

To: SOCIAL WORK COMMITTEE		Subject: MAKING SCOTLAND SAFER: IMPROVING THE CRIMINAL JUSTICE SYSTEM
From: DIRECTOR OF SOCIAL WORK		
Date: 22 AUGUST 2002	Ref: JD/JS/JM	

## 1. PURPOSE OF REPORT / INTRODUCTION

- 1.1. The purpose of this report is to advise committee of the content and main proposals contained within the White Paper, "Making Scotland Safer: Improving the Criminal Justice System". It is important to note that this document will form the basis of the Criminal Justice Bill due to be published later this year.

## 2. BACKGROUND

- 2.1. The Scottish Executive has recognised a need to update the Criminal Justice System and have made proposals which are designed to improve the system, whilst increasing protection for the public, promoting effective sentences and pursuing the principles of efficiency and fairness.
- 2.2. The White Paper and its proposals are the result of several consultation exercises in recent years, most notably those on youth crime and violent and sexual offenders. North Lanarkshire Council has responded to these consultation documents as they have been published. Each report has been presented to committee.

## 3. PROPOSALS / CONSIDERATIONS

- 3.1. The main proposals from the document are detailed in the appendix in a table form which also indicates the impact of each proposal and the implications of each for the local authority.
- 3.2. Proposals identified within the paper reflect comments and issues that local authorities and other agencies have raised during previous consultation exercises.
- 3.3. Although not all of the proposals have a direct impact on local authority services, many do, particularly those proposals which relate to public safety, working with young people and effective sentences.
- 3.4. It is important to note that the main proposals will form the basis of the Criminal Justice Bill due to be published later this year. It is important that the Bill is examined carefully to ensure that the implications for local authorities are realistic and manageable.
- 3.5. The key themes covered in the White Paper are as follows:
- Protecting the Public
  - Effective Sentences
  - Keeping the Law up to date
  - Promoting an efficient Criminal Justice System
  - Young People

#### **4. FINANCIAL/PERSONNEL IMPLICATIONS**

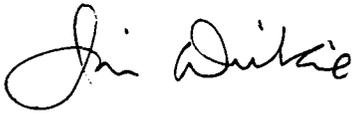
4.1 The White Paper appears to recognise that additional funding will be required in some instances to implement certain proposals. However it appears that the expectation is that the majority of the proposals can be contained within existing resources. It is vital that financial implications are highlighted when the final Bill is issued for consideration.

4.2 There are no personnel implications at the present time.

#### **5. RECOMMENDATIONS**

5.1 Committee is asked to:

- (i) request the Director of Social Work to provide further reports to committee on the progress of the Bill
- (ii) otherwise, note the contents of the report.



**Jim Dickie**  
**Director of Social Work**  
**31 July 2002**

*For further information on this report please contact Jim Scullion, Service Manager, Criminal Justice  
TEL: (01698 332190)*

*A copy of the report has been placed in the members library*

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
<b>Chapter 1</b>			
<b>Protecting the Public</b>	To give effect to certain of the recommendations of the Report of the Expert Panel on Sex Offending.	The Executive is still considering responses to the consultation paper to which North Lanarkshire Council responded. The Executive recognises the need to improve access to information so that the Court reaches decisions based on as wide as possible information available and to improve the registration procedures. They also recognise that some further funding requires to be made available to put these proposals into effect.	This will impact directly on the position of service currently provided through Social Work Services. Access to information and improved registration will enhance the service that we currently provide. We recognise in terms of the consultation paper on sex offenders that additional funding will be required. Further consideration will need to be given as to whether or not the funding proposed by the Executive is sufficient.
	Attaching the power of arrest to non harassment orders.	This will strengthen the statutory powers of the Police to take action on those perpetrating harassment or stalking and will enable the Police to act immediately without warrant to stop further or more serious harassment taking place.	This will improve considerably the safety of vulnerable people in the community and will be particularly important for example in situations of domestic abuse.
	Improve access to criminal records.	This will enhance access to information through Part V of the Police Act 1997 by improving the administrative arrangements and is to be welcomed.	It should improve the ability to access information on those who will have contact with vulnerable people.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
	New interim anti-social behaviour orders.	This is to improve the working of anti-social behaviour legislation by allowing an interim order to take effect pending the outcome of the subsequent hearing. The intention is to address time delays that are apparent in the current system.	This should allow the local authority to act more speedily in situations involving anti-social behaviour and to take interim action that has more immediate impact.
	Implement the Scottish Executive strategy for victims.	There has been a recent consultation paper on victim issues and the outcome of this will add further detail to the proposals contained in the White Paper. The aim of these proposals will be to improve victim access to information; to allow victims formal participation in the Criminal Justice process and increase support to victims.	This will give victims a more central focus within the criminal Justice System and is to be welcomed.
<b>Chapter 2</b>			
<b>Effective Sentences</b>	Clarifying the law for Drug Misusers who offend.	This will modify the procedures for drug testing and treatment orders and Drug Courts.	There are no implications for North Lanarkshire Council at present as none of the local courts have power to impose a drug testing and treatment order. However this provision is likely to be rolled out across all Courts in Scotland at some point in the future. It clears up administration issues that have been identified in the pilot process. The Drugs Court has been set up in Glasgow and is likely to remain a Glasgow provision for the foreseeable future.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
	Clarifying the use of Electronic Monitoring.	This clarifies the use of electronic monitoring as an alternative to custody and allows it to be a condition of a probation order or a drug testing and treatment order. It also allows for the transfer of orders between Courts. It will also contain the provision for early release on licence for those serving jail sentences.	Hamilton Sheriff Court piloted electronic monitoring and the proposals put forward identify issues that were raised during the pilot process and should enhance the operation of this order.
	Clarify the use of Supervised Attendance Orders.	This addresses the penalty available for non-compliance and also allows Supervised Attendance to be used as a sentence for first disposable for over 18's.	Supervised Attendance Orders have been operating in Scottish Local Authorities for 3 years. As an order, it has an important role to play in addressing offending behaviour within the community but take up has been less than anticipated. These provisions should enhance the operation of the order.
	New measures relating to parole and life sentence.	This clarifies the Parole Board's powers in relation to release and recall. It also allows for those on life sentences committing further offences to serve sentences consecutively rather than concurrently.	This clarifies the lines of accountability and is to be welcomed.
<b>Chapter 3 Keeping the Law up to date</b>	Clarifies consent when a girl is aged between 16 and 18.	Addresses a current defence argument that can justify assault on a girl under the age of 16.	This is to be welcomed as it addresses current anomalies in the system.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
	Increases the penalties for possession and distribution of child pornography.	Increasing the maximum sentence from 6 months for possession and 3 years for distribution to 5 years for possession and 10 years for distribution.	This is to be welcomed and reflects the seriousness of the offence.
	Repatriation of prisoners	This allows prisoners sentenced abroad to be repatriated. Those who are serving sentences of less than 4 years will spend a period of time in prison in Scotland prior to release. This should encourage other countries to agree to repatriation. The implications are that the prisoner will serve half of the remaining balance in prison on repatriation.	None directly.
	Update Law on finger print evidence.	Allows the accused to challenge the certificates of fingerprints and other impressions.	None directly.
<b>Chapter 4</b>			
<b>Promoting an efficient Criminal Justice System</b>	Enhance the powers of Police Support Staff.	To consider additional legal powers for certain civilians to undertake court duties in order to make best use of scarce resources.	None directly.
	Prisoner movement.	To allow the Police to escort prisoners for certain purposes with the consent of the Prison Governor.	None Directly.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
	Changes to Police Powers to take samples.	This will allow Police the power to retain samples taken on a voluntary basis subject to consent; clarifies circumstances in which authorised person is required to take DNA samples by mouth. It identifies however that further legislative clarity may be required on prints and samples taken for a specific Court case that are not then presented.	None directly.
	Reinstatement of certain Police ranks.	Re-establish the grade of Deputy Chief Constable and Chief Superintendent.	None directly.
	Measures aimed at improving the efficiency of criminal proceedings.	This covers various issues identifying circumstances in which electronic signatures can be used; additional means of citing offenders to court; the jurisdiction of the Sheriff Court in relation to sexual offences committed abroad; exemption of offenders subject to community disposals from jury duty; search warrants emanating from Northern Ireland; aggregation of terms of imprisonment; allows prisoners unlawfully at large from another UK jurisdiction to be detained in Scotland; provides for extended sentences for abduction even if there is no violence or sexual motive established.	The main implication is in relation to the extended sentence which is carried out by Criminal Justice Social Work Staff. However this extension is to be welcomed.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
	Introduces efficiency measures covering Court practices.	Introduces the potential for a live link between Courts and prisons to reduce attendance for routine matters. In the first instance this is likely to be piloted between Barlinnie and Glasgow Sheriff Court. It allows a jury to return home unless directed not to where a final decision has not been reached. It allows the transfer of cases between Sheriffdoms with the agreement of the Sheriff Principal. Allows the Sheriff to sign a warrant or other legal document while outwith their Sheriffdoms. It deals with breaches of community disposals more timeously.	Main implication is that breaches of community orders will be dealt with more timeously which is to be welcomed. The delays in the system are counter productive in dealing effectively with those unwilling to comply with community disposals.
	New powers for Groupings of Local Authority Criminal Justice Services.	This allows the Executive to make payment to the groupings. It also will allow Local Authorities to provide services to users in advance of the Court process.	In principle the Local Authorities have agreed to groupings being funded as entities but the implications of this is still being considered by COSLA. We will need to ensure in the context of the Bill that the authority of each individual local Authority remains clear. The ability to intervene at an early stage is to be welcomed.

	<b>Proposal</b>	<b>Impact</b>	<b>Implications for local authority</b>
<b>Chapter 5 Young People</b>	Clarifies the Law in relation to chastisement of children.	There will be statutory guidance available on the reasonableness of punishment taking various factors such as gender age and the nature of the punishment into account. Blows to the head, shaking or use of implements will never be permitted. It allows support to be provided to parents on the parenting role. It bans all chastisement in regulated childcare establishments.	This has implications for Child Protection practice but is to be welcomed as it clarifies what is and is not acceptable.
	Pilot for 16 to 17 years olds allowing them to be refereed to the Children's Hearing rather than the Court.	This puts into effect the recommendations of the advisory committee on youth crime. It will amend the law to allow the Procurator Fiscal to refer to the Children's Hearing in the first instance for minor offences. It is recognised that there will be financial implications associated with this.	There are implications for the Local Authority arising from this. However this has already been looked at in the context of the youth crime review and is a development that has been recognised as positive.
	Clarifies remand arrangements for young people subject to criminal proceedings.	This will allow young people under 21 to be remanded in Young Offenders Institutions (YOIs) rather than an adult prison.	Although there will still be concerns about young people being in prison settings, YOIs are more appropriate settings than adult prisons. How young people who require to be remanded should be dealt with however will be looked at further under the youth crime proposals.