

Clarification is required on whether the proposed increase in funding from local authorities to the SDEA will be offset by an increase in funding to local authorities from the Executive. Assuming the Executive does make additional funding available to local authorities, the question arises how the monies will be paid. It is considered that the simplest route would be through a specific grant, which local authorities would pass directly onto police authorities. This would have the benefits of being transparent and would enable authorities to easily track the transfer of monies. Alternatively, local authorities could receive the money through RSG. One drawback of this funding route for authorities would be subsequent adjustments to RSG – eg through the floor calculation and various redeterminations – might result in some authorities losing out with respect to the specific amounts they are required to pass onto police authorities.

It is considered therefore that:-

- ◆ Councils should be given additional money to meet the cost of jointly funding those SDEA operations that are currently 100% funded by the Executive
- ◆ The additional money should come to Councils via a specific grant rather than through RSG, since this increases transparency and ensures that each Council receives the amount required. The alternative funding route, via RSG, has the drawback that Councils may not receive the specific amounts they require to pass onto police authorities

#### **Knife Crime Questions 12 to 14**

The Council welcomes the proposal of increasing the minimum purchase age from 16 to 18 as well as the introduction of a licensing scheme for the sale of non-domestic knives and the banning of swords.

It is recognised that the proposals to increase sentencing powers are more contentious. The Bill proposes to double the maximum sentence from 2 to 4 years. The outcome of this proposal is likely to increase the levels of custody among young men in particular. The deterrent effect of such a move may be marginal given cultural attitudes in high crime areas to carrying of weapons. Renewed efforts on education, citizenship and early intervention should also be encouraged and developed as part of a longer term approach. Conversely, for those young people who are found to be in possession of such a weapon then the impact of longer custodial sentences is likely to further damage young lives. An additional difficulty will be that any future court appearances for whatever reason are likely to accelerate criminal and custodial careers, with consequential impact on the lives not only of the person sentenced but on families, dependent children and local communities. Rates of imprisonment seem likely to increase.

Similarly, the extension in police powers contained in Question 13, carries the danger of being applied particularly to known young people for whom more effective intervention on changing the culture might come from an agreed multidisciplinary joint approach through youth justice mechanisms.

#### **Football Banning Orders Questions 15 to 20**

The proposals in respect of introducing the imposition of Football Banning Orders on conviction are welcome and acceptable. The twin-track route as outlined in Question 16 is useful and flexible. Similarly the proposals in question 17 to allow courts to make a banning order to reduce football-related disorder give considerable flexibility and scope for the court system. At Question 18 the length of banning orders proposed of a maximum of 10 years on sentencing seems reasonable, as does the proposed penalty for breach of the banning order, with a maximum fine of up to £5,000 and/or up to 6 months imprisonment.

**Council Offices, Almada Street, Hamilton ML3 0AA. Telephone: 01698 45 4208 Fax: 01698 45 4275**

**E-mail: [pach.exec@southlanarkshire.gov.uk](mailto:pach.exec@southlanarkshire.gov.uk)**

H:\CHIEF EXECUTIVE\CEX\LETTERS\Letters file\French V Police Bill 160505.doc

The scope of fixtures including competitive and friendly games involving the national team and SPL and SFL clubs highlighted in Question 19 similarly seem well-founded and the proposal for the Scottish Police to take on the administration of the orders is sensible. (Question 20).

#### **Marches and Parades Questions 21 to 29**

The proposals in relation to the maintenance of public order are reasonable and in relation to Question 21 the Council agree that organisers should be required to give more notice of their intention to hold a procession. However, this has to complement the proposal in Question 22 that the notice should be dispensed within limited situations in order to allow appropriate responses to specific circumstances.

Particularly welcome are the proposals in Question 23 for prior notification to the local authority and the Police given the substantial financial implications to both which are associated with marches and parades. Similarly, the proposals for regulations for the process of notification and, in particular, the proposal to provide a behaviour bond are also welcome.

In relation to Question 24, it is considered that it would be helpful if there were regulations setting out key steps etc, as this would ensure uniformity across Scotland.

The proposal in Question 25 that authorities should be able to take into account the wider community views when taking decisions on procession notifications is similarly welcome, as long as the legislation is amended to permit wider views to be considered. The proposal outlined in Question 26 that local authorities should be able to take into account wider issues when taking decisions on procession notifications is welcomed as long as compatible with human rights.

The ability to impose wider conditions for notification of processions outlined in Question 27 is welcomed as long as it is in the context of a proportionate response for a justifiable evidence based reason.

The proposals outlined in Question 28 to formalise codes of conduct between the Police and local authorities will promote safety and consistency across authorities. A standard code could be prepared Scotland-wide with individual police authorities and local authorities being given provisions to add conditions depending on local circumstances.

The proposal to retain the same penalties if participants breach the statutory requirements outlined in the range of sanctions available outlined in Question 29 are considered appropriate.

#### **Mandatory Drug Testing and Assessment Questions 30 to 34**

The proposals regarding mandatory drug testing and assessment are controversial as they seem to rest almost entirely on the experience of drug testing pilots in England and Wales (Home Office Research Study 286) but the conclusions of that study are less than compelling.

In addition, there are significant ethical and practical difficulties in accepting mandatory drug testing at the stages of either arrest or charge. It can be argued that such information gives useful profiling as to the level and pattern of drug misuse within particular geographic and policing areas. Whilst true, this information can be readily gathered from other sources including local prisons, treatment providing agencies and self-reporting from drug misusers entering assessments and/or treatment.

If the purpose of the proposals is simply to provide a useful opportunity for drug misusing arrestees to access assessment and treatment services, then it is not yet established in Scotland that this can be effectively arranged through development of arrest referral services.

**Council Offices, Almada Street, Hamilton ML3 0AA. Telephone: 01698 45 4208 Fax: 01698 45 4275**

**E-mail: [pach.exec@southlanarkshire.gov.uk](mailto:pach.exec@southlanarkshire.gov.uk)**

H:\CHIEF EXECUTIVE\EXILETTERS\Letters file\French V Police Bill 160505.doc

The English study reports an increased access to treatment services amongst those testing positive compared with those who received a negative drug test (Executive Summary page x). This seems obvious. Similarly, at page xi of the Executive Summary, caution is expressed in respect of the 2 principal findings that 'any implied causal links between drug testing and changes in either arrest referral acceptance or participation in treatment warrant careful interpretation. Evaluation of arrest referral services and treatment services and their respective impact in drug consumption and offending was outside the scope of this research.' At page 52 of the report in relation to treatment, the following is offered: "Evidence to suggest that in Nottingham those who receive a positive drug test are 26% more likely to enter treatment than those who receive a negative test and strong evidence to suggest that in Doncaster those who receive a positive drug test are 24% more likely to enter treatment than those who receive a negative drug test." Again this seems to be obvious.

The evidence to support the proposal seems thin at best and the ethical considerations in relation to the right to drug test arrestees remain. In addition, it may be noted that these proposals relate to drug testing of arrestees whereas the English study reports on a sub-set of arrestees, i.e. those who are charged. It is interesting that the England & Wales proposals for mandatory testing are targeted to apply to those over 18 years of age charged in connection with the relevant offences. One would wonder why these proposals, if expected to be so efficient in routing people into treatment and reducing future crime, would not be applied to a wider, younger and possibly equally prolific target group. The contention that simply by experiencing a mandatory drug test, that individuals will be more ready or motivated to access treatment seems doubtful.

Therefore in response to Question 30 regarding the requirement to undergo a drug test for certain trigger offences there does not yet appear to be a sound case for the police to have these additional powers.

Similarly Question 31 relates to the issue of applying the test to those arrested for certain offences rather than on charge, however, as arrest referral is yet to be evaluated in Scotland the notion that the proposal should apply to the wider group of arrestees rather than the smaller group of people charged does not seem soundly established.

Question 32 outlines the proposal that the police should require those who test positive for a class A drug to attend an assessment of their drug use, however, this notion denies the crucial element of motivation or readiness for change in relation to impacting on the behaviour of drug misusers i.e. potentially wasteful of treatment resources and expensive in enforcement of action on non-compliance.

The trigger offences related to theft and drugs offences makes sense in terms of being a trigger mechanism as outlined in Question 33. However offences related to soliciting or the sex industry might usefully be considered, as well as certain "crimes against the person" should such proposals be established.

Question 34 outlines the proposal to allow a senior police officer to authorise a drug test where there are reasonable grounds to suspect that the misuse of a Class A drug has caused or contributed to a non-trigger offence. If the main proposals are to access appropriate drug misuse and health care services, then the additional power to the police to target use of this provision gives rise to concern as to operational tensions and motivations for triggering such assessments, potentially including intelligence gathering.

**Council Offices, Almada Street, Hamilton ML3 0AA. Telephone: 01698 45 4208 Fax: 01698 45 4275**

**E-mail: [pach.exec@southlanarkshire.gov.uk](mailto:pach.exec@southlanarkshire.gov.uk)**

H:\CHIEF EXECUTIVE\CEX\LETTERS\Letters file\French V Police Bill 160505.doc

The minimum age of 16 at which the above proposals take effect and as outlined in Question 35 is consistent with the Scottish adult system, though as noted in relation to the wider UK proposals, there may well be young people with not dissimilar needs and risks.

Question 36 seeks agreement that mandatory drug testing will prove access to a key group of clients that might not otherwise engage however the case has not been made that mandatory drug testing will be a powerful accelerant for key client groups to successfully engage with treatment services.

**Police Power to take Fingerprints at a place other than a Police Station** *Questions 37 and 38*  
These proposals outlined in Questions 37 and 38 regarding the taking of fingerprinting outwith a police station are on the whole acceptable. With the safeguard that fingerprints taken away from the police station would be neither retained nor added to the national database is welcome.

**Date and Place of Birth** *Question 39*

Giving the Police the power to ask for a date of birth and place of birth information is a sensible additional power as outlined in Question 39.

**Independent Police Complaints Body** *Questions 40 to 42*

The proposals outlined in Questions 40, 41 and 42, regarding the introduction of an independent police complaints body in Scotland is a welcome and progressive development. Particularly encouraging is the continued use of the Crown Office Procurator Fiscal Service and the wide powers attributed to the new Complaints Commission.

The related proposals for powers of the new Commission to cover both serving police officers and increasingly numerous civilian staff employed by the police are similarly welcome.

In conclusion the Anti Social Strategy Implementation group welcome the majority of the new proposals with certain reservations as outlined above. The proposals are in line with South Lanarkshire's Community Planning Partners and the Scottish Executive's priority to tackle anti social behaviour and to address the impact this behaviour has on communities.

I trust the foregoing comments are of assistance to you.

Yours sincerely



**Michael Docherty**  
Chief Executive

Council Offices, Almada Street, Hamilton ML3 0AA. Telephone: 01698 45 4208 Fax: 01698 45 4275

E-mail: [pach.exec@southlanarkshire.gov.uk](mailto:pach.exec@southlanarkshire.gov.uk)

H:\CHIEF EXECUTIVE\CEX\LETTERS\Letters file\French V Police Bill 160505.doc