

## **Criminal Justice System White Paper**

### **Purpose of report**

For discussion.

### **Summary**

In July 2012, the Ministry of Justice published its white paper 'Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System', which welcomes comments. This report introduces the white paper, presents the LGA's draft response and seeks members' views on it.

### **Recommendation**

Members are invited to:

1. Note the white paper on reforming the criminal justice system; and
2. Comment on the draft LGA response attached as **Appendix A**.

### **Action**

LGA officers to finalise the LGA's response to the white paper in light of members' comments.

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## **Criminal Justice System White Paper**

### **Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System**

#### **Background**

1. This white paper summarises government reforms to the criminal justice system in England and Wales. It describes the system as complex, remote, with obscure processes and outdated infrastructures. It highlights that a large proportion of the system's annual £20 billion is spent on processing offenders rather than targeted, preventative interventions. It also recognises significant delays in the system and responds to lessons learned from criminal justice agencies' effective and rapid responses to last summer's civil disturbances. The government wants to normalise much of this response so that agencies tackle delay and waste, increase accountability, transparency and public confidence.
2. The paper therefore outlines the government's plans to make justice:
3. **Swift** – justice must be swift to be effective. Offenders must quickly face the consequences of their actions, and agencies need to make sure that cases are ready to proceed quickly and to plan. The focus of the reforms is the simple, straightforward and uncontested matters that represent the large majority of cases prosecuted in the criminal courts. The reforms are designed to secure guilty pleas earlier, improve efficiency, and reduce paperwork and process times. Key elements are:
  - 3.1 Supporting the roll out of two programmes of reform being introduced by the judiciary to fast track cases where a guilty plea is anticipated.
  - 3.2 Simplifying and extending police-led prosecutions when there is no plea or the defendant fails to appear.
  - 3.3 Testing innovative approaches to court sitting times so the criminal justice system can respond to local demands and priorities eg civil disturbances or local events, through weekend and other flexible magistrates' courts sittings.
  - 3.4 Opening services to new providers and alternative models of delivery, eg with the private sector and mutuals, building on achievements with offender management services such as payment by results pilots.
4. **Sure** – justice must command public confidence if it is to provide an effective punishment and deterrent. Criminal justice services must punish and rehabilitate offenders, making them face up to the consequences of their crime, and highlight the role of:
  - 4.1 Police and crime commissioners contributing to delivering sure justice, but maintaining proper safeguards to protect the judicial independence of prosecutors.
  - 4.2 Collaborative programmes, eg *Troubled Families*, to get more children into school, reduce youth crime and help adults off benefits and into work.

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- 4.3 Neighbourhood Justice Panels being established in 15 areas, involving community representatives and restorative justice techniques to prevent and tackle offending at the earliest stage.
- 4.4 A Justice Test for the police to ensure unprecedented rises in out-of-court sanctions, eg cautions and penalty notices, are being used appropriately.
- 4.5 The importance of summary justice in building public confidence - low-level, straightforward and uncontested matters that are handled daily by magistrates.
5. **Efficient** - significant money has been invested in IT but in the past systems did not integrate well across agencies, reinforcing 'silos' and creating waste. The government wants to ensure the criminal justice system has an infrastructure fit for the 21st century by exploiting existing investment to join up service delivery, and moving away from slow, paper-based systems. It proposes:
  - 5.1 Establishing an independent Police Information and Communications Technology company, owned by police and crime commissioners, to exploit information technology in the criminal justice system.
  - 5.2 Exploring how social media can improve transparency of, and public engagement with, the criminal justice system.
  - 5.3 Capturing all information relevant to an investigation once, digitally, in a way that can be shared immediately and electronically with all criminal justice agencies.
  - 5.4 Routinely using and receiving digital case files, using tablet devices and upgrading video equipment in courts.
6. **Transparent** – to open up the criminal justice system to the public so the public understands what happens when a crime is reported and how the criminal justice system responds, through:
  - 6.1 Building on the strengths of magistrates, who serve as a vital link connecting the criminal justice system to local communities.
  - 6.2 Ensuring that magistrates and others in the criminal justice system engage with communities, listen to what they have to say and give the public a voice in how criminal justice services are delivered locally.
  - 6.3 Accurate and timely information to victims about the progress of investigations and prosecutions of those who have committed offences against them.
  - 6.4 The more widespread naming of offenders by for example developing West Yorkshire's 'In the dock' website.
  - 6.5 Ensuring that witnesses are kept informed about the progress of cases so they can prepare themselves, and receive appropriate support, especially if they are vulnerable, so they can give their best evidence.

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- 6.6 Publishing and broadcasting more local crime and justice information, eg crime maps, information about outcomes of criminal proceedings, parts of Court of Appeal proceedings, and more widespread naming of offenders.
7. **Accountable** – if reform of the criminal justice system is to succeed there have to be effective mechanisms under which it can be held to account. This section mainly sets out progress to date, citing the abolition of Public Service Agreement targets, the election of police and crime commissioners who might, over time, have a wider role in criminal justice reform, and introducing mechanism to allow communities to hold their local criminal justice services properly to account.

## **Appendix A**

### **Criminal Justice System White Paper**

#### **Introduction**

1. The Local Government Association (LGA) is a voluntary membership body and our member authorities cover every part of England and Wales. Together they represent over 50 million people and spend about £113 billion a year on local services. They include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities.
2. We aim to set the political agenda and speak in the national media on the issues that matter to council members.

#### **Background**

3. This paper provides the LGA's response to the Ministry of Justice's white paper 'Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System' and the changes it proposes to reform the criminal justice system in England and Wales.
4. Councils and the communities they serve have an interest in preventing and reducing offending, and as part of that, working with local criminal justice agencies. In particular, the public continues to be concerned because re-offending rates remain too high, with the period of time between being released and committing another offence being very short – nearly half of offenders released from prison re-offend within a year. This is especially the case with those who receive short sentences.
5. It is vital that the criminal justice system delivers 'swift and sure justice' so that offenders are rehabilitated and 'make good' for the harm they have caused – not simply punished. This requires a 'package' of responses to reduce offenders' chances of re-offending, the costs in tackling that re-offending, and makes places where they otherwise would have offended better places to live.
6. It is just as vital that the criminal justice system delivers swift and sure justice for victims who have suffered at the hands of offenders' crimes. Victims and communities rightly want to see swift and criminal justice done. They know best how they have been affected by offenders' crimes so play a key role in suggesting and influencing how best offenders can make amends, and identify what needs addressing locally, to prevent and reduce further crime. Citizen's Panels pilots, Neighbourhood Justice Panels and community payback websites are examples of such successful approaches.
7. Councils play a key part in an effective multi-agency approach to criminal justice through the crimes they prosecute themselves, the services they provide to reduce crime and reoffending, and the fact they are accountable to their communities for doing so. Many pathways out of offending are dependent on services provided by councils including access to housing, training and education or support for offenders' families. Councils

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exercise significant leadership, commissioning and delivery roles with other local agencies including police, health, prison and probation services. Together they work to ensure a better understanding of the causes of crime leads to improved joint services to reduce offending and reoffending.

8. The LGA is therefore responding to the white paper as it relates to councils and their important role in contributing to swift and sure justice.

**General comments**

9. Prompt, efficient justice through fair punishment and redress is essential to tackle offenders' behaviour, prevent further crime, ensure that limited resources are put to best use, and to make our communities safer places to live in.
10. Clearly there is a need for judicial independence to ensure appropriate sentencing across the country. There cannot however be a one size fits all approach to local criminal justice as issues differ across the country. We therefore support the white paper's emphasis on local multi-agency approaches, since re-offending is best tackled by such approaches that are best placed to understand and respond to local needs. In doing so, they prevent crime in the first place and intervene early, avoiding the need for more drastic and expensive interventions later on.
11. Related to the previous paragraph, tackling offending locally has been fettered for too long by central government targets and priorities, which have stifled innovation in delivering services and working effectively with partners. We therefore support the removal of Public Services Agreements and centralised targets, which frees criminal justice partnerships to deliver better outcomes with their communities. This must however translate into localities being genuinely able to decide their own priorities, information sharing and engagement strategies to tackle offending.
12. These local decisions include the need for local courts, Local Criminal Justice Boards and forthcoming police and crime commissioners to work more closely with councils to make the most of the services they offer and the community engagement and leadership they facilitate. This will ensure the most effective and holistic approaches are developed to break the cycle of offending.
13. Additionally, key public sector commissioning reforms are taking shape – chiefly via police and crime commissioners, health and wellbeing boards and probation services. Existing local criminal justice partnerships involving councils, such as local reinvestment pilots, must galvanise these different agenda to develop the most appropriate arrangements locally to deliver effective criminal justice.

**Specifics in the white paper**

14. The white paper invites views and suggestions on the reform programme generally. This section outlines our more detailed comments as per the main headings of the white paper:

**Swift justice**

15. Criminal justice is not just about ensuring offenders are sentenced and that they comply with their sentences. It is also about making offenders make reparations to their victims and address the causes of their offending behaviour through rehabilitation. Councils facilitate reparation through community payback and restorative justice schemes, and rehabilitation through their many services for communities and offenders, which form part of joint agency approaches to tackling re-offending and delivering criminal justice.
16. We are pleased that criminal courts are extending and trialling their opening hours to cover weekends and bank holidays and using technology to develop virtual courts via police stations. Such practices are reducing delays and delivering swift justice. They are addressing findings from Louise Casey's 2008 review 'Engaging Communities in Fighting Crime', which highlighted that cases could take months and get lost in the criminal justice system, damaging public confidence.
17. One area that has not been considered in the consultation is increasing the speed up justice from civil courts. Their enhanced role in the government's white paper 'Putting victims first - more effective responses to antisocial behaviour' for dealing with anti-social behaviour means a considerable number of criminal cases that have previously gone to magistrates courts are dealt with by the civil courts. The effectiveness of civil courts enforcing new Crime Prevention Injunctions and Criminal Behaviour Orders could be seriously undermined if cases cannot be brought to court at the earliest stage. Civil as well as criminal courts must therefore further these flexibilities so that justice can be delivered swiftly as the government proposes. This will also enable councils to act sooner in addressing offenders' circumstances and offers more convenience to victims, witnesses and defendants, who in some areas have to travel further since the closure of many local courts. On this note, it is worth emphasising that whilst the number of local courts has been reduced, the number of cases and offences have not reduced proportionately, so any approaches that can speed up justice without decreasing the quality of it, are crucial.
18. Consideration might also be given to providing the police with greater powers to decide on charges and take forward prosecutions as a means of streamlining the delivery of criminal justice than those currently proposed in the White Paper. The English Illegal Money Lending Team based in Birmingham City Council is able to make its own decisions on charges and to also prosecute cases. The team have so far prosecuted a range of offences including money laundering, drug possession, possession of firearms, criminal damage, fraud, deception, rape, and kidnap and assault, and have yet to lose a case they have taken to court. As part of their approach they offer an in-house witness service throughout the course of an investigation which they believe is a factor in their success. Not only might this approach improve the speed with which justice can be delivered but it also offers lessons on how justice can be made surer.

### **Sure justice**

19. There are huge benefits in involving communities with the criminal justice system, eg by reporting crime, suggesting community payback projects, and participating in reparation and restorative justice initiatives including Neighbourhood Justice Panels that councils have successfully facilitated. Community impact and harm statements are an important mechanism as they illustrate the impact crime has on individuals and an area which can

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inform decisions on what action to take. We therefore support approaches that give local people – victims and communities - a direct say in how sure justice should be delivered to ensure that criminal justice responses are the most appropriate ones locally.

20. The criminal justice system benefits from local insight when considering improvements to local services and sentencing. People taking active and useful roles feel genuinely involved and their confidence, trust and support in the criminal justice system increases. Councillors and councils, through their community leadership role, engage with their communities across a wide range of local issues including reducing crime and re-offending. It is therefore important that the criminal justice system engages with councils to ensure the best opportunities are made to involve communities using existing mechanisms and resources effectively.
21. The white paper highlights that enhancing the role of magistrates by placing them at the heart of the criminal justice system in their communities can build bridges between communities and the formal criminal justice system. It is vital however that magistrates also build bridges with councils and other local agencies, which together can further improve criminal justice through co-ordinated community engagement and services for offenders.
22. The government's proposals for a single lay magistrate, rather than a bench of two or three, seems sensible in principle to deal with low-level, uncontested cases through a more efficient and streamlined process, making the most of limited resources and contributing to government proposals for swift justice.
23. Since payment by results enables local partners to focus on outcomes for local offenders and communities instead of centrally driven targets, we support its development, as outlined in our response to the government's consultation on 'Punishment and Reform: Effective Community Sentences'. We are however concerned that with the Ministry of Justice, National Offender Management Service, probation trusts, community safety partnerships and when they are in place, police and crime commissioners all commissioning services, there is a risk that commissioning work to reduce re-offending will be fragmented and uncoordinated. This could undermine benefits that payment by results can provide.
24. The LGA is of the view that commissioning through local joint-agency approaches, eg through the local justice reinvestment pilots, is the right approach to take. This will enable partners to focus on the efficient and effective delivery of local needs and solutions, in the context of statutory and judicial requirements, to manage and enforce sentences and reduce re-offending.
25. Another key issue for payment by results is measuring performance. If local criminal justice priorities cover issues beyond re-offending, eg ensuring offenders are properly rehabilitated, payment by results needs measuring in different ways and timescales beyond the binary measure proposed, so that offenders' long-term needs can be effectively addressed. Local partnerships must have the freedom to decide on the best measures to monitor and address local priorities.
26. Whilst we agree with the principle of the Justice Test to ensure that out-of-court sanctions are deployed appropriately, the Test must be transparent, open and fair to ensure that

everyone is treated fairly and that any deviation from the Test can be justified. As we have seen with stop and search powers, if they are not applied fairly, these searches can lead to public criticism of the police targeting particular ethnic groups, which can subsequently lead to community tensions. We therefore support oversight mechanisms such as those outlined in the white paper.

### **Efficient justice through technology**

27. In the context of limited public sector resources, we support the government's aim to make the most of existing technology investment, especially social media to engage with and involve communities, and the use of digital files to speed up and enhance information sharing and document storage. The use for example of digital files accessible through electronic tablet devices to those in the court would save on paper, storage space savings costs and reducing the impact on the environment, though introducing them may require amendments to the rules on serving documents. The government must however engage with local authorities when considering joining up systems between agencies – both in terms of technological and software issues but also legal issues, eg data protection and human rights. Shared information systems are inherently difficult and costly to set up as the government itself acknowledges. It is therefore crucial that the government addresses any issues that arise and be aware of the potential financial costs from this work if these systems are together to contribute to swift and efficient justice.
28. Similarly, in the setting up of the Police Information Communications Technology company, police and crime commissioners, who will own it, will need to work with councils and criminal justice agencies to ensure the company best exploits the full potential of technology. The government acknowledges that criminal justice agencies will, in due course, be able to take advantage of the company's services. It is important however that councils and criminal justice agencies are involved from the outset, rather than just be service recipients at the end of the process. This will ensure that all stakeholder considerations contribute to the best technological response for all criminal justice agencies.

### **Transparent justice**

29. Information such as national crime mapping, criminal justice outcomes, and in future widespread naming of convicted offenders, can enhance the public's understanding of local crime and criminal justice. It can lead to their further interest and involvement in local criminal justice. We therefore support proposals and developments already taking place through this chapter to publish relevant and accessible information about local crime and offenders. However it is important that this does not place an additional burden on councils' resources.
30. Whilst many people are using online information sources to find out about local crime, criminal justice developments and outcomes, not all citizens have access to the internet. Those that do not have access, particularly where that spans across whole neighbourhoods and rural areas, are at a disadvantage in terms of access to developments that can inform their views, which can and influence and assist their involvement in criminal justice locally. It is therefore vital that access to online information sources is promoted, eg by informing people where they can access online information in places such as libraries and community centres, to ensure that no-one is

disadvantaged by the availability of information that is predominantly online.

### **Accountable justice**

31. The white paper highlights that local areas should determine the arrangements for their own Local Criminal Justice Boards, which from November work with police and crime commissioners. Given the many ways in which councils are involved in delivering criminal justice as highlighted in this response, the set up of these boards must allow for council representation on Boards as key contributors to this agenda.
32. This chapter also outlines the government's proposals for police and crime commissioners to galvanize joint working across the criminal justice agencies in their area. Police and crime commissioners will have a duty to work reciprocally with their local community safety and criminal justice partners. It will be essential that police and crime commissioners understand and involve councils' contribution to delivering local criminal justice to victims, offenders and communities, so that the most is made of council provision in future commissioning.
33. Similarly, police and crime commissioners will have the power to amplify the voice of victims and communities by getting neighbourhoods engaged with their public services, eg through beat meetings. Police and crime commissioners must use that power and genuinely engage with communities to ensure that the services they commission meet locally identified needs. In doing so, they should liaise with councils, which already have a variety of mechanisms in place to engage with communities and understand their needs and priorities.
34. The government outlines its consideration of how police and crime commissioners' role could be further developed with the criminal justice system. As we stated in our response to the government's 'Punishment and Reform: Effective Probation Services – consultation paper', it would be better for this role to be taken on by local authorities. In delivering the pathways out of offending such as gaining employment, receiving training/education, access to health service and substance misuse treatment, as well as access to housing, then local authorities will be responsible for providing or commissioning these services, whereas police and crime commissioners will have much less of a role and understanding of the delivery of these services. Given that probation trusts are already accountable to councils' crime and disorder overview and scrutiny committees as responsible authorities on community safety partnerships it would be sensible for this role to be extended, with councils having responsibility for probation services.

### **Conclusion**

35. In summary, for all the reasons outlined above, the LGA supports:
  - 35.1 the principle of 'swift and sure justice' to ensure that:
    - offenders do not re-offend by tackling their range of issues as well as punishing them, and to prevent crime in the first place.
    - victims of crime and communities see that justice is done and play a key role in shaping how best offenders can make amends and what needs addressing to prevent and reduce further crime.

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- 35.2 the government's emphasis on local approaches throughout the white paper. Criminal justice circumstances differ across the country. Local multi-agency approaches are best placed to understand and respond to local needs.
- 35.3 the removal of central targets, enabling localities to focus on local outcomes.

36. It is vital however that:

- 36.1 these proposals translate into localities being genuinely able to decide their own priorities, information sharing and engagement strategies to tackle offending.
- 36.2 local commissioners and partnerships work more closely with councils to make the most of their services and the community leadership they facilitate. This will ensure the best local approaches to break the cycle of offending.
- 36.3 these partnerships, involving councils, must galvanise the different public sector reforms taking shape so that commissioning is not fragmented and unco-ordinated and instead develops the best local response for criminal justice.