
To: North Strathclyde Community Justice Authority

On: 11 December 2015

Report by: Chief Officer

**Heading: Finance Committee Call for Evidence
(Joint CJA Conveners Response)**

1. Summary

- 1.1** On the 22nd June the Scottish Parliament Finance Committee issued a call for evidence on the costs associated with the Community Justice (Scotland) Bill as laid out in the Financial Memorandum to the Bill.
- 1.2** Following email correspondence, CJA Conveners agreed to make a joint submission before the deadline of 14th August and that submission is attached as Appendix 1 to this Report.
- 1.3** The principal points and concerns raised by Conveners are as follows:-
- There was no financial information provided during the formal consultation process and the publication of the Financial Memorandum was the first opportunity to see it;
 - Conveners welcomed the commitment by Government to meet the full costs of CJA disestablishment;
 - There was no “opportunity cost” exercise undertaken and we believe this will be significant given the long lead-in time for the new structure;
 - There is no indication yet of how S77 Grant will be allocated to the 32 local authorities and this is an extremely important part of the financial equation which has risks for the new structure;
 - The financial projections do not reflect the ongoing costs to community justice partners beyond the three year transition period;

- The proposals do not address the large imbalance of resource allocation in favour of custodial services over community services.

1.4 The full response submitted is attached as **Appendix 1** to this Report.

2. Recommendations

2.1 Members are asked to note the content of this report.

3. Background

3.1 The Bill will take forward the legislative change necessary to establish a new model for community justice. The new model seeks to deliver better outcomes for communities by promoting a collaborative approach to the planning and delivery of improved outcomes, putting decision-making in the hands of local communities and agencies who are best-placed to assess local needs. Arrangements will be made at a national level to provide strategic leadership; enhanced opportunities for innovation, learning and development; and assurance on the delivery of improved outcomes. The model also recognises stakeholder views that community justice services should be person-centred, evidence-based and make best use of resources.

In particular, the Bill will:

- Place responsibility for the local planning and delivery of improved outcomes for community justice with a defined set of community justice partners (including local authorities, NHS boards, Police Scotland, Scottish Fire and Rescue Service, Health & Social Care Integration joint boards, Skills Development Scotland, the Scottish Courts and Tribunals Service and Scottish Ministers in their role as the Scottish Prison Service);
 - Place duties on these community justice partners to engage in local strategic planning and be accountable for this;
 - Require the development of a national strategy and a performance framework in relation to community justice;
 - Create a national body to provide leadership, promote innovation, learning and development; provide assurance to Scottish Ministers on the delivery of outcomes; and to provide improvement support where it is required;
 - Promote a focus on collaboration – including the opportunity to commission, manage or deliver services nationally where appropriate.
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Implications of the Report

Equality & Human Rights

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Authorities website.

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Community Justice (Scotland) Bill

The Scottish Parliament's Finance Committee invites organisations and individuals to submit written evidence setting out their views on the financial implications of the Community Justice (Scotland) Bill.

The Bill

The [Community Justice \(Scotland\) Bill](#) (the Bill) was introduced in the Scottish Parliament by the Cabinet Secretary for Justice on 4 June 2015.

The estimated financial implications of the Bill are set out in its accompanying Financial Memorandum (FM). A copy of the FM can be found at page 17 of the [Explanatory Notes](#).

The Financial Memorandum

The FM states that the purpose of the Bill is to—

“replace the existing model for community justice services which is based on eight regional community justice authorities (CJAs), with a new model. The new model delivers a community solution to the achievement of improved outcomes for community justice; to the problem of re-offending; and to the task of offender management.”

In addition to providing for national and local community justice strategies, a new national body, Community Justice Scotland (CJS), will be established “to provide leadership, enhanced opportunities for innovation, learning and development and assurance on the delivery of improved outcomes.”

A table setting out the total estimated costs and savings of the Bill is provided on page 19 of the FM.

How to submit evidence

The Justice Committee is lead committee and has issued [a separate call for evidence](#) in relation to the Bill's policy provisions.

The Finance Committee invites you to respond to the attached questions by **Friday 14 August 2015**. All responses should be sent electronically (in MS Word - no confirmatory hard copy required) to finance.committee@scottish.parliament.uk. Written responses will be handled in accordance with the Parliament's [policy for handling written evidence received in response to calls for evidence](#).

What happens next?

All written evidence received will be considered and you may be invited to provide further information to the Committee in oral evidence. As a result of the sometimes tight deadlines for Parliamentary scrutiny of a Bill it is possible that any invitation to give evidence might be extended at relatively short notice.

Should you have any queries in relation to this, please do not hesitate to contact the Committee clerking team on Tel: 0131 348 5451

Finance committee questionnaire

This questionnaire is being sent to those organisations that have an interest in, or that may be affected by, the financial implications of the [Community Justice \(Scotland\) Bill](#). Estimates of the Bill's financial implications are set out in its accompanying Financial Memorandum (FM), which can be found at page 17 of the [Explanatory Notes](#).

In addition to the questions below, please add any other comments you may have which would assist the Finance Committee's scrutiny of the FM.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
 - None available during consultation. There was no financial information.
 - Through joint meetings, membership of various working groups, attendance at workshops and ongoing operational contact, CJAs have taken part in various consultation opportunities which preceded the Bill.
2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?
 - Not applicable.
 - The Financial Memorandum reflects a variety of CJA comments in relation to transition costs associated with the introduction of the new arrangements.
3. Did you have sufficient time to contribute to the consultation exercise?
 - Yes, but the Bill changed.
 - Yes there was sufficient time.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
 - No financial implications.
 - CJAs will be abolished under the Bill. The Government's commitment to meeting the costs of the abolition are noted and appreciated.
5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
 - Yes, both reasonable and accurate.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?
- Scottish Government have given a commitment to underwrite CJA dissolution costs.
7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?
- Yes - we also note that the cost will be reassessed as the Bill passes through the legislative process.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?
- CPP ongoing costs – only 3 year costs!
 - No. The most significant resource challenge for community justice (whatever the structures) remains that the vast majority of resources for offender management are still held on the custodial side of the system – or in the Christie Commission's term, to resource 'failure demand'. In 2015-16, £113.2 million was allocated by the Scottish Government for community justice¹ compared to £396.2 million allocated to the Scottish Prison Service. The custodial budget is therefore three and a half times higher than the community justice budget, despite over 4,000 more people (29% more) being given a community sentence than a custodial sentence each year.² Re-engineering existing resources within the same inequitable framework will not deliver a decisive shift to prevention.
 - The detailed financial arrangements within the proposals are (as with the National Strategy, Performance Framework etc) still in development and therefore unpublished. It is therefore unclear whether many of the disadvantages of the existing system as highlighted by the Commission on Women Offenders, Audit Scotland and the Christie Commission will be resolved, such as an inability to identify unit costs; perverse incentives to maintain and indeed escalate people into the system; a lack of strategic commissioning approaches discouraging long term planning and so on. Indeed none of these difficulties required structural change to be resolved.
 - The costs *already expended* on community justice reform are not detailed in the Financial Memorandum and are of considerable concern given that we are still almost two years away from the new arrangements. These costs include significant officer time (e.g. CJA

¹ This includes over £95 million for Criminal Justice Social Work services (distributed via CJAs) and a number of other Scottish Government investments in community justice.

² In 2013-14, 14,101 people were sentenced to custody, compared to 18,231 given a community sentence. This is in addition to 73,217 people given a financial penalty or other sentence. Source: Scottish Government (December 2014) Criminal Proceedings in Scotland 2013-14, <http://www.gov.scot/Publications/2014/12/1343/downloads>

Convenors, staff, partners; Scottish Government and other national bodies; more recently CPP partners) as well as numerous external consultancy contracts.

- The Financial Memorandum reasonably captures costs associated with the Bill in terms of transitional arrangements

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

- No Section 27 figures which will be critical.
- VAT Exempt – 20% additional burden.
- The future costs associated with the Bill in terms of operating the new arrangements in a way that reduces both reoffending and the prison population is more complex than the transitional arrangements that the Financial Memorandum covers.
- In particular we would highlight the following:
- Firstly, there are no new resources and over 90% of community justice resources are currently and will continue to be spent on statutory services required by legislation. This situation is untouched by the Bill.
- Secondly, we do not at this stage know what will be commissioned nationally by Community Justice Scotland and what will be commissioned by CPPs/Community Justice Partners. These commissioning arrangements will be key if services are to be effective and complementary to existing justice and universal services in the community.
- Thirdly the Bill does not address how resources will be used to reward and encourage success such as the completion of Community Payback Orders and reducing the numbers in prison. It will therefore be important that the current review of the “funding formula” does not continue to reward failure by simply paying for the generation of more business (Process as opposed to outcomes).
- Until these issues are dealt with, it is impossible to state with any confidence that the system will be transformed in any meaningful way. In summary it is not enough to state an intention to move resources towards prevention and early intervention - a mechanism to achieve this is needed.