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ACS (Association of Convenience Stores) Consultation Response

1. ACS welcomes the opportunity to participate in the consultation on the Breaking the Cycle Green Paper. We will set out the major concerns of local shops and how the criminal justice system can continue to meet their needs.
2. ACS is the voice of local shops representing 33,500 retailers across the country. Our membership includes multiple and symbol groups such as Co-op, Spar, Costcutter and Londis as well as thousands of independent retailers.

Overview

3. Local shops are vulnerable to a range of crimes from shop theft and vandalism to armed robbery and violence. As the level of retail crime continues to rise retailers have little choice but to invest further in crime reduction measures, taking money away from other areas of their business. In extreme cases of successive robberies or damages, shops have had little choice but to close. This has a detrimental effect on the communities they serve and staff they employ.
4. Retail crime comes at significant cost to the economy. A recent survey revealed that retail crime cost the economy £1.1 billion¹, which equates to 52,000 retail jobs. Therefore local shops have a significant interest in crime, crime prevention and sentencing.
5. Retail staff are often vulnerable to verbal and violent abuse as displayed by the following figures from USDAW, the shop workers union: six per cent of shop workers were subject to violent attacks, 37 per cent were threatened with harm and 70 per cent had suffered verbal abuse.
6. Retailers continue to do their part to support crime prevention in and around their businesses. This is evident in the range of initiatives and security equipment that retailers invests in such as staff training, age verification schemes, business crime reduction partnerships, CCTV and other operational security equipment.
7. These investments are often driven by the lack of confidence that retailers have in the criminal justice system and in the police to detect, prevent and rehabilitate perpetrators of business crime. The Government's review of sentencing offers a great opportunity to reinforce confidence and understanding in the criminal justice system.

¹ BRC Crime Survey 2010

encing of offenders is an essential measure in preventing crime and dispelling the preconception that business crime is victimless. Experience of the current justice system does not give retailers confidence that it effectively punishes offenders or compensates victims appropriately. We therefore welcome the Government's decision to review sentencing procedures and adopt a new approach to reducing reoffending.

9. ACS welcomes the Government's move towards restorative justice and community payback. This will highlight to offenders the impact of crime against business and will offer a more cost effective approach to rehabilitating offenders.

Short Term Custodial Sentences

10. ACS recognises that it is usually not appropriate for minor first time offences to be dealt with by custodial sentences but they do have a role for more serious, repeat offences. The Police and the Crown Prosecution Services need to have a range of penalties at their disposal to deal with different crime types.
11. ACS welcomes the Government's decision not to remove short term sentences completely. Short term custodial measures are an important deterrent for offenders and must remain in place. When shop theft and other low level offences against businesses are repeated and tolerated they have damaging wider effects to businesses and the communities they serve.
12. It must be acknowledged that the current rate of reoffending for shop theft related instances is high. 78% of offenders convicted of shop theft and imprisoned reoffend within a year in 2009, and this is closely linked to substance abuse.
13. The Government must ensure that prisons proactively rehabilitate offenders addressing substance and alcohol dependency through a joined up approach with other Government departments. The shift towards restorative justice will also support a more effective justice system in preventing entry level crime and repeat offending.

Compensation Orders

14. Retailers have often expressed their frustration at the lack of monetary compensation for crimes committed against them and their business. Therefore, ACS believes the greater use of compensation orders could be a significant step forward.
15. We also welcome the proposals for courts to have a positive duty to consider imposing a compensation order in all cases where there is an identified victim. Local shops that suffer from theft or damage should be considered direct victims of crime and be compensated. Clarifying this in regulation will nurture confidence in the business

ice system and police recognise businesses as an important part of the community that require and deserve protection and compensation.

16. Compensation orders have the potential to be far more effective than fines. They establish a link between the crime and the victim. This should impact on the attitudes of the criminal and the victim. This is a clear distinction to a fine which has no link to the victim and is essentially a bureaucratic faceless process.
17. The key to the success of the policy however is not that courts have new powers and make compensation orders but that it leads to a reliable outcome for the victim securing the promised compensation. As set below the effectiveness of fines as a deterrent is undermined by the low repayment rates. If the same occurs for Compensation orders and there are no consequences then victims may suffer even further disillusionment than if no action is taken.

Fines

18. Fines have a role to play in the Criminal Justice System, but retailers have little confidence in their deterrent effect, primarily because of the high percentage of fines that go unpaid. Of the 170,000 penalty notices for disorder issued in 2009 48,000 were for retail crime and only 51 per cent of these penalties were paid.
19. ACS believes that securing financial penalties from offenders is a problem deeply rooted in the UK Justice system, confirmed by the House of Commons Public Accounts Committee report: Ministry of Justice Financial Management. The reports states in its conclusions and recommendations:
 - i. *“There was little evidence of the sustained improvement in fine collection rates that we were promised in 2006. As at 31 March 2010, outstanding fines and confiscation orders in arrears and over six months totalled just under £1.5 billion, of which just 30% was considered recoverable. Unpaid court fines and penalties have increased year-on-year and the Ministry's primary measure of how effectively court fines are being collected is inadequate. The Ministry still relies on payment rate, despite our conclusion after our 2006 Hearing that the payment rate fails to capture the amounts of outstanding arrears. We look to the Ministry to introduce the promised improvements to performance measurement by September 2011.”²*
 - ii. *“No one department currently has overall responsibility for overseeing collection of confiscation orders. The Ministry informed us that it was only responsible for overseeing the collection of some 16% of the confiscation orders issued annually across the criminal justice system - although 100% of the value of these orders sits in the Ministry's financial statements. Concerted efforts to improve collection rates are needed*

² Public Accounts Committee report: Ministry of Justice Financial Management . Recommendation 7

look to the Ministry to take the lead, through closer working between its Accounting Officer and the Heads of its criminal justice partners.”³

20. The report’s conclusions justify the lack of confidence that many retailers have in the payment of fines by offenders. Before the Government makes commitments to an increased use of financial penalties and compensation orders they must first address whether the Ministry of Justice can manage this system.

Guidance

21. Guidance must set out clearly the criteria when Compensation orders or Financial penalties are appropriate. Appropriate cases should be where vandalism, property damage or theft has been the core offence. Fines would not be appropriate in cases where substance abuse of any kind is related or aggravating other factors such as violence or abusive behavior to victims. ACS is keen to support the Ministry of Justice in their work to set out where financial penalties would be most appropriate.

Out of Court Penalties

22. ACS has concerns about the extensive use of out of court penalties. We understand the budgetary pressures that the justice system is dealing with but this must not come at the cost of appropriate delivery of justice for business crimes such as shop theft and violence. The over or inappropriate use of out court penalties, whether fixed penalty notices or conditional cautions strengthens a view that business crime is victimless and low level. ACS strongly believes that repeat offenders and any instances of violence should be referred to a magistrate and not dealt with by out of court disposals.
23. There are currently strict guidelines set out for the appropriate use of fixed penalty notices. The penalty notices are only appropriate where:
- The value goods stolen were under £100 (not £200)
 - The offender has not had a PND issued for a previous shop theft offence
 - There are no aggravating factors
 - The victim consents
24. However, retailers have reflected to us that in many circumstances PNDs are given inappropriately. We have communicated this to the Police through the Association of

³ Public Accounts Committee report: Ministry of Justice Financial Management . Recommendation 8

the Ministry of Justice to take a proactive approach to ensuring this message is reinforced.

25. ACS welcomes the opportunity for Police to have a range of penalties at their disposal to deal with low level crime, such as conditional cautions. Conditional cautions instigated by police officers offer a fast and visible form of punishment. It must be ensured that where possible both reparative and rehabilitative conditions are set down by the police and followed through. Retailers must also be consulted on any conditions placed on offenders as this will reinforce the satisfaction that appropriate penalties have been used.
27. There is strong correlation between shop theft and alcohol and drug abuse. In any instance where alcohol reliance or drugs are thought to play a part in an offence out of court penalties are inappropriate. In this instance offenders should be referred to courts or other agencies for further analysis and support.

Victim Consultation

28. It is essential victims get the opportunity to put their account of events in front of the police and magistrates. ACS encourages members to provide the Police with statements, supporting evidence and victim impact statements for Magistrates whenever possible.
29. We welcome the acknowledgement in the Green Paper that the primary purpose of victim statements are for informing the court about the harm that has been caused. Victims' Personal Statements are an important tool in understanding the long term financial costs and emotional impact of crimes which often go unseen.
30. To this end it is important that victims understand that they can give a personal statement and the weight which Magistrates apply to these when sentencing an offender. ACS would be happy to work with the police and magistrates in any communications exercise to promote the use of victim impact statements.
31. It is equally important where an out of court penalty is used that the victims' views are taken into consideration. With more powers passed to police officers to use their discretion consultation with the victims on the penalty given becomes more important.
32. ACS would be happy to provide the Ministry of Justice with any further information required. For further information please contact Edward Woodall, Public Affairs Executive: Edward.woodall@acs.org.uk or 01252 533014.