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Dear Sir/Madam

CONSULTATION: SHIFTING THE CULTURE

I refer to the consultation document "Shifting the Culture", to which I respond on behalf of the Scottish Court Service (SCS).

Many of the questions within the consultation document relate to the formulation of policy, which we would not wish to comment on. However, we have chosen to respond to the following proposals relating to Part 2, Justice which, if implemented, would affect the SCS:

Question 14 – *Should Fine Diversion be made available, on a statutory basis, throughout Scotland, if the further pilot is successful?*

If Fine Diversion is made available within Scotland, there are potential IT implications and costs for the SCS as a result of revoking any fixed penalty fine depending upon the workflow generated by the new system.

Question 16 – *Should drinking banning orders be introduced in Scotland? If so should they be piloted in one Sheriffdom?*

If drinking banning orders are introduced as a disposal in criminal proceedings, there would be costs involved for the SCS as IT systems would need to be updated to record the new disposal. The same IT cost would be incurred if the orders were piloted, as our whole system would still require to be updated.

Similarly, the introduction of civil applications for drinking banning orders would have an impact on civil court costs, particularly in relation to judicial time if the application for the banning order is opposed.

The proposal is that an order can be imposed for offences committed under the influence of alcohol. Consideration may need to be given as to how this is established in cases and whether it is based on the opinion of the court or uses a more formal process of identification either as part of, or as an 'aggravator' to, the charge. Depending on the process used there may be costs associated with changes in IT systems.

Question 17 – *Do you believe extending DTTOs to become ADTTOs would add value to the existing range of disposal? What differences of context between drugs and alcohol would need to be taken into account?*

Extending DTTOs to become ADTTOs, would have significant financial and programming implications for the SCS. Additional court hearings would require to be assigned for review hearings before the sentencing sheriff, which will have implications on both judicial costs and court programming. Your report quotes a figure of 50% of prisoners being drunk at the time of the offence, which would indicate that if a similar percentage was reflected in the non-custodial offenders such orders may be imposed in a substantial number of cases and we would advise that further work be done to estimate numbers of relevant cases and consequent costs for the court system.

Your report refers to Community Payback Orders and highlights the shortcomings of the orders in addressing alcohol issues. However, as noted in the paper, such orders allow the court to impose alcohol treatment requirements on offenders, and in fact the provisions do give scope to sheriffs to include specific treatment. Whilst the order does not narrate the specific treatment, the order requires a responsible officer to be assigned by the relevant local authority. Before an order can be imposed, the offender must agree to comply with instructions given by that officer, which could include provisions relating to their alcohol problem. In addition there are also specific requirements that can be imposed as part of the order. A programme requirement can be imposed, requiring the offender to take part in a specified programme, which could be an alcohol programme. An alcohol treatment requirement can also be imposed, requiring the offender to submit to treatment by or under the direction of a specified person. The responsible officer would be able to raise breach proceedings if the offender failed to comply with any of these requirements.

Reference is made in the report to the sheriff not continuing to be involved in the management of the case in Community Payback Orders. However, the legislation does provide for progress reviews, in similar terms to DTTO review hearings, allowing continuing involvement of the sheriff if they thought it appropriate.

Question 18 – *Do you believe that notifying a GP about a patient's conviction for an alcohol-related offence would be beneficial? Should it apply only in cases of conviction or in other circumstances as well?*

The requirement for the court to notify an offender's GP of the offence or to notify all GP's within the area the defendant is resident would have financial implications for the SCS, including costs involved in administration of such notifications, and potential costs for changes to our IT systems.

I would highlight particular concern relating to the requirement to notify all GP surgeries within the area the offender is resident. It is not clear how it is

envisaged the court would have knowledge of relevant practices or GP's contact details or how such details would be kept up to date. If such contact is to be made a requirement of a formal court order, there will have to be some central provision of the information so that it is clear to all involved which practices or GP's require to be contacted. This is a particular concern if the offender does not reside in the local court area or in fact resides outwith Scotland or the UK.

General Question 3 – *What is your assessment of the likely financial implications (if any) of the proposed Bill to you and your organisation? What (if any) other significant financial implications are likely to arise?*

There are financial implications for the SCS in relation to the following proposals:

Q14: The fine diversion proposals may have some financial implications for the SCS in terms of IT in order to revoke fines recorded on our systems. The financial implications cannot fully be assessed at this stage until the detail of the process is known

Q16: The proposals for drinking banning orders would have financial implications for the SCS. As a disposal in criminal cases, there will be financial costs in updating our IT system. Civil applications for such orders have more significant financial implications, in terms of court programming and judicial time, particularly if an application is defended. Further work would require to be done to estimate numbers of relevant cases and the process to be followed before financial implications for the SCS can be assessed.

Q17: Extension of DTTOs to become ADDTOs would have significant financial implications for the SCS both in terms of judicial time and court programming. Again, further work would require to be done to estimate numbers of relevant cases and the process to be followed before financial implications for the SCS can be assessed.

Q18: Notification of the offenders GP or all GP surgeries will have financial implications for the SCS but these cannot be assessed at this stage until the detail of the process is known.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely

Mandy O'Neill
Deputy Head of Policy and Legislation Branch

