



28 April 2009

Bill Aitken MSP  
Convenor  
Justice Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Bill

### **Criminal Justice and Licensing (Scotland) Bill – Stage 1**

Please find attached a copy of Action for Children Scotland's evidence for the Justice Committee's Stage 1 consideration of the Criminal Justice and Licensing (Scotland) Bill.

Action for Children Scotland has been working with our partners to develop a Youthbuild model which can secure sustainable employment in the construction industry for difficult to reach young people, including those who have offended or are at risk of re-offending. We currently have three Youthbuild projects in Glasgow and in Inverclyde, and are currently rolling out the Youthbuild model in other local authority areas.

The evaluation of Action for Children Scotland's Youthbuild model has been very positive, and has confirmed a 81% success rate for the young people participating in Youthbuild, many of whom had been offending. Action for Children Scotland would be happy to give oral evidence to the Justice Committee about the key messages and learning from the evaluation, and also about how employability projects such as Youthbuild can help to break the cycle of offending and re-offending by young people. We would also be willing to host a visit by a Reporting Group from the Justice Committee to one of our Youthbuild projects, either in Glasgow or Inverclyde, if it would be helpful to the committee for its Stage 1 consideration of the Criminal Justice and Licensing (Scotland) Bill.

This would provide the committee with an opportunity to find out more about Action for Children Scotland's Youthbuild model, and about its success in promoting training and employment opportunities for some of the most vulnerable and disadvantaged young people in our communities. It would also provide the committee members with a chance to meet some of the young people who are involved in Youthbuild, and to find out from them direct about how it has helped to turn their lives around. In the meantime I attach a background briefing about Youthbuild.

Please do not hesitate to contact either myself or Robert McGeachy, Action for Children Scotland's Policy and Public Affairs Manager, on 0141-550-9010 if the committee would like to visit Youthbuild, or if you require further information.

Thank you for your interest in this matter

Yours sincerely

*as long as it takes*

Paul Carberry

Paul Carberry  
Operational Director of Children's Services  
Action for Children Scotland

cc: Dougie Wands, Clerk

## Scottish Parliament Justice Committee

### Stage 1 consideration of the Criminal Justice and Licensing (Scotland) Bill

Action for Children Scotland welcomes the opportunity to submit evidence to the Scottish Parliament's Justice Committee's Stage 1 consideration of the Criminal Justice and Licensing (Scotland) Bill ("the Bill"). Our evidence draws upon our strong track record of successfully engaging young people in robust community based alternatives to custody, which have significantly reduced the likelihood of re-offending. As part of this process, Action for Scotland projects in the Inverclyde and Inverness areas deliver *Constructs*, which is an accredited 26 session programme for young males aged 18+ at risk of re-offending. The programme supports the young people to address their offending behaviour, and to turn their lives around. Action for Children Scotland also works with families who have been affected by the imprisonment of family members.

### The Scottish Sentencing Council (Sections 3 – 13, and Schedule 1)

Action for Children Scotland generally welcomes the Scottish Government's proposals to establish the Scottish Sentencing Council, and to introduce sentencing guidelines. This body can help to promote greater consistency and transparency in sentencing across Scotland. The proposed council can also make a significant contribution to progressing the Scottish Government's commitment to encourage the greater use of community sentences as an alternative to custody for the less serious offences. Action for Children Scotland takes the view that we need to see more disposals by courts that keep people out of the prison system for the less serious offences, and instead focus on rehabilitation. This is based on our experience of working with young people who have offended, which has proven that intensive community based interventions focusing on the causes of how the young people got involved in crime can prevent re-offending.

Schedule 1(1) of the Bill outlines the proposed membership of the Scottish Sentencing Council. We believe that the council's work would benefit from the inclusion in its membership of a representative from an agency working directly in the rehabilitation of offenders, and that this should be specified in Schedule 1(1).

### Sentencing Guidelines (Section 5)

We note that the main function of the Scottish Sentencing Council is to "prepare and publish guidelines relating to the sentencing of offenders". Action for Children Scotland recommends that the sentencing guidelines should include a clear statement that children under 18 will be dealt with by the Children's Hearings system, except for the most serious offences.

Action for Children Scotland also believes it is vital that the sentencing guidelines should include a strong focus on community sentences for the less serious offences, given the presumption against short sentences in Sections 16-19 of the Bill, and the high level of prison overcrowding highlighted in the Chief Inspector of Prisons' recent annual report.

Action for Children Scotland recommends that the sentencing guidelines produced by the proposed Scottish Sentencing Council should highlight the impact of custodial sentences upon the lives of prisoners' children. A report published by Scotland's Commissioner for Children and Young People, *Not Seen. Not Heard. Not Guilty. The Rights and Status of the Children of Prisoners in Scotland*, outlines the negative impacts on children where a parent (or other principal carer) is detained or imprisoned. Against this background, Action for Children Scotland believes that these negative impacts should be reflected in the sentencing guidelines, particularly for the less serious offences where a community based sentence could be appropriate. We believe this would be beneficial for both male and female offenders who are parents or carers. It would, for example, help more young fathers to retain contact with their children and families. Given the fact that being part of a family is one of the key factors causing offenders to stop offending, we consider this could have a positive outcome for many families affected by imprisonment. Action for Children Scotland also notes that the HM Chief Inspector of Prisons for Scotland's Annual Report states that the number of women in prison "are rising more quickly than the numbers of any other

sector in the prison population". Against this background, Action for Children Scotland believes a much more consistent approach should be taken by the courts to the sentencing of male and female offenders who have committed the same, or similar, offences. Action for Children Scotland recommends that this issue should be reflected in the sentencing guidelines which will be developed by the proposed Scottish Sentencing Council. This factor, and the Scottish Government's commitment to replace short term sentences with the greater use of community sentences, can help both to reduce the number of women who end up in prison, and to improve the levels of rehabilitation amongst women in the criminal justice system. Community based sentences could, for example, assist female prisoners to meet their child care responsibilities while fulfilling the conditions of their community sentence, and to draw upon positive influences within their network of family and friends.

### **Community Payback Orders (Section 14)**

We note from the Financial Memorandum accompanying the Bill it is anticipated that the proposed Community Payback Orders ("CPOs"), and the presumption against short sentences, will have a "*significant* financial impact". Action for Children Scotland believes that the provisions relating to CPOs must be adequately resourced if they are to be successful. In this respect, it would be helpful if the Scottish Government could clarify the funding which will be available to fund the management and implementation of the CPOs across Scotland.

### **Requirement to avoid conflict with religious beliefs, work etc.**

Action for Children Scotland welcomes the provisions in the Bill that courts must ensure, as far as practicable, that any requirement imposed by a CPO avoids conflict with the offender's religious beliefs and work. We also take the view it is essential that the implementation of the CPOs must be flexible, given the importance of employment in helping to break the cycle of offending and of re-offending. This flexibility is particularly vital in situations where offenders secure full-time employment during the course of a CPO programme. In these circumstances we believe it is important that the appropriate court should act promptly to take into account the offender's changing circumstances, and to consider any changes which may be necessary to vary or revoke or discharge the CPO.

### **Drug and alcohol treatment requirements**

With regard to the drug treatment requirement, we believe it is important that a consistent approach should be taken across Scotland. Our concern, however, is that not all offenders will be able to access local drugs rehabilitation services. It would, therefore, be helpful if the Justice Committee could clarify the number of people who offend, or are at risk of re-offending, whom the Scottish Government estimates will be able to access, as part of their compliance with a CPO, local drugs rehabilitation services under the recently announced reforms to the delivery of drugs and alcohol treatment.

### **Breach of Community payback order**

We believe that the Bill should include a clear statement that courts, in determining whether or not an offender has breached an order, must take into account all of the relevant circumstances to enable them to fully evaluate the progress made by the offender in complying with an order. Action for Children Scotland considers that such a statement is particularly necessary where an offender has been subject to a number of requirements under a CPO. In addition, the sentencing guidelines relating to CPOs should include clear guidance to the courts about what circumstances would amount to a breach of a CPO.

### **Short Sentences (Sections 16 – 18)**

Action for Children Scotland welcomes the provisions in Sections 16 – 18 which will introduce a presumption against short sentences, and promote the greater use of community sentences. We believe these measures can make an important contribution to breaking the cycle of offending and of re-offending, and to increase the level of rehabilitation amongst offenders. This cycle has given rise to a 'revolving door' syndrome through which many offenders, particularly young people, return to prison soon after leaving custody. To break this cycle we believe it is essential that the transitional support available to young people upon leaving custody must be significantly increased, and a more consistent approach taken, across Scotland.

Action for Children Scotland and our partners, including the Robertson Trust, Fairbridge and Youthlink, are helping to provide young people with such support in the Renfrewshire area through the Moving On Renfrewshire project. We help young males aged 16-21 who are in custody or have recently been liberated from HMYOI Polmont, HMP Greenock, or HMP Friarton. The young people engage voluntarily in the project, which aims to reduce the risk of re-offending, and to minimise the likelihood of the young people returning to custody. We provide a wide range of support services tailored to meet the young people's individual needs to assist them make positive changes in their lives. Action for Children Scotland and our partners help the young people to deal with personal problems, and issues around housing, benefits, substance misuse, and relationships. This flexible approach helps to promote more positive outcomes for young people, with the long term plan to move them into education, employment or training.

Supporting offenders into sustainable employment is another key area which needs to be considered as part of the process of breaking the cycle of offending and of re-offending. Significantly, HM Chief Inspector of Prisons for Scotland's Annual Report highlighted that "unchanging poverty, social exclusion and inequality" are the most powerful factors inhibiting the rehabilitation and transformation of prisoners. The often insurmountable difficulties faced by prisoners in securing employment remain at the heart of this cycle. Drawing upon the experience of our Youthbuild programme, Action for Children Scotland takes the view that employment opportunities are central to rehabilitation, and to preventing re-offending. Such opportunities are vital if prisoners are to acquire the necessary skills and experience to make something of their lives, and Youthbuild has demonstrated that real jobs offer real protection against further involvement in crime.

Action for Children Scotland's Youthbuild is a pre-vocational programme, which provides training and employment opportunities in the construction industry for disadvantaged young people aged 16 - 24, including those who have been in custody. There are currently three Youthbuild projects within the programme, with others planned for development. Action for Children Scotland is looking at the potential for developing a modern apprenticeship scheme within the organisation, which will lead to the development of further social care opportunities. The three existing Youthbuild projects work with a range of partner agencies to give young people work experience on local sites where they are building homes. These partners have included large construction companies, various housing associations such as Oak Tree, Cloch, Milnbank, and Govanhill, Glasgow City Council, Inverclyde Council, the European Social Fund and Scottish Enterprise.

In December 2007, an independent evaluation of the Youthbuild programme was commissioned. The evaluation confirmed that the Youthbuild programme had a 70-80% success rate across the three projects for helping young people move into employment following their involvement in the programme. Action for Children Scotland believes that the type of training provided by our Youthbuild projects should also be provided as part of community based disposals. Locking people up and failing to provide them with access to work and training opportunities, is denying many the opportunity to embrace rehabilitation. It is setting them up to re-offend. Introducing sentencing guidelines with a strong emphasis upon the need for more community based interventions can help to break the cycle of re-offending, and to address prison overcrowding which is undermining attempts at rehabilitating many prisoners. Action for Children Scotland would be willing to arrange a reporting visit by members of the Justice Committee to one of our Youthbuild projects if it would assist the Committee's Stage 1 consideration of the Bill. We also attach further information about the Youthbuild project.

### **Prosecution of Children (Section 38)**

Action for Children Scotland welcomes the provisions in Section 38 of the Bill which will raise the age of criminal responsibility in Scotland to 12, and ensure that only the Children's Hearings System will be able to deal with children under the age of 12 who have committed offences. The big challenge is for the Scottish Government, local authorities, the police, the voluntary sector and other key agencies to continue working together to break the cycle through which neglected children end up as the next generation of criminals. Action for Scotland believes it is vital that there should be a continuing focus on the care and welfare needs of children through the Children's Hearings system, of which offending

behaviour is often symptomatic. We consider that raising the age of criminal responsibility is one of the key steps necessary to deal with these issues on a more positive footing, the others being early intervention and intensive support to assist those who offend, or are at risk of offending, to address their behaviour, and to turn their lives around.

### **Remand and committal of children (Section 47)**

Action for Children Scotland strongly believes that children under 16 should only be remanded as a last resort. The provisions in the Bill are, therefore, a step in the right direction. Section 47 will ensure that children under 16, if not released on bail or ordained to appear, will be remanded to the local authority to be detained in secure accommodation or “a suitable place of safety”.

In terms of “suitable places of safety”, Action for Children Scotland operates a remand fostering service for young people who have offended, or are at risk of re-offending. Action for Children Scotland’s North Lanarkshire Youth Justice Fostering Service offers accommodation and support to young people by providing a short, structured and supported placement in a stable family environment as a positive alternative to being remanded in custody or in secure accommodation. The service has a proven track record in diverting vulnerable young people from crime, and from becoming more deeply entrenched in the criminal justice system. Against this background, Action for Children Scotland recommends that the Scottish Government and local authorities should give further consideration to the case for increasing the funding for, and availability of, remand foster placements to help reduce the number of young people in secure accommodation.

Please do not hesitate to contact Paul Carberry, Operational Director of Children’s Services Action for Children Scotland, or Robert McGeachy, Policy and Public Affairs Manager, on 0141-550-9010 if you require more information about any of the issues raised in Action for Children Scotland’s evidence, or about any of the services we provide to support difficult to reach and vulnerable children, young people and their families across Scotland.