the bodies responsible for offender supervision services and eight Community Justice Authorities (CJAs) that form strategic plans to reduce reoffending and allocate resources.

Let me start by making clear two things for which I am not arguing. First, I am not in favour of a single correctional service, linking community justice and the Prison Service; and am extremely wary of anything that might be a staging post on the way to that outcome. Second, I am not arguing against the centrality of social work knowledge, values and skills in delivering community justice; indeed, I am arguing that we need to reform structures in order to enhance and preserve the best of social work in the criminal justice system.

Social work practice

Back in the 1960s there were three main arguments for the abolition of the then Scottish probation services and the absorption by new generic local authority social work departments (implemented by the Social Work (Scotland) Act 1968).

The first was that the various professionals shared and required a common body of knowledge and skills, and that their practice needed to be underwritten by the same values. This argument has been weakened both by the vast expansion in the range of knowledge relevant to social work practice in its different contexts, and by the recognition that we also face quite different and distinctive ethical challenges in criminal justice, even if we share common values with other social workers.

The second argument was that it was inefficient and ineffective to have different professionals going in and out of the same households, engaging with the same families. But this was based on the misconception that one multi-tasking general practitioner could sort out what we now rather unfortunately call 'problem families'. They couldn't, and they didn't: the problems proved too complex and the needs too disparate.

The third argument was that generic practitioners needed to be structurally and organizationally linked to others providing a wide range of universal or targeted local services in education, housing, leisure and recreation, and so on. A good aspiration, no doubt, but has history borne it out? As a criminal justice social worker in the 1980s, I don't recollect much sense of common purpose or shared commitment with or from my colleagues in housing (who often seemed to want to keep my clients out) or those in education or leisure and recreation (who often seemed to want to get them out). There was some common cause with those welfare rights officers and community development practitioners working within social work departments, but little evidence otherwise of a genuinely corporate local authority-wide commitment to ex-offender reintegration.

Priorities

Criminal justice social work wasn't a top priority in the new social work departments. The discovery of well publicised incidents of child abuse in the 1970s made childcare and protection the core professional concern of social work; the closure of long-stay hospitals for people with mental health problems or learning difficulties in the 1980s and 90s, made adult social care its volume business. Yes it's true that prisons riots and suicides, and the national standards and 100% funding that they produced, rescued criminal justice social work from its position as 'the sick man of the criminal justice system' (a position to which it had fallen, according to one eminent Sheriff as early as the mid-1970s). [Moore, 1978]

Nonetheless the prevailing view about the core business and concerns of social work marginalised working with offenders within social work. Criminal justice social work was also marginalised within criminal justice. This double marginalisation produces professional insecurity and defensiveness that does our clients no favours. It has stunted the development of a key professional group which needs an ambitious, expansive and assertive approach to their engagement with judges, prison staff, civil servants and even penal politics.

Partnerships

Those elusive intra-local authority partnerships to which I have already referred still matter even if the shrinking role of local authorities in providing public housing diminishes their value. But the lessons of the Multi Agency Public Protection Arrangements and of the Community Justice Authorities is, that in order to develop and deliver effective community justice we need a much broader series of partnerships far beyond the local authority: partnerships with police, with prisons, with third sector organisations, with health, with social landlords, with FE providers, and with many others.

Do these wider partnerships require a local authority locus? Being in the local authority doesn't seem to have helped much in joining up criminal justice social work and community justice with community planning partnerships or community safety agendas. Maybe it's time to recognize that partnerships are sometimes better negotiated from a more independent position where the roles and responsibilities of each contributor are more carefully and explicitly negotiated.

Politics

There is a serious practical problem, which has political consequences, that arises from current generic local authority social work structures. Hardly anyone can be promoted more than two or three times and stay a criminal justice specialist. The effect of this is that criminal justice social work since its inception has lacked a cadre of dedicated, expert leaders; leaders rooted in an appreciation of the frontline challenges of the job, but also with the skills and experience that would enable them to provide inspiring professional leadership; to represent the profession publicly; and to sit down with, or when necessary stand up to, the Chief Executive of the Prison Service, the Chief Constable of Police Scotland, the senior law officers, the Sentencing Commission (if we ever get one) and even the Cabinet Secretary.

Though the Association of Directors of Social Work's Criminal Justice Standing Committee has worked hard at representing criminal justice social work in political and strategic conversations, the reality is that criminal justice social work lacks compelling leadership and convincing representation nationally. The Scottish Prison Commission recognised that: the Commission on Women Offenders confirmed it.

Admittedly there is a risk that a national service would be more exposed to political interference. What might seem attractive when we have a relatively liberal and progressive Cabinet Secretary may seem less so if and when he is replaced by another of a different ilk. But to hanker for the days when Scottish criminal justice could simply hide from politics is both wrong in principle and, in any case, a forlorn hope. Devolution has changed Scottish justice. Justice is a public issue – as it should be. Rather than hiding from politics, community justice needs to be much more proactively engaged with it, playing its part in raising the quality of public debate. A national structure and the right national leader should make that more possible.

There is one further political point. One of the arguments in favour of local authority service delivery is about local democratic accountability, but this is a weak argument in respect of community justice. Justice services, though they need to be locally responsive and delivered, have distinctive relationships with legal processes and to the criminal justice system. In important ways, these services cannot and should not be subject to the will of local electorate or of their representatives in the same way as, for example, refuse collections or even school organisation and educational priorities.

Principles

The connection to social work that matters most is not organisational: it is principled and professional. Social work is bigger than local authorities; it predates them and it has always expanded far beyond their ambit in health, in justice, in education, and in the public, voluntary, and private sectors.

What matters most about social work is not where it is located but what it stands for. In criminal justice that means first, the insistence on the link between criminal and social justice; second, the commitment to the human rights of those most vulnerable to their neglect (meaning both victims and offenders); and third, the enduring belief in the capacity of human beings to learn, develop, and grow beyond their problems.

My assessment is that the fulfilment of those principles is now better served by a social work led community justice service that is fully in criminal justice, on equal terms with other national criminal justice agencies but which also faces and engages thoughtfully with the communities it serves in partnership with others. Only a national structure, in our very small but beautifully formed nation, can deliver the professional leadership and political voice that community justice urgently requires. Only a national structure can offer talented staff a proper career structure, one that truly develops, values, and nurtures their distinctive expertise, and that frees up a skilled workforce, in collaboration with other partners, to deliver the kind of community justice that Scotland needs and deserves.

Moore G (1978) 'Crisis in Scotland' *Howard Journal of Criminal Justice* (17) (1)

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