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To: SOCIAL WORK COMMITTEE	Subject: THE SENTENCING COMMISSION FOR SCOTLAND – BASIS ON WHICH FINES ARE DETERMINED – 2006	
From: DIRECTOR OF SOCIAL WORK		
Date: 24 th AUGUST 2006	Ref: JS	

1. PURPOSE OF REPORT / INTRODUCTION

- 1.1 To inform committee of the report by the Sentencing Commission for Scotland entitled – “The Basis on which Fines are Determined” and to advise of its content and recommendations.

2. BACKGROUND

- 2.1 The Sentencing Commission is an independent, judicially – led body which was set up by the Scottish Executive under its policy statement ‘A Partnership for a Better Scotland’ and launched in November 2003 with a remit to review and make recommendations on :-
- The use of bail and remand.
 - The basis on which fines are determined.
 - The effectiveness of sentences in reducing re-offending.
 - The scope to improve consistency of sentencing.
 - The arrangements for early release from prison and the supervision of short-term prisoners on release from prison.
- 2.2 This is the Sentencing Commissions third report to date. However, unlike the previous two reports this one was reported directly to the Scottish Executive without wider public consultation.
- 2.3 The Director of Social Work in North Lanarkshire is a member of the Sentencing Commission.

3. PROPOSALS / CONSIDERATIONS

3.1. In its consideration of fines the Commission was given the following remit:

- The use of the fine as a penalty.
- The differential impact of fines on offenders of different means.
- The place of fines versus compensation orders.
- Fine enforcement.
- Alternatives to the fine.
- Imprisonment for fine default.

3.2 The report details the Commission's examination of the fines system in Scotland. It explores the type and use of financial penalties, including fines, Compensation Orders, Fixed Penalty Notices and Fiscal Fines. It notes that the fine is the most commonly used penalty for criminal offences in Scotland and is largely effective.

3.3 The report also explores the sanctions for default in payment of a fine by examining imprisonment for fine default, and the use of supervised attendance orders as an alternative to prison when a fine is not paid.

3.4 The work of the Summary Justice Review Committee, chaired by Sheriff Principal McInnes was examined. This Committee had considered the question of fine enforcement in some detail.

3.5 The report comes to the conclusion that despite enforcement action having to be taken on a substantial number of fine defaulters, statistics indicate that the vast majority of fines are paid in full.

3.6 The report makes several recommendations including:

- Fines should not be imposed on offenders who can demonstrate that they have an extremely low level of income, and on whom a fine would create an unreasonable burden.
- Supervised attendance orders should be used as a first instance disposal, particularly in cases where there is low income (A supervised attendance order is an order made by the court which provides a community-based alternative, substituting for the unpaid portion of a fine a period of constructive activity designated by the Local Authority)
- Fines supervision orders should be re-invigorated and investment made in the provision of supervising officers.
- Greater use should be made of compensation orders.
- A supervised attendance order should be imposed as an alternative to those who have defaulted on payment of a fine where the outstanding balance does not exceed £5,000.

- Imprisonment taking place in such cases only when there has been a breach of a supervised attendance order.
- Where an offender is serving a custodial sentence and has outstanding fines, the immediate sanction (currently available) of imprisonment in default, to be served alongside or added to current sentence should not be available.
- Noting that guidelines for sentencers would be useful.
- The Scottish Executive should invest in research of unit fines.

3.7 Currently fines are determined by the offence. Unit fines take into consideration the income of the offender and works on the basis that penalties for similar offences should be designed, as far as possible, to have an equal impact on offenders. For example, if two offenders are fined for similar offences, and one has no dependants and a disposable income of £500 per week, and the other has four dependants and a disposable income of £100 per week, the former would receive a higher fine.

4. FINANCIAL / PERSONNEL / LEGAL / POLICY IMPLICATIONS

- 4.1. At present the report contains recommendations to the Scottish Executive.
- 4.2 If the Executive decides to adopt these proposals there could be resource and financial implications for Local Authority Justice Services.
- 4.3 The expansion of the use of supervised attendance orders and the introduction of supervisors in relation to fine supervision orders will require additional resources in North Lanarkshire.

5. RECOMMENDATIONS

- 5.1. Committee is asked to:
 - i) Note the content of this report.
 - ii) Request the Director of Social Work to report back to Committee if there are further developments in respect of the recommendations.



Jim Dickie
Director of Social Work
 13th July 2006

For further information on this report please contact Mary Fegan, Head of Social Work Services TEL: (01698 332001), or Jim Scullion, Service Manager TEL: (01698 332040)

A Copy of the report has been lodged in the member's library.