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**To: North Strathclyde Community Justice Authority**

**On: 11 March 2016**

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**Report by: Treasurer, North Strathclyde Community Justice Authority**

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**Heading: Disestablishment of Community Justice Authorities – Proposed Severance Scheme for CJA Employees**

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## **1. Summary**

- 1.1** The Community Justice (Scotland) Bill 2016 proposes the redesign of community justice in Scotland. As part of this redesign the Community Justice Authorities (CJAs) will be disestablished. On 15 February 2016 Mr Andrew Bruce, Deputy Director Community Justice Division, wrote to the Convener of North Strathclyde Community Justice Authority with details of the proposed severance scheme and requested that an indication is given on acceptance of this proposal by 31 March 2016. The letter is attached as Appendix 1 of the report.
- 1.2** The main guidance document issued to all CJAs in relation to their management and financial procedures is the Management Statement / Financial Memorandum (Appendix 2). The most recent version of this document (version 4) was published in April 2013.

Section 4.2.3 of Annex A – Financial Memorandum covers severance arrangements for CJA staff and provides the following:

- a. All CJA Severance Schemes require to be approved by Scottish Ministers
  - b. All CJA Severance Schemes must comply with SPFM severance guidance.
- 1.3** In his letter to CJA Conveners of 15<sup>th</sup> February Mr Bruce confirms that Scottish Ministers have approved a “hybrid” single scheme for all CJA employees. The principles of the scheme are set out in the annex to the letter. The scheme is based on the Civil Service Compensation Scheme (CSCS) with some bespoke elements to ensure no detriment to staff.

- 1.4 At Stage 1 scrutiny of the Community Justice (Scotland) Bill 2016 both Ministers and Officers in reply to questions from MSPs gave an assurance that CJA Staff would be treated “fairly” and “equally” in any severance arrangements being introduced as a result of the Bill. In his letter to the Conveners, Andy Bruce confirms the proposed scheme will meet these assurances and are in line with the expressed view of the MSPs on the Justice Committee. Scottish Ministers have approved a single scheme for all CJA employees. The scheme is based on the compulsory Civil Service Compensation Scheme (CSCS) but with ‘bespoke’ elements that would more accurately reflect some of the main elements of the local severance schemes that have been submitted. This option will ensure that a consistent approach is applied for employees across the eight CJAs.
- 1.5 The Scottish Government has given an undertaking to meet all costs in relation to the abolition of CJAs including severance, pension scheme deficits and any other costs. Estimates of these costs are contained within the Financial Memorandum (Appendix 3) which accompanied the Bill and the final revised version was considered by the Scottish Parliament on 11<sup>th</sup> February 2016 when the Bill was passed.
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## **2. Recommendations**

- 2.1 The members of North Strathclyde Community Justice Authority are asked to approve the proposed severance scheme as set out in the letter from Mr Andrew Bruce, Deputy Director Community Justice of 15 February 2015 attached as Appendix 1.
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## **3. Background**

- 3.1 The Community Justice (Scotland) Bill 2016 was passed by the Scottish Parliament on 11<sup>th</sup> February 2016. It is anticipated the Bill will receive Royal Assent around 23<sup>rd</sup> March although most of the functions and duties will not come into effect until 1<sup>st</sup> April 2017. Section 31 of the Bill abolishes Community Justice Authorities effective from 31<sup>st</sup> March 2017.
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## **Implications of the Report**

### **1. Financial**

The costs of the severance scheme will be met by the Scottish Government.

### **2. HR & Organisational Development**

The implications of the proposed scheme, once agreed, will be discussed with individual employees as it affects them.

3. **Community Planning**

**Safer and Stronger** – In the future strategic planning for community justice will be supported by local Community Planning Partnerships. Each area was required to submit a transition plan to Scottish Government in January 2016.

4. **Legal**

Implementation of severance arrangements is part of the process to comply with the legislative change in the community justice arrangements brought about by the Community Justice (Scotland) Bill 2016.

5. **Property/Asset**

nil.

6. **Information Technology**

nil

7. **Equality & Human Rights**

- (a) 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

8. **Health & Safety**

nil

9. **Procurement**

nil

10. **Risk**

nil

11. **Privacy Impact**

nil.



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Cllr Tommy Williams  
North Strathclyde CJA  
By e-mail

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15 February 2016

Dear Cllr Williams

### **Disestablishment of Community Justice Authorities – Proposed Severance Scheme for CJA Employees**

I write further to the Community Justice Authority (CJA) Conveners Development Day in Edinburgh on 5 February, which North Strathclyde CJA was unfortunately not represented at. At that event, I set out our proposal for developing a severance scheme that will be applied to those CJA employees who remain in post at the time of disestablishment on 31 March 2017. I am now writing to you to set out the basic principles behind the scheme to allow you to inform CJA employees as we move towards the proposed adoption of the scheme

You will remember that we wrote to the Conveners and Treasurers of the eight CJAs on 21 May 2015 to request details of the severance schemes which had been put in place locally. Having received details of the full cohort of severance schemes on 13 January 2016, it was apparent that there are significant differences across the country. In the interests of fairness, we were keen that the terms of any severance scheme being applied were equitable across Scotland. This was also in line with the views of the Justice Committee.

With that in mind, Scottish Ministers have approved a single scheme for all CJA employees. The scheme is based on the compulsory Civil Service Compensation Scheme (CSCS) but with 'bespoke' elements that would more accurately reflect some of the main elements of the local severance schemes that have been submitted. This option will ensure that a consistent approach is applied for employees across the eight CJAs. Both the Cabinet Secretary for Justice and the Minister for Community Safety & Legal Affairs have signed up to this approach. Details of the proposed scheme are attached at **Annex A**.

## **Re-employment with Community Justice Scotland or a local authority**

While of course it is paramount that we ensure any severance scheme is fair to affected employees, I am also acutely aware of the need to ensure that the public purse is suitably protected when applying the terms and conditions of the proposed scheme. This principle was broadly accepted at the Development Day. The scheme, therefore, includes provisions for the re-payment of whole, or part, of a severance payment for any CJA employee taking up employment with Community Justice Scotland within specified periods after receipt of their severance payment. These defined periods are as per the CSCS timescales and are set out at **Annex A**.

In addition, we are also exploring whether these same conditions should also be applied to employment with a local authority within the same timescales, again as a measure to ensure the public purse is adequately protected.

## **Timelines**

At the Development Day I set out timescales for actions to provide more detail and information on the proposed scheme, with work to continue to further develop this proposal across February and March 2016. Those timescales are:

- **February 2016** – Scottish Government provide details of the scheme to CJAs to allow consultation with employees.
- **February - March 2016** – Further work to be undertaken by Scottish Government to develop the scheme and obtain details of the current CJA staffing lists and 2015/16 salary details.
- **31 March 2016** – The deadline date for CJAs to consider and accept the proposed scheme. Following acceptance of the scheme, the Scottish Government will provide CJAs with details of the individual severance calculations for each CJA employee to allow CJAs to engage with staff accordingly.
- **October 2016** – A further exercise to be undertaken by Scottish Government in conjunction with the lead HR representatives in the relevant local authorities to confirm which CJA employees remain in post and to confirm 2016/17 salary scales for those employees, with severance calculations to be made on the basis of that correspondence.
- **February 2017** – A final exercise to be undertaken by Scottish Government to finalise CJA staffing lists for the disestablishment date.
- **31 March 2017** – CJA disestablishment date and the date that severance payments will be paid.

## **CJA Responsibilities**

This process will require the close involvement of the CJAs in their role as employers to ensure that their employees are fully apprised of developments that potentially impact on them. It is for the CJAs to take responsibility for staff consultation in their area, while also ensuring that the necessary engagement with the trade unions takes place. I would also be grateful if CJAs could ensure they approach my team as and when they are considering any changes to staffing in respect of employees being employed on fixed term contracts or moving on secondment.

I am obviously keen to ensure that the CJA employees are given as much information about this proposal as quickly as possible and would ask that you ensure that the details of the proposal are circulated to your staff as quickly as possible. I am fully aware that this is a period of great uncertainty for the CJA employees and I want to reassure them that we are working to ensure that a fair and equitable severance scheme is developed to meet their circumstances. To ensure that we can take this forward as quickly as possible, I would be

grateful if you could indicate your acceptance of this proposal to Gordon Mason in my team by **Thursday 31 March 2016**. Gordon can be contacted at [gordon.mason@gov.scot](mailto:gordon.mason@gov.scot) or on 0131 244 3889. In advance of that date, my team stand ready to answer any questions about the scheme that may arise. However, I would be grateful if these queries were routed through the HR department of the host local authority. Gordon Mason would again be the point of contact.

I have also copied this letter to Alan Russell in his capacity as the Treasurer of North Strathclyde CJA.

Yours sincerely

**ANDREW BRUCE**  
Deputy Director  
Community Justice Division

Cc: Alan Russell,  
Treasurer, North Strathclyde CJA,  
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## ANNEX A

### The Proposed Scheme

The main elements are:

- Compulsory severance of up to a maximum of 12 months' salary, based on overall length of service – one month for every year of service.
- A notional salary of £23,000 is applied pro rata for all full time employees that receive less than £23,000 per annum – this protects those on lower salaries.
- A pension age of 65 to be applied, in line with local government terms and conditions. This ensures that any CJA employee aged between 60 and 65 at the time of disestablishment will qualify for up to a maximum of 12 months' salary under the severance scheme, as opposed to a maximum of 6 months' salary under the CSCS scheme which has a pension age of 60.
- No Added Years or similar enhancement applied, as per the CSCS scheme.
- A three month notice period to be applied from 31 December 2016 for all CJA employees affected, with an expectation that all annual leave/flexi leave is taken by 31 March 2017.
- In cases where a CJA employee would receive more under their local compulsory severance scheme, an uplift will be applied to this scheme to ensure parity.
- If a CJA employee decides to take their pension entitlement rather than severance, their normal pension arrangements will apply.

This scheme will ensure that all CJA employees in post at disestablishment will receive at least the same amount as if their relevant compulsory local government severance scheme is applied.

We will also aim to ensure that any CJA employee who works on a part time basis is adequately protected, though we recognise that there is some work required here to apply the correct proportion of hours worked on a part time basis against the contracted hours of a full time employee.

### CSCS Re-employment Timescales

- If re-employed in Community Justice Scotland within 28 days of leaving current employer, compensation will be cancelled and service will be treated as continuous. The **full** compensation amount will have to be repaid.
- If re-employed in Community Justice Scotland outside the 28 day period, but within the lesser of:
  - a) six months, and
  - b) the notional period of the compensation payment
- In such cases, the compensation payment will be liable for repayment on a pro-rata basis – e.g. if compensation entitlement is for five months, any employment with Community Justice Scotland after 28 days but within five months is subject to pro rata repayment.
- The repayment will be reduced in cases where the new employment is at a lower salary level than before.



**SCOTTISH GOVERNMENT JUSTICE DIRECTORATE**  
**COMMUNITY JUSTICE AUTHORITIES**  
**GUIDANCE NOTE FOUR**  
**MANAGEMENT STATEMENT/FINANCIAL MEMORANDUM**

This document sets out the management and financial procedures to be followed in the operation of the running and the funding arrangements in respect of Community Justice Authorities (CJAs).

The guidance given is intended to assist the CJAs in carrying out their functions under the Management of Offenders Act and the associated Orders and it reflects guidance and procedures set out in the Scottish Public Finance Manual and other relevant regulations. It should be noted that all statements refer to all aspects of CJAs financial management unless otherwise stated. The Scottish Government will continue to work closely with the CJAs to refine and develop any future versions of this guidance in the light of practical experience. The guidance has been developed in consultation with the CJAs and other stakeholders with an interest in the operation of CJAs.

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Criminal Justice Directorate  
Scottish Government  
April 2013

**Document Control**

<i>Author</i>	Maurice Williams – Scottish Government
<i>Date</i>	March 2013
<i>Version</i>	4.0

**Document Change History**

<i>No.</i>	<i>Version</i>	<i>Description</i>	<i>Date</i>	<i>Author</i>
1	1.0	Initial	14/01/2008	Maurice Williams
2	2.0	Revised Audit and Member Remuneration Sections	04/04/2008	Maurice Williams

3	3.0	<p>References to Community Justice Services Division have been changed to read Community Justice Division; others to read Sponsor Division.</p> <p>All references to Departmental Accountable Officer have been changed to read Portfolio Officer.</p> <p>1.1 - Final sentence deleted.</p> <p>1.3 - Classification section deleted</p> <p>3.2.3 (a) Final point – Provision of a finance monitoring form in December/January instead of quarterly returns and 6 months review exercise.</p> <p>3.3.1 - Revised.</p> <p>3.3.3 - Revised.</p> <p>4.1.1 - Revised.</p> <p>4.1.5 New sub paragraph.</p> <p>4.1.6 - Revised.</p> <p>4.3.3 - Revised.</p> <p>4.3.5 - Revised</p> <p>5.1.2 - Revised.</p> <p>5.1.3 – Revised.</p> <p>5.1.4 New sub paragraph.</p> <p><b>Annex A</b></p> <p>1.1.3 description of non-core centrally initiated and non-core non centrally initiated programmes.</p> <p>1.1.5 update on formula funding.</p> <p>1.2 - Revised.</p>	Maurice Williams
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3	3.0	Maurice Williams	<p>1.3.1 update about interest accrued during financial year.</p> <p>2.2 – amended heading.</p> <p>2.2.1 – Revised.</p> <p>2.2.3 – Revised.</p> <p>2.2.4 – Revised.</p> <p>3.3 – Revised.</p> <p>3.8 Final sentence deleted.</p> <p>3.9 Final sentence deleted.</p> <p>6.3 New – receipts from the sale of goods and services.</p> <p>6.4 New – Internal Audit</p> <p>7.1.1 – Revised.</p> <p><b>Annex B</b></p> <p>2. – deleted and included in Notes to Accounts.</p> <p>3. – now 2 and second point deleted.</p>
4	4.0	Maurice Williams	<p>Contents – Annex A – Financial Memorandum – deleted 1.2 Virement</p> <p><b>Annex A</b></p> <p>1.1.1 - first bull point slightly amended.</p> <p>1.1.3 – updated</p> <p>1.1.5 – updated</p> <p>2.2.3 – replaced</p> <p>5.2.2 – new</p> <p>5.2.3 – slightly amended</p>

## Document Distribution

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## **1. FUNCTIONS**

### **1.1 Founding legislation**

1.1.1 Community Justice Authorities (CJAs) were established under the Management of Offenders etc. (Scotland) Act 2005. The constitution of the CJAs is set out in Sections 3 and 4 of the Act.

### **1.2 Functions:**

- to prepare, in consultation with other bodies responsible for the delivery of offender services, a strategic area plan for reducing re-offending;
- to monitor the performance of bodies responsible for the delivery of these services;
- to report annually to Scottish Ministers on delivery of services in compliance with the plan;
- to promote good practice;
- to allocate resources provided by Scottish Ministers to local authority criminal justice social work services within the CJA;
- to arrange with partner bodies for the sharing of information relating to relevant persons; and
- to target offender services to reduce re-offending and to ensure close co-operation between community and prison services to aid the rehabilitation of offenders.

## **2. AIMS, OBJECTIVES AND TARGETS**

### **2.1 Overall aims**

2.1.1 The Management of Offenders etc (Scotland) Act 2005 established eight Community Justice Authorities (CJAs) that provide a strategic level for planning, managing performance and reporting on the performance of the local authorities and their statutory partners who co-ordinate offender services.

### **2.2 Objectives and key targets**

2.2.1 CJAs are designed to target resources more effectively to reduce re-offending.

## **3. RESPONSIBILITIES AND ACCOUNTABILITY**

### **3.1 The Scottish Ministers**

3.1.1 Scottish Ministers responsibilities include:

- approving the CJAs strategic objectives and the policy and performance framework within which the CJA will operate, as set out in this management statement and associated financial memorandum;
- approving the administration and programme budgets to be paid to the CJA; and

- carrying out responsibilities specified in the Management of Offenders etc (Scotland) Act 2005.

### **3.2 The CJA Accountable Officer**

3.2.1 The Chief Officer is designated by the Principal Accounting Officer for the Scottish Administration as the CJAs Accountable Officer. He/she is responsible for the overall organisation, management and staffing of the CJA and for ensuring that there is a high standard of financial management in the CJA.

3.2.2 The Accountable Officer of the CJA is responsible for safeguarding the public funds (i.e. all funds falling within the stewardship of the CJA) for which he/she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the CJA. He/she should act in accordance with the terms of the Management Statement/Financial Memorandum (MS/FM) and within the terms of other instructions and guidance issued by the Scottish Ministers, including but not restricted to the Scottish Public Finance Manual (SPFM) – in particular the Memorandum to Accountable Officers for Other Public Bodies (Annex 2 of the section on Accountability in the SPFM) – see link below.

<http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability>

3.2.3 As Accountable Officer for the CJA, the Chief Officer shall exercise the following specific responsibilities:

**(a) on planning, performance management and monitoring –**

- ensure that the CJAs strategic aims and objectives support the Scottish Minister's wider strategic aims;
- establish a robust performance management framework which supports the achievement of the CJAs aims and objectives as set out in the area plans; and which enables full performance reporting to the elected members, the Scottish Ministers and the wider public;
- provide such information about its operations, performance, individual projects or other expenditure as Scottish Ministers may reasonably require;
- have in place Service Level Agreements with organisations that are providing services for CJAs including constituent local authorities;
- ensure that the internal controls applied by the CJA conform to the requirements of regularity, propriety and good financial management;
- secure Best Value, which includes the concepts of good corporate governance, performance management and continuous improvement;
- inform the Scottish Government of the CJA's progress in helping to achieve the Scottish Minister's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- ensure that timely forecasts and monitoring information on performance and finance are provided to the Scottish Government (finance information shall be provided via the Section 27 programme expenditure return that all CJA Finance Officers will provide to Scottish Government officials at the CJA Finance Officers/Scottish Government meeting held in December/January each year). This process replaced the previous process where the Scottish

Government asked for quarterly returns, therefore it is important that the December/January information is timely and accurate.

- notify the Scottish Government promptly if overspends/underspends are likely or if performance targets are at serious risk and ensure that corrective action is taken immediately; and that any significant problems, whether financial or otherwise and whether detected by internal audit or by other means, are notified to the Scottish Government in a timely fashion.

(b) ***on advising the CJA -***

- advise the CJA on the discharge of its responsibilities as set out in this document, in the Management of Offenders etc (Scotland) Act 2005 and in any other relevant instructions and guidance issued by the Scottish Ministers;
- advise the CJA on the CJA's performance compared with its aims and objectives as set out in their area plan and action plan; and
- ensure that financial considerations are taken fully into account by the CJA at all stages in reaching and executing its decisions;
- take action, as set out in section 5 of the Memorandum to Accountable Officers for Other Public Bodies, if the CJA is contemplating a course of action involving a transaction which the CJA Accountable Officer considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration or efficiency or effectiveness;

(c) ***on managing risk and resources -***

- ensure that a system of risk management is embedded in the CJA to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure that the funds made available to the CJA are used for the purpose intended by the Parliament, and that such monies, together with the CJAs assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by the CJA, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff within the CJA, together with a system for regularly reviewing compliance with these delegations; and
- ensure that effective human resource management policies are maintained and that strategic human resource planning is related to the CJAs objectives;

(d) ***on accounting for the CJAs activities -***

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any guidance issued by the Scottish Ministers;
- sign a Statement of Accountable Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Certificate of Assurance on the maintenance and review of the CJAs internal control systems, for submission to the Scottish Government;

- ensure that an effective complaints procedure is in place and made widely known; and
- give evidence when summoned before Committees of the Scottish Parliament on the use and stewardship of public funds by the CJA.

3.2.4 The Chief Officer may delegate the day-to-day administration of his/her Accountable Officer responsibilities to other employees in the CJA. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

### **3.3 The Portfolio Accountable Officer**

3.3.1 The Director General for Learning & Justice is designated by the Principal Accountable Officer for the Scottish Administration as the Portfolio Accountable Officer for parts of the Scottish Government including the Sponsor Division for the CJA. The responsibilities of a Portfolio Accountable Officer are set out in detail in the Memorandum to Accountable Officers for Parts of the Scottish Administration – see Annex 1 of the section on Accountability in the Scottish Public Finance Manual (SPFM).

<http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability>

3.3.2 In particular the Portfolio Accountable Officer shall ensure that:

- the CJAs strategic aims and objectives support the Scottish Minister's wider strategic aims;
- the financial and other management controls applied by the Sponsor Division to the CJA are appropriate and sufficient to safeguard public funds and for ensuring that the CJA's compliance with those controls is effectively monitored ("public funds" include not only any funds provided to the CJA by the Scottish Ministers but also any other funds falling within the stewardship of the CJA, including gifts, bequests and donations); and
- the internal controls applied by the CJA conform to the requirements of regularity, propriety and good financial management.

### **3.4 The Sponsor Division**

3.4.1 Within the Scottish Government, Community Justice Division, in consultation as necessary with the Portfolio Accountable Officer, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of the CJA, and the primary point of contact for the CJA in dealing with the Scottish Government.

3.4.2 The Division shall advise the Scottish Ministers on:

- an appropriate framework of objectives and targets for the CJA in the light of the Scottish Minister's wider strategic aims;
- an appropriate budget for the CJA in the light of the Scottish Minister's overall public expenditure priorities; and
- how well the CJA is achieving its strategic objectives and whether it is delivering value for money.

3.4.3 In support of the Portfolio Accountable Officer the Division shall:

(a) **on performance and risk management -**

- monitor the CJA activities on a continuing basis through an adequate and timely flow of information from the CJA on performance, budgeting, control and risk management;
- address in a timely manner any significant problems arising in the CJA, whether financial or otherwise, making such interventions in the affairs of the CJA as is judged necessary;
- ensure that the activities of the CJA and the risks associated with them are properly and appropriately taken into account.

(b) **on communication with the CJA -**

- inform the CJA of relevant Scottish Government policy in a timely manner; advise on the interpretation of that policy; and issue specific guidance to the CJA as necessary; and
- bring concerns about the activities of the CJA to the attention of the CJA elected members such as the ineffective use of grant allocations for the purposes that they have been allocated, and require explanations and assurances from the elected members that appropriate action has been taken.

### **3.5 The Chief Officer of the CJA**

3.5.1 The Chief Officer is appointed by the CJA although he/she is responsible to the Scottish Ministers in accordance with Section 5 of the Management of Offenders etc (Scotland) Act 2005.

3.5.2 He/she shall aim to ensure that the CJA, policies and actions support the wider strategic policies of the Scottish Ministers; and that the CJA's affairs are conducted with probity.

3.5.3 The remuneration and conditions of service of a Chief Officer or other person appointed by a CJA will be in accordance with Section 4(3) of the Management of Offenders etc (Scotland) Act 2005 and subject to public sector pay policy guidelines.

3.5.4 The Chief Officer has leadership responsibility on the following matters:

- formulating the CJAs strategy, including monitoring performance;
- ensuring that the CJA, in reaching decisions, takes proper account of guidance provided by the Scottish Government;
- promoting the efficient and effective use of staff and other resources;
- encouraging high standards of propriety; and
- representing the views of the CJA to the general public.

### 3.5.5 The Chief Officer shall also:

- ensure that all members of the CJA including local authority staff who will deal with both Section 27 grant allocations and the CJA administration grant allocations, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including, where appropriate, on the financial management and reporting requirements of public sector bodies.

3.5.6 Communications between the CJA and the Scottish Ministers/Scottish Government shall normally be through the Chief Officer. The Chief Officer shall ensure that CJA members are kept informed of such communications.

## 4. PLANNING, BUDGETING AND CONTROL

### 4.1 CJA area plan

4.1.1 Consistent with the timetable for public spending reviews the CJA shall submit to Scottish Ministers for comment and approval a CJA 3 year area plan that will build on the work already under way to improve the process of managing offenders by developing common risk assessment tools, integrated sentence planning, consistent case management and case supervision supported by improvements in information sharing.

4.1.2 The plan shall reflect the CJAs statutory duties and also local priorities as well as any priorities set nationally by the Scottish Ministers.

4.1.3 The CJA area plan shall set out:

- the CJA's key objectives and associated key performance targets for each of the three years, and its strategy for achieving those objectives;
- other matters as agreed between Scottish Ministers and the CJA.

4.1.4 The main elements of the CJA 3 year area plan - including the key performance targets - shall be agreed between Scottish Ministers and the CJA in the light of the Scottish Government's decisions on policy and resources, taken in the context of wider public expenditure plans and decisions.

4.1.5 A copy of the area plan shall be submitted to Scottish Ministers for review. The CJA area plan will then require to be approved by Scottish Ministers, in accordance with Section 3(21) of the Management of Offenders etc (Scotland) Act 2005, before it can be implemented.

4.1.6 The CJA area plan shall be reviewed regularly by the CJA and key targets and milestones for the forthcoming year, shall be produced in the form of a one year **action plan**, which shall be linked to budgeting information so that resources allocated to achieve specific objectives can be identified. Where the area plan is updated it must be approved by Scottish Ministers, in accordance with Section 3(21) of the Management of Offenders etc (Scotland) Act 2005 before it can be implemented. Key targets and milestones described in the action plan shall be specific, measurable, achievable, realistic and timed. The reporting cycle between planning

and reporting (see section below) should allow assessment of progress against key targets and milestones set in the previous year; information on key targets and milestones not met and why and clearly defined key targets and milestones for the forthcoming year.

A copy of the action plan for the year ahead shall be submitted to the Scottish Government by **31 January** at the latest for review.

## **4.2 Publication of plans**

4.2.1 In accordance with the requirements of the Freedom of Information (Scotland) Act 2002 the CJA must have an approved publication scheme and the area plans and action plans shall be published.

## **4.3 Reporting performance to the Scottish Government**

4.3.1 The CJA shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its area plan.

4.3.2 The CJA shall take the initiative in informing Scottish Ministers of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives set out in the area plan.

4.3.3 As soon as practicable after the end of each financial year, the CJAs performance and activities and performance of partner bodies shall be reported to Scottish Ministers in accordance with Section 3 (5)(g) of the Management of Offenders etc (Scotland) Act 2005. This annual report shall include:

- qualitative and quantitative information on progress against actions, outputs and outcomes as set out in the area plan and action plan;
- summary of how resources were allocated in that year to support key activities;
- a narrative account on performance against CJA functions and key activities

A final copy of the annual report shall be submitted to the Scottish Government by **30 September** at the latest.

## **4.4 Budgeting procedures**

4.4.1 The CJAs budgeting procedures are set out in the associated financial memorandum.



## 5. Annual Accounts and Financial Return

### 5.1 CJA Statutory Annual Accounts

5.1.1 The Management of Offenders etc. (Scotland) Act 2005 (Members' Remuneration and Supplementary Provisions) Order 2008 (SSI 2008/30)<sup>1</sup> establishes the statutory basis for annual accounts. The statutory accounts for the CJA should include income and expenditure relating to both administration of the CJA and to criminal justice social work services. The governing framework under which the Auditor General will undertake audit of CJAs is the Public Finance and Accountability (Scotland) Act 2000<sup>2</sup>. Some of the timescales in the PFA Act differ from those in the Management of Offenders Order 2008, and for the purposes of this guidance, the PFA timescales will be applied.

5.1.2 The Auditor General will appoint external auditors to undertake the audit of CJA statutory accounts. CJAs must submit their accounts to their respective external auditor as soon as practicable following the end of the financial year, and by **30 September** at the latest. A copy of the accounts should be sent to the Sponsor Division at the Scottish Government at the same time. The external auditors are required to complete their audit by the 31 October. The Auditor General must then send the audited accounts to Scottish Ministers in time to be laid before the Scottish Parliament by 21 December each year, prior to the December Parliamentary recess. The audited accounts **cannot be made public** until after they have been laid before the Parliament.

5.1.3 CJA statutory accounts should be prepared in accordance with the principles contained in the CIPFA/LASAAC Code of Accounting Practice and guidance issued by Scottish Ministers (including this management statement). The recommended format for the accounts is attached at Annex B including holiday pay accruals. Movement in holiday pay accruals for CJA staff will score as income or expenditure for the year. Although there is no requirement to complete a remuneration report it would be helpful, for transparency purposes, if a remuneration report is included within the annual accounts. Remuneration reports should be in accordance with the regulations and guidance applicable to councils.

5.1.4 Where pensions for CJA staff are accounted for on a defined benefit basis then a pension reserve will need to be maintained.

5.1.5 The notes to the accounts should include the information submitted to the Scottish Government in their annual financial return

5.1.6 Following receipt of the audited statutory accounts, the Scottish Government will consider any comments made by external auditors and ensure that appropriate action is taken. Any balance of grant due will be paid up to the maximum level of the grant allocation or the level of audited spend. Any overpayment of grant will be repaid to the Scottish Government within one month of receipt of a letter informing the CJA that monies are due to the Scottish Government.

<sup>1</sup> [http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi\\_20080030\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi_20080030_en_1)

<sup>2</sup> [http://www.opsi.gov.uk/legislation/scotland/acts2000/asp\\_20000001\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/acts2000/asp_20000001_en_1)

## **5.2 CJA Annual Financial Return to COMJ**

5.2.1 CJAs are required to complete an annual financial return detailing expenditure incurred in the provision and administration of criminal justice social work services under S.27 of the Social Work (S) Act 1968. The return should be certified by the Chief Officer, confirming that the expenditure shown has been spent on the individual services indicated in the specific financial year. The return should be submitted to the Scottish Government as soon as possible after the end of each financial year. Information on the return should also be included in Statutory Annual Accounts as a note to the accounts.

5.2.2. A multi-agency funding review group met throughout 2012 to discuss community justice funding. One of the recommendations of the funding review group for 2013-14 financial year onwards was to provide CJAs with one single funding allocation that would result in no longer being a distinction made between core and non-core funding at the point of allocation. The Scottish Government will, however, continue to receive an annual financial return detailing all income and expenditure for each service during each financial year in line with the current information provided as described in 5.2.1 above. While funding is provided as one allocation, to allow for historic comparison of trends, spend on services should be reported as closely as possible against the service headings used in previous years.

5.2.3 There will be no separate audit of financial returns although information will be audited as part of the annual accounts. (see 5.1.3)

## **6. VAT**

### **6.1 CJA Administration Budgets**

6.1.1 CJAs are corporate bodies independent of the Crown and are not covered by the exceptions in S33 & S41 of the VAT Act 1968. They will therefore have to pay VAT if applicable on their goods and services costs.

### **6.2 Section 27 Budgets**

6.2.1 The criminal justice social work services grant payments that CJAs are responsible for, are for the delivery of specific public services (in accordance with S27 of the Social Work (Scotland) Act 1968). The services provided are identical to those provided when the grant was issued directly from the Scottish Government (i.e for public services under statute ) and the grant is therefore free from VAT.

## **7. STAFF MANAGEMENT**

### **7.1 Staff management**

7.1.1 Within the arrangements approved by the Scottish Ministers or set out in the body's legislation, the CJA shall have responsibility for the recruitment and retention of its staff. The CJA shall ensure that:

- the recruitment of its staff is based on fair and open competition and equal opportunities;

- the level and structure of its staffing, including grading and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is managed effectively and efficiently; they are satisfactorily appraised; and the CJAs performance appraisal and promotion systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the CJAs objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistleblowing procedures consistent with the Public Interest Disclosure Act are in place;
- a code of conduct for staff is in place

**Scottish Government  
Justice Directorate  
April 2013**



## **ANNEX A – FINANCIAL MEMORANDUM**

### **1. BUDGETING PROCEDURES**

#### **1.1 Setting the annual budget**

1.1.1 No later than December each year, in the light of consideration by the Scottish Ministers of the CJA's area plan (paragraph 4.1 of the management statement) the Scottish Government will send to the CJA:

- a formal letter informing them of the ringfenced funding allocations for the delivery of Criminal Justice Social Work Services grant, in accordance with sections 27A and 27B of the Social Work (Scotland) Act 1968, as amended for the specified financial year; and
- a formal letter informing them of the grant allocations under Section 4(6) of the Management of Offenders Etc (Scotland) Act 2005 to be paid to meet the administrative costs incurred by the CJA in the specified financial year.

1.1.2 Grant allocations to CJAs for the provision of mainstream criminal justice social work services are based on a jointly agreed formula, in a way that combines historical workload figures with a range of social needs factors. One of the key features of the process is that the formula is applied consistently to all mainland authorities.

1.1.3 Mainstream criminal justice social work services are core services provided by all authorities to support their core functions including the system of community sentences. For audit purposes, and in order to calculate allocations, the Scottish Government will continue to use the core and non-core distinction in order to determine the allocation total that goes to each CJA area.

1.1.4 Historically, Islands Councils criminal justice social work services grant allocations have not been included in the formula process. This is mainly due to the small number of Orders that, if included, in the formula process would produce inadequate grant allocations to have a specific criminal justice social work service.

1.1.5 A multi-agency funding review group met throughout 2012 to discuss community justice funding. That group had representation from CJAs, COSLA, ADSW and the Scottish Government, amongst others. The group made a recommendation that there should be increased flexibility provided to CJAs in how they used funding. In order to take forward the recommendations of the funding review group for the 2013-14 year, CJAs were provided with one single funding

allocation. There will no longer be a distinction made between core and non-core funding at the point of allocation. CJAs will no longer need to approach the Scottish Government with requests to vire money between budget headings. CJAs will be free to allocate funds as they see fit across their CJA area in accordance with their area plan and in the way they see as most appropriate to fulfil their statutory obligations and to reduce reoffending.

1.1.6 Chief Officers, as budget holders, are responsible for the effective financial management of the funds allocated to their CJA, including internal resource allocations across the constituent authorities. CJAs will also require to allocate Section 27 grant funding in a way which reflects the objectives of the area plan as well as other considerations, including any other related resources which partners propose to direct towards activities relevant to the plan. This may at times be a contentious issue and written agreement in advance as to the overall approach to grant allocation, and to any specific allocation criteria, would be advisable. All partners likely to be affected by the consequences of grant allocation decisions should be included in the agreement, including SPS and key voluntary organisations as well as the local authorities directly in receipt of the allocations.

1.1.7 Where Criminal Justice Social Work Services grant is paid by the Scottish Government, in accordance with Section 27A of the Social Work (Scotland) Act 1968, a CJA has no discretion to forward it to a service provider other than a local authority, unless it provides the services following transfer of the functions under Section 8 of the Management of Offenders etc (Scotland) Act 2005. It is however for CJAs to determine the proportion of funding to be allocated to the individual local authorities within their area of coverage in accordance with the priorities identified within its area plan.

## **1.2 End-year flexibility.**

1.2.1 There is no provision to carry forward underspend of criminal justice social work services grant to the following financial year. It is, however, possible to carry forward interest accrued to the following financial year provided that it is spent on criminal justice social work services. This is subject to Scottish Government approval.

## **1.3 Authority to spend**

1.3.1 Once the CJA budget has been approved by Scottish Ministers, the CJA shall have authority to incur current expenditure without further reference to the Scottish Government, on the following conditions:

- the CJA shall comply with the specific delegations set out in the attached Appendix. These delegations shall not be altered without the prior agreement of Scottish Ministers;
- the CJA shall comply with the conditions set out in this financial memorandum regarding novel, contentious or repercussive proposals;

- inclusion of any planned and approved expenditure in both the CJAs Section 27 and administration budgets shall not remove the need to seek formal approval from Scottish Ministers where any proposed expenditure is outside the delegated limits; one-off capital expenditure; or is for new schemes not previously agreed.

## **2. THE CJAs INCOME**

### **2.1 Payment of Grant**

2.1.1 Criminal justice social work services grant will be paid to the CJA in equal monthly criminal justice social work services grant allocations. CJAs will inform the Scottish Government of the arrangements that they wish to adopt for receipt and disbursement of grant. CJAs will require to satisfy Scottish Ministers that adequate financial safeguards are in place, prior to any payments being issued.

2.1.2 The allocation of Section 27 grant is paid in monthly instalments with a 2.5% retention factor being applied. Upon receipt of the final audited claim for the specified financial year signed-off by the Chief Officer, any balance due will be paid up to the maximum level of the grant allocation or the level of audited spend. Any overpayment of grant will be repaid to the Scottish Government within one month of receipt of a letter informing the CJA that monies are due to the Scottish Government.

2.1.3 Payment of the administration grant will be made to CJAs in four quarterly instalments. The first instalment will be paid in early April. The remaining instalments will be paid subject to the CJA providing the Scottish Government with satisfactory details of estimated expenditure incurred at end of each quarter and of details of its projected expenditure for the next quarter.

### **2.2 Finance monitoring**

2.2.1 CJAs will be required to monitor spend against budget at all stages of the financial year. The Scottish Government will seek a finance monitoring return from CJA Finance Officers at the CJA Finance Officers meeting held in December/January each year with Scottish Government officials. The monitoring return will provide details of actual expenditure to 31 October (30 November if possible) and an accurate estimated outturn. Where appropriate, amendment may be made to the overall grant allocation figure. It should be noted that there is no provision for any underspend of section 27 grants to be carried forward to the following financial year.

2.2.2 Failure to meet Scottish Government invoice deadlines by the end of each financial year may result in CJA expenditure not being met as a result of Scottish Government accounts for that year closing. Good working practice would be for CJAs to start giving active consideration to submitting any invoices to the Scottish

Government by 1 March to allow time for slippage before the year end. Notice of the year end deadline will be provided by the Scottish Government closer to the time but it will typically be the last week in March. CJAs should play an active part in disseminating information about Scottish Government deadlines to their constituent local authorities.

2.2.3 If a significant overspend is forecast for any services then immediate remedial action will be required by CJAs to remedy the position. Options open to CJAs include asking the constituent local authorities to cover the additional costs or reducing the number of programmes and services. These are decisions for the CJA to take but the Scottish Government should still be notified of the overspend and the reasons for it.

## **2.3 Fees and charges**

2.3.1 Reasonable fees or charges for any services carried out for the CJA shall be determined through negotiation between the CJA and the local authority/organisation that it delegates responsibility for carrying out those services.

## **2.4 Gifts, bequests and donations**

2.4.1 The CJA is free to retain any gifts, bequests or similar donations.

2.4.2 The CJA shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

## **3. THE CJAs EXPENDITURE: GENERAL PRINCIPLES**

### **3.1 Delegated authority**

3.1.1 The CJA shall not, without prior approval of Scottish Ministers, enter into any undertaking to incur any expenditure, which falls outside the specific conditions of either its Section 27 grant or administration grant.

### **3.2 Appraisal and Evaluation**

3.2.1 All expenditure proposals shall, so far as appropriate, be subject to the guidance in the Appraisal and Evaluation section of the Scottish Public Finance Manual: <http://www.scotland.gov.uk/Topics/Government/Finance/spfm/Accountability>

### **3.3 Procurement**

3.3.1 Procurement should be treated as a key component of achieving the CJAs objectives, as well as a means of finding the most cost-effective method for securing the quality of assets and/or services. Procurement should be undertaken in accordance with relevant guidance issued by Scottish Ministers. The CJA shall also ensure that it complies with relevant EU or other relevant procurement rules.

### **3.4 Competition**



3.4.1 Contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall. Proposals to let single-tender or restricted contracts must be submitted to the Scottish Government for approval.

### **3.5 Value for money**

3.5.1 Procurement by the CJA of works, equipment, goods and services shall be based on value for money, i.e. quality and delivery against price. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

### **3.6 Novel, contentious or repercussive proposals**

3.6.1 The CJA shall obtain the approval of the Scottish Government before incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits such as:

- salary awards exceeding Scottish Government or public sector pay policy guidelines;
- redundancy or severance payments;
- cash bonuses, gifts, vouchers, and entertainment offered as rewards under recognition schemes;
- payment by the employer of staff personal subscriptions to sports or leisure clubs; and
- provision of cars where they are needed for official purposes and are covered by an existing and agreed scheme which includes charging for any private use.
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Scottish Government;
- making any change of policy or practice which has wider financial implications (e.g. because it might impact upon other public sector bodies) or which might significantly affect the future level of resources required.

### **3.7 Risk management**

3.7.1 The CJA shall ensure that the risks, which it faces, are managed in an appropriate manner, in accordance with relevant guidance in the SPFM.

3.7.2 The CJA shall adopt and implement policies and practices to safeguard itself against fraud and theft.

3.7.3 The CJA shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant.

### **3.8 Remuneration of CJA Conveners and Deputy Conveners**

3.8.1 The Management of Offenders etc. (Scotland) Act 2005 (Members' Remuneration and Supplementary Provisions) Order 2008 (SSI 2008/30)<sup>3</sup> establishes a framework for the remuneration of CJA Conveners and Deputy Conveners. Where a Convener or deputy is not already in receipt of additional remuneration either as the convener or deputy of a joint board, or as a senior councillor nominated by their parent authority, then a claim for remuneration can be made to the CJA. The financial burden, where it occurs, is to be met from the CJA administrative budget. The CJA will be responsible for payment of the additional allowance and not for any part of the basic grade councillor remuneration.

### **3.9 CJA Members allowances and expenses**

3.9.1 Article 3 of The Management of Offenders etc. (Scotland) Act 2005 (Members' Remuneration and Supplementary Provisions) Order 2008 (SSI 2008/30) enables CJA members to claim for allowances and expenses incurred in relation to CJA activities, governed by the framework set out in the Local Government Regulations 2007.

## **4. EXPENDITURE ON STAFF**

### **4.1 Staff costs**

4.1.1 The CJA is responsible for determining the number of staff required and the most appropriate organisational structure to deliver its remit economically, efficiently and effectively within the resources available.

### **4.2 Pensions: Redundancy/Compensation**

4.2.1. Superannuation arrangements for staff are subject to the approval of the Scottish Government. CJA staff shall normally be eligible for a pension provided by the Local Government Pension Scheme (LGPS).

4.2.2 Staff may opt out of the occupational pension scheme provided by the CJA. However, the employer's contribution to any personal pension arrangement shall normally be limited to the national insurance rebate level.

4.2.3 Any proposal by the CJA to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of Scottish Ministers. Proposals on severance payments for CJA staff must comply with the guidance in the Severance etc section of the SPFM.

## **5. NON-STAFF EXPENDITURE**

### **5.1 Capital expenditure**

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<sup>3</sup> [http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi\\_20080030\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi_20080030_en_1)

5.1.1 Proposals for individual capital projects such as refurbishment/renovation/adaptation/upgrading of buildings and the purchase of IT equipment and vehicles should be sent to the Scottish Government for approval.

## **5.2 Write-offs, losses and special payments**

5.2.1 Proposals for making special payments (including write-offs) outside the delegated limits set out in 3.1.1 of the Financial Memorandum must have the prior approval of the Scottish Government. Any such proposals should address the considerations listed in the Losses & Special Payments section of the SPFM.

## **5.3 Unconventional financing**

5.3.1 Unless otherwise agreed with Scottish Ministers, the CJA shall not enter into any unconventional financing arrangement.

# **6. MANAGEMENT AND DISPOSAL OF FIXED ASSETS**

## **6.1 Register of assets**

6.1.1 The CJA shall maintain an accurate and up-to-date register of its fixed assets that should be accessible to internal and external auditors. Fixed assets are assets with an expected life of more than one year i.e. land and buildings, furniture and fittings, plant and machinery, vehicles and information and communications technology (ICT).

## **6.2 Disposal of assets**

6.2.1 The CJA shall dispose of assets which are surplus to its requirements and in accordance with its long-term estate strategy. Assets shall be sold for the best price, taking into account any costs of sale and in accordance with the guidance in the Disposal of Property, Plant and Equipment section of the SPFM. Proceeds from the disposal of assets may be retained by the CJA subject to them being included in the approved budget.

## **6.3 Receipts from the sale of goods or services**

6.3.1 Receipts from the sale of goods and services, rent of land, and dividends may be recycled subject to them being included in the approved budget.

## **6.4 Internal Audit**

6.4.1 CJAs shall establish and maintain arrangements for internal audit in accordance with the Government Internal Audit Standards (GIAS) and the Internal Audit section of the SPFM

# **7. BANKING**

## **7.1 Banking arrangements**

7.1.1 The CJAs Accountable Officer is responsible to Scottish Ministers for ensuring that the CJAs banking arrangements comply with the Banking section of the SPFM.

## **ANNEX B**

### **RECOMMENDED FORMAT FOR CJA ANNUAL ACCOUNTS**

The following checklist is provided as a model of best practice in the submission of CJA Accounts. There is no requirement for the accounts to contain a remuneration report although it would be helpful if a remuneration report was included within the annual accounts (see paragraph 5.1.3 in the Management Statement). There is also no requirement for the accounts to contain an annual report, as this is now covered by the statutory CJA annual report. However, it is recommended that in the future CJAs work towards having their accounts audited by the end of June to enable the audited accounts to form part of the annual report submitted for audit.

- 1. Explanatory Foreword**
- 2. Revenue Account**
  - CJA accounts do not require to show staff costs etc incurred by constituent local authorities. The Income and Expenditure Account should show the funds received from Scottish Government and the amounts distributed to Councils, along with the CJA administration expenses.
- 3. Balance Sheet**
- 4. Notes to the Accounts (including information contained in the CJA annual financial return and accounting policies)**
- 5. Cashflow statement**
- 6. Statement on System of Internal Financial Control**
- 7. Statement of responsibilities for the statement of accounts**



**ANNEX C**

**Community Justice Reporting - Communication and Publication  
Actions and Dates**

<b>Summary</b>		
<b>Date due</b>	<b>Report</b>	<b>Purpose</b>
31 January	CJA Action Plan	To provide a basis for measuring progress against key targets and milestones for the forthcoming year – linked to local priorities set out in the area plan.
30 September	CJA Annual Report	Report to Ministers on activities and performance of CJAs and their partner bodies in complying with the area plan during the previous reporting year.
30 September	CJA Annual Accounts	Accounts detailing income and expenditure incurred relating to both administration and S27 monies
Flexible	MAPPAs report	Report from MAPPA strategic oversight groups on their activities over the previous reporting year.

<b>Month</b>	<b>SG action</b>	<b>CJA action</b>	<b>Publications</b>
<b>January</b>	<ul style="list-style-type: none"> <li>Determine if any Spring Budget Transfers need to be carried out.</li> <li>Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>CJA action plans for the forthcoming year submitted to Scottish Government (or updated action plans where there is a rolling plan)</li> </ul>	
<b>February</b>	<ul style="list-style-type: none"> <li>Scottish Government to consider action plans, in particular how they progress towards targets/milestones set in previous year.</li> <li>Spring Budget Transfers are normally carried out.</li> <li>Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>March</b>	<ul style="list-style-type: none"> <li>Scottish Government comments on CJA action plans.</li> <li>Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>All invoices including capital expenditure invoices and invoices under £10K sent to Scottish Government for payment by 21 March.</li> </ul>	<ul style="list-style-type: none"> <li>Scottish Crime and Justice Survey Drug Use Prevalence</li> <li>Prison population projections</li> </ul>
<b>April</b>	<ul style="list-style-type: none"> <li>Scottish Government to provide any changes (if necessary) to CJA annual report guidance/requirements</li> <li>Scottish Government to provide any changes (if necessary) to MAPPA annual report guidance/requirements</li> <li>Scottish Government issue Annual Financial Statement to CJAs for completion and return with CJA audited annual accounts</li> </ul>		

	<ul style="list-style-type: none"> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>May</b>	<ul style="list-style-type: none"> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>June</b>	<ul style="list-style-type: none"> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>July</b>	<ul style="list-style-type: none"> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>August</b>	<ul style="list-style-type: none"> <li>• Determine if any Autumn Budget Transfers need to be carried out.</li> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>• CJA draft annual reports submitted to Scottish Government for comment</li> </ul>	<ul style="list-style-type: none"> <li>• Prison populations statistics</li> <li>• Reconviction rate statistics</li> </ul>
<b>September</b>	<ul style="list-style-type: none"> <li>• Scottish Government to provide any changes (if necessary) to CJA action plan guidance/ requirements</li> <li>• Scottish Government to consider draft annual reports against action plan/area plan key targets/milestones and provide feedback to CJAs.</li> <li>• Autumn Budget Transfers are normally carried out.</li> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>• CJA annual reports signed off by CJA boards</li> <li>• Final CJA annual reports submitted to Scottish Government by 30 September for reference</li> <li>• MAPPA reports submitted to CJA Board for noting and submission to Scottish Government (<i>note MAPPA reporting timescales are flexible and subject to change</i>)</li> <li>• CJA annual accounts submitted to Scottish Government and external auditors by 30 September at latest</li> </ul>	<ul style="list-style-type: none"> <li>• Recorded crime statistics</li> </ul>
<b>October</b>	<ul style="list-style-type: none"> <li>• External auditors complete audit of annual accounts by 31 October</li> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>• MAPPA reports published (<i>note MAPPA reporting timescales are flexible and subject to change</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Civil justice statistics</li> <li>• Recorded crime involving firearms statistics</li> <li>• Police performance framework annual report</li> </ul>
<b>November</b>	<ul style="list-style-type: none"> <li>• Scottish Government consider comments by external auditors on CJA annual accounts and ensure any appropriate action is taken</li> <li>• Scottish Government reconcile s27 audited annual accounts with s27 grant paid and pay/recover any balance</li> </ul>	<ul style="list-style-type: none"> <li>• CJA annual reports published</li> </ul>	<ul style="list-style-type: none"> <li>• Scottish Crime and Justice Survey Main Findings</li> <li>• Racist incidents statistics</li> <li>• Domestic abuse</li> </ul>



	<ul style="list-style-type: none"> <li>• due</li> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>		
<b>December</b>	<ul style="list-style-type: none"> <li>• CJA annual accounts laid before Parliament before December recess</li> <li>• Scottish Government issue notification of grant allocations</li> <li>• Payment of monthly grant allocations by 15<sup>th</sup> each month</li> </ul>	<ul style="list-style-type: none"> <li>• CJA action plans for forthcoming year signed off by CJA boards (or updated action plans where there is a rolling plan)</li> <li>• Any overpayment of s27 grant repaid to Scottish Government within 1 month of request</li> <li>• CJA finance officers provide accurate estimated outturn of s27 grant at meeting with Scottish Government held in December/January</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal justice social work statistics</li> <li>• Criminal proceedings statistics</li> <li>• Scottish Crime and Justice Survey Partner Abuse</li> <li>• Scottish Crime and Justice Survey Sexual Victimization and Stalking</li> <li>• Homicide statistics</li> </ul>



# **COMMUNITY JUSTICE (SCOTLAND) BILL**

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## **EXPLANATORY NOTES**

### **(AND OTHER ACCOMPANYING DOCUMENTS)**

#### **CONTENTS**

As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Community Justice (Scotland) Bill introduced in the Scottish Parliament on 7 May 2015:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government statement on legislative competence; and
- the Presiding Officer's statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 68–PM.



## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

### **THE BILL**

3. At present, community justice services are delivered through eight regional Community Justice Authorities (CJAs). The role of CJAs is to plan, co-ordinate, monitor and report on the delivery of offender services and to produce a strategic plan for their area in consultation with statutory and non-statutory partner bodies. The membership of CJAs is restricted to elected members from each constituent local authority. However, reports published in 2012 by the Commission on Women Offenders and by Audit Scotland highlighted concerns with the current CJA-based model. Two consultations undertaken by Scottish Government in 2012 and 2014 identified support for a new model for community justice.
4. The Bill establishes a new model for community justice services which has local delivery, partnerships and collaboration at its heart, with national arrangements to provide the profile, leadership and strategic direction which are felt to be missing from the current structure. Robust accountability and driving improvement will also be important aspects of the new model. Enhanced opportunities for innovation, learning and development will also be provided.
5. The Bill consists of 37 sections and 2 schedules. In summary, they make provision as follows:
  - Section 1 defines community justice for the purposes of the Bill.
  - Sections 2 to 11 and schedule 1 establish Community Justice Scotland as an Executive Non-Departmental Public Body and set out its key functions.
  - Section 12 identifies community justice partners.
  - Sections 13 to 16 provide for the development and review of a national strategy for community justice; and for the development and review of a national performance framework.
  - Sections 17 to 22 set out how the statutory community justice planning partners in relation to each local authority area are to prepare and report on an outcomes improvement plan for community justice.
  - Sections 23 to 25 require Community Justice Scotland to monitor performance in the area of each local authority against the national performance framework and to provide periodic reports on performance to local community justice partners.

Community Justice Scotland is empowered to make recommendations to Scottish Ministers on any action it considers necessary in relation to the achievement of outcomes or improvement of performance. Community Justice Scotland must also produce an annual report in relation to performance across Scotland in achieving the outcomes.

- Section 26 makes provision for Community Justice Scotland's involvement in the development and arranging of community justice services.
- Sections 27 to 29 make provision for Community Justice Scotland's functions with regard to innovation, learning and development.
- Section 30 requires Community Justice Scotland and community justice partners to co-operate with each other.
- Section 31 abolishes community justice authorities.
- Section 32 is an interpretation provision.
- Sections 33 to 37 are supplementary, dealing with matters such as commencement and the making of ancillary provision.
- Schedule 2 amends various pieces of existing legislation in consequence of the Bill provisions.

## **THE SECTIONS**

### **Section 1: Meaning of community justice**

6. Section 1 provides a definition of "community justice" for the purposes of the Bill. It provides that community justice is concerned with the following activities:

- Giving effect to community disposals and post-release control requirements
- Supporting and managing offenders in the community in such a way as to reduce re-offending
- Arranging services so that offenders in the community may access and use them
- Preparing offenders for release from imprisonment or from detention in a penal institution.

7. Section 1 then goes on to clarify what is meant by certain words and phrases mentioned within the definition.

### **Section 2: Establishment**

8. This section establishes Community Justice Scotland as a body corporate. Community Justice Scotland's Gaelic name (Ceartas Coimhearsnachd Alba) has equal legal status. Community Justice Scotland will be an Executive Non-Departmental Public Body. Section 2 introduces schedule 1 which contains further provision about the establishment and operation of Community Justice Scotland.

### **Section 3: Functions**

9. Section 3 sets out the main functions of Community Justice Scotland. The functions include promoting the national strategy; overseeing and keeping the Scottish Ministers informed of performance in relation to the provision of community justice (and in particular, performance in relation to the achievement of the nationally determined outcomes); promoting and supporting the improvement of community justice and the effective use of the resources available for community justice; and promoting public awareness of the benefits of sentencing offenders to community disposals and supporting offenders in the community in order to reduce re-offending.

10. It also makes provision for the Scottish Ministers to confer additional functions on, or transfer another person's functions to, Community Justice Scotland; or make changes to the body's functions in relation to community justice; or remove or transfer functions which have been conferred on or transferred to the body under regulations previously. This power to alter Community Justice Scotland's functions can only be exercised by regulation, and such regulations will be subject to affirmative procedure. Subsection (3) makes clear that Community Justice Scotland also has any other functions conferred by the Bill (such as those in section 27 in relation to the learning and development strategy) or any other enactment.

11. It may be deemed necessary or desirable for Community Justice Scotland to acquire further powers or for existing powers to be modified in response to any changes in the policy or practice of planning, delivering and monitoring of community justice services. The power therefore allows the flexibility to respond to developments as the nature and practice of planning for community justice evolve and the provisions in the Bill take effect. Section 3(5) provides a power to modify other legislation, should it be necessary to transfer existing statutory functions to Community Justice Scotland in future.

12. Before making regulations, Scottish Ministers must consult Community Justice Scotland and anyone else they consider appropriate.

### **Section 4: General powers**

13. This section gives Community Justice Scotland a general power to do anything deemed necessary or expedient in order to carry out, or conducive to the exercise of, its functions. This could include publicity, or asset management, for example.

### **Section 5: Provision of information, advice or assistance**

14. Section 5 requires community justice partners (other than the Scottish Ministers) to provide information, advice or assistance to Community Justice Scotland if it requests these to help carry out its functions.

### **Section 6: Funding**

15. Section 6 allows the Scottish Ministers to make grants to Community Justice Scotland to allow it to carry out its functions, or for any purpose specified by them in connection with its functions, subject to any conditions the Scottish Ministers may determine, such as repayment.

This could include funding to commission national research or for the development of national offender programmes like the “Caledonian System”, which is an existing programme aimed at addressing domestic violence.

### **Section 7: Directions and guidance**

16. Section 7 requires Community Justice Scotland to have regard to guidance issued by Scottish Ministers and to comply with any direction issued by the Scottish Ministers about the carrying out of its functions. The Scottish Ministers may also vary or revoke a direction or guidance. Any document issued or varied under this section must be laid by the Scottish Ministers before the Scottish Parliament and published.

### **Section 8: Governance and accountability**

17. Section 8 provides that that Community Justice Scotland must operate in a way which is proportionate, transparent, accountable and consistent with the principles of good governance which appears to it to constitute best practice.

### **Section 9: Corporate plan**

18. Section 9 sets out the arrangements to be observed by Community Justice Scotland when preparing its corporate plan. Once established, Community Justice Scotland must prepare a plan setting out how it intends to exercise its functions as soon as is reasonably practicable. When preparing the plan, Community Justice Scotland must have regard to the national strategy and must consult each of the community justice partners and any other persons it considers appropriate. The plan must be submitted to the Scottish Ministers as soon as practicable after Community Justice Scotland is established. The Scottish Ministers may approve the plan with modifications, if they consider this appropriate. Should the Scottish Ministers wish to modify the plan, they must first consult Community Justice Scotland. Following approval, the Scottish Ministers must lay a copy of the plan before the Scottish Parliament. Thereafter, Community Justice Scotland must publish the plan as soon as is reasonably practicable.

19. Community Justice Scotland must review the corporate plan as soon as reasonably practicable following publication of a revised national strategy. Otherwise, Community Justice Scotland may review it at any time. Should Community Justice Scotland decide to revise the plan following a review, the revised plan must follow the same processes for preparation, submission, approval and review as set out in the paragraph above.

### **Section 10: Annual reports on exercise of functions**

20. Section 10 requires Community Justice Scotland to prepare and publish an annual report as soon as reasonably practicable after the end of each financial year. The report must provide information on the exercise of Community Justice Scotland’s functions. In preparing the report, Community Justice Scotland must engage with each of the community justice partners and anyone else it considers appropriate – which could, for example, include wider stakeholders and delivery partners. Community Justice Scotland must send a copy of the report to the Scottish Ministers who must lay it before the Scottish Parliament. Once the report is laid before the Scottish Parliament, Community Justice Scotland must publish it.



## **Section 11: Accounts**

21. Section 11 requires Community Justice Scotland to keep proper accounts and to prepare and send to the Scottish Ministers a statement of accounts as soon as reasonably practicable after the end of each financial year. The Scottish Ministers may direct the form, content and method of preparation of the statement. The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.

## **Section 12: Community justice partners**

22. Subsection (1) defines “community justice partners” for the purposes of the Bill. This is a list of persons who are considered to have functions in relation to community justice. The Scottish Ministers are included as a community justice partner with the expectation that the Scottish Prison Service will represent Ministers in carrying out certain functions under the Bill.

23. The Bill contains a number of functions which are to be exercised in respect of the separate local authority areas of Scotland. Those functions are to be exercised by those of the list of community justice partners who are relevant to the area, acting jointly. Subsection (2) therefore identifies the group of partners who are to have these functions in relation to a local authority area.

24. Subsection (3) enables the Scottish Ministers to make regulations which add to, remove from, or amend, this list of partners. Any such regulations are subject to affirmative procedure.

## **Section 13: National strategy in relation to community justice**

25. Section 13 requires the Scottish Ministers to publish a national strategy for community justice within a year of the section coming into force. The purpose of the strategy is to provide the strategic vision for community justice in Scotland. The strategy may contain such material in relation to community justice as the Scottish Ministers consider appropriate, such as details of the aims of community justice or the actions proposed to achieve these aims. In preparing the strategy the Scottish Ministers must consult each of the community justice partners and other persons they consider appropriate. As soon as reasonably practicable after the strategy has been published, Scottish Ministers must lay a copy before the Scottish Parliament.

## **Section 14: Review of national strategy**

26. Section 14 requires the Scottish Ministers to review the national strategy for community justice within 5 years of the publication of the first strategy. Thereafter, they may review the strategy at such time as they see fit but at the latest within five years of the last review. When reviewing or revising the strategy the Scottish Ministers must consult Community Justice Scotland, each of the other community justice planning partners and other persons they consider appropriate. The Scottish Ministers must then either publish a revised strategy or, publish a statement indicating that they consider that the strategy should not be revised. After a revised strategy has been published, the Scottish Ministers must lay a copy before the Scottish Parliament as soon as reasonably practicable. Once published, the revised strategy becomes subject to this section as though it was the original strategy.

## **Section 15: National performance framework in relation to community justice**

27. Section 15 requires the Scottish Ministers to publish a national performance framework no later than one year after this section comes into force. In preparing the framework, the Scottish Ministers must consult the other community justice partners and anyone else that Scottish Ministers consider appropriate. The framework will set out outcomes (“nationally determined outcomes”) and corresponding indicators (“national indicators”) which will be used to measure performance. The framework may also contain other indicators, advice or guidance as appropriate.

## **Section 16: Review of national performance framework**

28. Section 16 requires Community Justice Scotland to review the national performance framework within 5 years of the publication of the original framework. Thereafter, they may review the framework when they see fit but at the latest, within five years of the last review. When reviewing the framework, Community Justice Scotland must take account of the national strategy in place at that time; and must consult community justice partners (other than Scottish Ministers) and any other appropriate persons. Community Justice Scotland may, following a review, propose changes to the framework to Scottish Ministers or publish a statement indicating that they consider no revision to be required. Scottish Ministers may amend or reject any such proposals, but must consult Community Justice Scotland before doing so. Should Scottish Ministers accept the proposed changes, then they must as soon as practicable revise and publish the revised framework. Should the Scottish Ministers reject a proposal to revise the framework, then they must publish a statement to that effect. Once published, the revised framework becomes subject to this section as though it was the original framework.

## **Section 17: Preparation of community justice outcomes improvement plan**

29. Section 17 requires community justice partners to publish a community justice outcomes improvement plan for the area of a local authority in accordance with a timescale set by the Scottish Ministers in regulations. Regulations establishing a timescale for production of the plan will be subject to the negative procedure. The plan must set out the community justice partners’ assessment of the extent to which each nationally determined outcome has been achieved in the area, or how close an outcome is to being achieved. Thereafter, the plan should specify whether each outcome should be a priority in light of that assessment. Finally, the plan should detail what action the partners will take, either jointly or individually, to achieve, or maintain the achievement of, each outcome. In assessing the extent to which each outcome has been achieved, partners must use the national indicators.

30. The plan may also include other material in relation to community justice which the partners consider appropriate, and additional outcomes (“locally determined outcomes”) which they consider should be prioritised in their area. Community justice partners must also set out which indicators they will use to measure performance in achieving these outcomes, and the action they will take to achieve or maintain the achievement of them.

31. As soon as reasonably practicable after publishing the community justice outcomes improvement plan, the community justice partners must send a copy to Community Justice Scotland.

## **Section 18: Community justice outcomes improvement plan: engagement**

32. Local planning in partnership in communities across Scotland is a key part of the community justice model which the Bill takes forward and the community justice outcomes improvement plan will be the primary document planning partners will use to set out their progress towards achieving outcomes together with the action they intend to take to further achieve outcomes over the next reporting period. In preparing the community justice outcomes improvement plan, the community justice partners must have regard to the national strategy, the national performance framework, and the local outcomes improvement plan for their area prepared under section 5(1) of the Community Empowerment (Scotland) Act (being the Act which is expected to flow from the Community Empowerment (Scotland) Bill currently before the Parliament) or any revised version of that plan. Community justice partners must also consult Community Justice Scotland, relevant community bodies and any other person they consider appropriate. They must also make reasonable efforts to determine which community bodies are likely to be able to contribute to the preparation of the plan, and make reasonable efforts to secure and facilitate their participation.

## **Section 19: Review of community justice outcomes improvement plan**

33. Section 19 requires community justice partners to review their community justice outcomes improvement plan after the publication of: a revised national strategy for community justice; a revised national performance framework; or a revised local outcomes improvement plan in relation to the area prepared under section 6(2) of the Community Empowerment (Scotland) Act. Community justice partners may otherwise revise community justice outcomes improvement plans from time to time. After the community justice outcomes improvement plan has been reviewed, the partners may decide to publish a revised version. If a revised plan is not to be published following a review, partners must publish a statement to that effect.

34. When reviewing or revising the community justice outcomes improvement plan the partners must have regard to the national strategy, the national performance framework, and the local outcomes improvement plan. They must also make reasonable efforts to secure the participation of community bodies that are likely to be able to contribute to the review or revision of the plan, and make reasonable efforts to secure the participation of such bodies in such revision or review. They must take reasonable steps to enable such a body which wishes to take part in the review process to do so.

35. As soon as reasonably practicable after publishing a revised community justice outcomes improvement plan, the community justice partners must send a copy to Community Justice Scotland. After a revised plan is published, the above steps in relation to revision, review and publication apply to it as they did to the previous plan.

## **Section 20: Reports on performance in relation to community justice outcomes**

36. Section 20 requires community justice partners to publish a report setting out their assessment on whether the nationally determined outcomes and any locally determined outcomes were achieved in their area during the period of the report. If any outcomes were not met, the community justice partners must set out their assessment of what, if any, progress has been made

towards each of these, using the relevant indicators set out in their community justice outcomes improvement plans. The section then sets out what is meant by “relevant indicators”.

37. When preparing the reports, the community justice partners must consult such community bodies and other parties who are considered appropriate. This report must be made published as soon as reasonably practicable after the end of each reporting period and a copy sent to Community Justice Scotland.

38. The timing of the first reporting period will be set by the Scottish Ministers by regulations which are subject to the negative procedure. Thereafter, the end of subsequent reporting periods will fall on the anniversary of the end of the first reporting period.

### **Section 21: Guidance in relation to community justice outcomes improvement planning**

39. Section 21 requires community justice partners to have regard to any guidance issued by the Scottish Ministers about the exercise of the functions relating to outcomes improvement planning and reporting. Before issuing such guidance, the Scottish Ministers must consult each other person to whom it relates and anyone else they consider appropriate. Guidance issued under this section must be published.

### **Section 22: Duty to have regard to community justice outcomes improvement plan**

40. Section 22 requires community justice partners to have regard to the community justice outcomes improvement plans for the area of a particular local authority when exercising the partners’ functions in relation to community justice in the relevant area.

### **Section 23: Monitoring of performance in relation to community justice outcomes**

41. Section 23 requires Community Justice Scotland to monitor performance in the achievement of outcomes in each local authority area, using relevant indicators. Community Justice Scotland must also from time to time report to the community justice partners for the area of each local authority area on its assessment of their performance. This report may include guidance on action which is considered necessary to improve performance in the achievement of an outcome, or that might help to improve performance in achieving an outcome in the area. Community Justice Scotland may direct community justice partners to publish the report, or information within it. Community justice partners must also, within a specified timescale, comply with a direction to inform Community Justice Scotland of the actions the partners have taken or plan to take, in order to respond to the report. Where they do not intend to take action in response to the report, they must notify Community Justice Scotland of that fact.

### **Section 24: Section 23: recommendations to the Scottish Ministers**

42. Section 24 provides that Community Justice Scotland may, after monitoring the performance of community justice partners, make recommendations to the Scottish Ministers on actions which it considers are necessary in order to achieve a nationally determined outcome, or which would improve performance in achieving such outcomes, or any other aspect of community justice. These recommendations may apply to Scotland as a whole or a particular

local authority area. Recommendations must be published by Community Justice Scotland as soon as reasonably practicable after they have been made.

### **Section 25: Annual report on performance in relation to community justice outcomes**

43. Section 3(1)(b) of the Bill requires Community Justice Scotland to keep the Scottish Ministers informed of performance in the provision of community justice, particularly the achievement of nationally determined outcomes. In this regard, section 25 requires Community Justice Scotland to publish a report, as soon as reasonably practicable after 31 March in each year, setting out its assessment of performance in Scotland as a whole in relation to the achievement of the national outcomes. In assessing performance for the purpose of the report, Community Justice Scotland must use the national indicators. When preparing the report, Community Justice Scotland must consult the community justice partners and any other persons it considers appropriate. The annual report may also include guidance detailing what is necessary to achieve nationally determined outcomes for Scotland or what action can be taken to improve performance in achieving such outcomes, or in relation to community justice generally, for Scotland as a whole. Community Justice Scotland must lay a copy of the report before the Parliament as soon as reasonably practicable after the report has been published.

### **Section 26: Ability of Community Justice Scotland to develop and arrange services**

44. This section provides that in exercise of its general powers, Community Justice Scotland is able to carry out a number of activities related to the provision of community justice services (either alone or in partnership with others), while making clear that Community Justice Scotland itself is not a provider of such services.

45. Community Justice Scotland may identify the need for a service; design a suitable model for delivering the service; and make arrangements for the provision of the service (for example, identifying suitable suppliers or undertaking procurement). It may take these actions on its own and encourage or assist or collaborate with community justice partners. The services referred to may be developed or arranged for delivery at national or local level. Before carrying out these activities, Community Justice Scotland must consider the suitability of those services for the local area and whether it would be appropriate to collaborate with others. Community Justice Scotland must also consult the community justice partners and anyone else it considers appropriate.

46. The section also requires Community Justice Scotland to comply with any request from the Scottish Ministers in relation to the arrangement or development of community justice services. Before making such a request, the Scottish Ministers must consult the community justice partners and anyone else they consider appropriate.

### **Section 27: Strategy for innovation, learning and development**

47. No later than one year after this section comes into force, Community Justice Scotland must publish a strategy for innovation, learning and development. The content of the strategy is for Community Justice Scotland to determine but it may include such material about innovation, learning and development in relation to community justice as Community Justice Scotland considers appropriate. In preparing the strategy, Community Justice Scotland must have regard

to the national strategy for community justice and the national performance framework. Community Justice Scotland must also consult each community justice partner and anyone else it considers appropriate when preparing the strategy.

### **Section 28: Review of strategy for innovation, learning and development**

48. Community Justice Scotland must review the strategy for innovation, learning and development within 5 years of the publication of the first strategy. Thereafter, it may review the strategy at such time as it sees fit but, at the latest, within five years of the last review. If, after a review of the strategy, Community Justice Scotland decides to revise it, the revised strategy must be published. If no revision is made, Community Justice Scotland must publish a statement to this effect. When reviewing or revising the strategy Community Justice Scotland must have regard to the national strategy for community justice and the national performance framework and must consult each community justice partner and anyone else it considers appropriate. If a revised strategy is published, this section applies to it as though it were the original strategy.

### **Section 29: Innovation, learning and development activity**

49. Section 29 sets out a range of actions that Community Justice Scotland may take in connection with the strategy for innovation, learning and development. The actions include conducting or commissioning research; identifying, establishing or promoting good practice; and developing or providing education or training. Community Justice Scotland may also require, encourage or assist community justice partners or other persons to carry out these actions. A community justice partner must comply with a requirement made by Community Justice Scotland in relation to this. Community Justice Scotland must also comply with a request from the Scottish Ministers that it conducts or commissions particular research, establishes or promotes particular good practice, or develops or provides particular education or training. Community Justice Scotland may charge for materials to be used for education or training which it develops or provides.

### **Section 30: Duty of co-operation**

50. Section 30 requires Community Justice Scotland, each community justice partner and the community justice partners for each local authority to co-operate with each other in carrying out their respective functions in the context of community justice. Co-operation may include information-sharing; providing advice and assistance; co-ordinating activities; and jointly funding activities.

### **Section 31: Abolition of community justice authorities**

51. Section 31 abolishes community justice authorities and revokes the Order (SSI 2006/182) which established them; and repeals sections 3 to 9 of the Management of Offenders (Scotland) Act 2005.

### **Section 32: Interpretation**

52. Section 32 defines certain expressions used in the Bill.

### **Section 33: Consequential and minor modifications**

53. Section 33 introduces schedule 2 to the Bill, which modifies other pieces of legislation in consequence of its provisions.

### **Section 34: Regulations**

54. Section 34 provides that powers under the Bill to make regulations may make different provision for different purposes; and may include supplementary, incidental, consequential, transitional, transitory or saving provision.

### **Section 35: Ancillary provision**

55. This section allows the Scottish Ministers to make ancillary provision by regulations. Generally, such regulations are subject to negative procedure but any regulations which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.

## **SCHEDULE 1**

56. This schedule is introduced by section 2 and makes further provisions on the membership, procedures and staffing of Community Justice Scotland.

### **Paragraph 3: Membership**

57. Paragraph 3 sets out a number of provisions for the membership of Community Justice Scotland. In particular, a member is to be appointed by the Scottish Ministers to the role of chair. There are to be at least five and no more than eight additional members and they will also be appointed by the Scottish Ministers. A list is provided of those public office holders who may not be appointed as a member. The Scottish Ministers may vary the maximum and minimum number of members by regulations subject to the negative procedure. This paragraph also provides for the members to elect one of their number to deputise for the chair in appropriate circumstances.

### **Paragraph 4: Tenure etc.**

58. Paragraph 4 sets out provisions relating to the tenure of appointments. In particular, the Scottish Ministers determine the period of appointment for members of Community Justice Scotland and may re-appoint those who already have been members. The total period of appointment must not exceed eight years.

### **Paragraph 6: Power to end membership**

59. Paragraph 6 confirms that the Scottish Ministers may remove a member who becomes an undischarged bankrupt. The Scottish Ministers may also remove a member where they are satisfied that the member has failed to attend three consecutive meetings of Community Justice Scotland; or where the member is unable to perform the functions required; or where the member is unsuitable to continue being a member.

**Paragraph 7: Remuneration and allowances of members**

60. Paragraph 7 makes provision for Community Justice to pay its members remuneration and allowances, as determined by the Scottish Ministers.

**Paragraph 8: Chief executive and other staff**

61. Paragraph 8 requires Community Justice Scotland to employ a chief executive. The Scottish Ministers will appoint the first chief executive of Community Justice Scotland. Each subsequent chief executive will be appointed by Community Justice Scotland, with approval of Scottish Ministers, on such terms and conditions as it may determine. Community Justice Scotland may also appoint other members of staff on such terms and conditions as Community Justice Scotland, with approval of the Scottish Ministers, determines.

**Paragraph 9: Pensions, allowances and gratuities**

62. Paragraph 9 provides for Community Justice Scotland, with the approval of the Scottish Ministers, to make arrangements in relation to pensions, allowances and gratuities for its existing and past staff.

**Paragraph 10: Procedure**

63. Paragraph 10 provides that Community Justice Scotland may regulate its own procedures.

**Paragraph 11: Committees**

64. Paragraph 11 makes provision for Community Justice Scotland to establish and operate committees and sub-committees for any purpose relating to its functions. This paragraph also provides that committees may be partially composed of non-members of Community Justice Scotland, but that such committee members may not vote at meetings.

**Paragraph 12: Validity of things done**

65. Paragraph 12 makes clear that the validity of proceedings of Community Justice Scotland will be unaffected by any membership vacancies, a defect in the process of appointing members, or the ending of a person's membership under paragraph 5 of schedule 1.

**Paragraph 13: Authority to exercise functions**

66. Paragraph 13 provides that Community Justice Scotland may authorise a member, a committee, the chief executive or any other member of staff to exercise its functions.

**Paragraph 14: Legislation relating to public bodies**

67. Paragraph 14 inserts a reference to Community Justice Scotland into various pieces of legislation relating to public bodies in Scotland.



## **SCHEDULE 2 – PART 1**

### **Paragraph 1**

68. Paragraph 1 amends section 27 of the Social Work (Scotland) Act 1968 and Section 8 of the Management of Offenders etc. (Scotland) Act 2005 so that funding for the delivery of criminal justice social work services will flow direct from the Scottish Ministers to local authorities. At present, funding flows from Scottish Ministers to local authorities via community justice authorities, which are dis-established by the Bill. Paragraph 1 (3) (b) (i) reinstates a reference to section 27ZA of the Social Work (Scotland) Act 1968 into section 27A of that Act. This reference was removed by an earlier amendment and it is now considered appropriate to restore it. The effect is to revive the Scottish Ministers' power to provide grants to local authorities in order to provide advice, guidance or assistance to the persons prescribed in the said provision.

### **Paragraph 2**

69. Section 227M of the Criminal Procedure (Scotland) Act 1995 sets out what is required of local authorities and the Scottish Ministers in the arrangements for annual reports on community payback orders. Paragraph 2 amends section 227M and inserts a number of sub-sections to alter the existing arrangements for the submission and timing of reports. The effect of the amendments to section 227M is to require local authorities to submit their report to Community Justice Scotland rather than to the Scottish Ministers, and for Community Justice Scotland to collate the local authority reports into one summarised report which it will lay before the Parliament. The timing of the community payback reports is now to be aligned with the timing requirement for submission of annual performance reports in section 25 of the Bill. The amendments also allow Community Justice Scotland to produce the collated community payback order report alongside, or as part of, the report on performance under section 25 of the Bill.

### **Paragraph 3**

70. As the Bill abolishes community justice authorities, the reference to them in schedule 3 of The Ethical Standards in Public Life etc. (Scotland) Act 2000 is to be deleted. Schedule 3 lists the devolved public bodies who are subject to that Act.

### **Paragraph 4**

71. As the Bill abolishes community justice authorities, the reference to them in paragraph 62A of schedule 1 to the Freedom of Information (Scotland) Act 2002 is to be deleted. Schedule 1 sets out a list of the bodies who are subject to the Act.

### **Paragraph 5**

72. Sub-paragraph (1) and (2) amend the Management of Offenders (Scotland) Act 2005 to remove the references to community justice authorities in section 1 of that Act, in consequence of the abolition of those bodies.

73. Sub-paragraph (3) amends the arrangements for assessing and managing risks posed by certain offenders set out in section 11(2) of the Management of Offenders etc. (Scotland) Act 2005. The amendments require that the responsible authorities submit their report on the discharge of their functions conferred by section 10 of the 2005 Act, to Community Justice Scotland and the other relevant community justice partners.

74. Sub-paragraph (4) repeals section 21(12) of the Management of Offenders Act 2005 which inserts a reference to community justice authorities in Part 7 of schedule 1 to the Freedom of Information (Scotland) Act 2002.

75. Sub-paragraph (5) removes the reference to community justice authorities from the interpretation section of the Management of Offenders (Scotland) Act 2005.

## **SCHEDULE 2 – PART 2**

76. Paragraph 6 lists three orders associated with the Management of Offenders etc. (Scotland) Act 2005 which are revoked as a consequence of the abolition of community justice authorities by the Bill.

## **FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Financial Memorandum has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament's Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The Scottish Government is committed to reducing re-offending and securing better outcomes for community justice services. Offending is a complex problem and there are well established links between persistent offending and poverty, homelessness, addiction and mental illness. The Scottish Government has therefore considered how community justice services are planned, designed, evaluated and delivered to create more equal access, improve outcomes and make the best use of public resources.

3. 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.

4. A national strategy to provide the strategic vision for community justice in Scotland will be developed with local government and key partners and in consultation with stakeholders. Local strategic planning and monitoring of service delivery will be taken forward by community justice partners. With this emphasis on collective responsibility through a partnership approach, decision-making will be placed into the hands of local people and agencies who know their communities best and understand the problems that are a priority locally. A new national body, Community Justice Scotland, will be established to provide leadership, enhanced opportunities for innovation, learning and development and assurance on the delivery of improved outcomes. The model will be defined by a performance culture through the establishment of an outcomes, performance and improvement framework against which community justice partners can plan and report. This will provide opportunities to monitor progress and drive improvement, leading to increased efficiency and effectiveness.

### **OVERVIEW OF THE BILL**

5. The provisions which describe the new model are set out in sections as follows:

- Sections 1 and 12 provide definitions.
- Sections 2 to 11 and schedule 1 establish Community Justice Scotland as an Executive NDPB and set out its key functions of improving national, professional and strategic leadership; promoting innovation, learning and development; providing assurance to Scottish Ministers on the delivery of outcomes; and providing improvement support where required.
- Sections 13 and 14 provide for the development of a national strategy for community justice.

- Sections 15 and 16 provide for the development of a national performance framework.
- Sections 17 to 22 place a duty on community justice partners to prepare a local community justice outcomes improvement plan that sets out their activities and arrangements for meeting community justice outcomes.
- Sections 23 to 25 require Community Justice Scotland to monitor the performance of community justice partners against the national framework. Community Justice Scotland will have powers to make recommendations to Ministers on any action it considers necessary in order to deliver improved outcomes, either nationally or locally. This may include recommendations about the requirement for a joint inspection of any local community justice services.
- Sections 26 enables Community Justice Scotland to carry out activities relating to the development or arrangement community justice services, but not to provide any such services itself. Such activities may include identifying the need for a service; designing a suitable model for delivering the service; and making arrangements for the provision of the service (for example, identifying suitable suppliers or undertaking procurement). It may take these actions on its own and encourage or assist or collaborate with community justice partners. Any administrative costs relating to this activity are already included in the running costs of Community Justice Scotland.
- Sections 27 to 29 set out the arrangements for Community Justice Scotland to publish and review a strategy for innovation, learning and development. The cost of this activity is already included in the running costs of Community Justice Scotland.
- Section 30 defines the duty of co-operation which is placed on Community Justice Scotland, each community justice partner, and the community justice partners for the each local authority area.
- Section 31 abolishes CJAs.

6. The costs arising from the Bill are summarised in Table A. Further detailed costs for Community Justice Scotland are presented separately in Tables B; C; D; and E. The costs arising from the Bill as set out in Table A will be met from the existing Scottish Government Community Justice budget, with no additional funding required.

7. It should be noted that Community Justice Scotland does not perform like-for-like functions with the eight CJAs and hence costs are not directly comparable, particularly as some of the services costs which will be incurred by Community Justice Scotland are currently met by the Scottish Government. Further detail is provided later in the Financial Memorandum.

**Table A: Summary of costs relating to the Community Justice (Scotland) Bill**

<b>Cost Category</b>	<b>Estimated at</b>
Set up costs for Community Justice Scotland (Paragraphs 12 to 37)	£615,000 (one-off cost for 2016/17)
Ongoing annual running costs for Community Justice Scotland (Paragraphs 38 to 61)	£2,209,000 (ongoing cost, per annum)
Community Justice Strategy (1) staff cost (2) awareness-raising & dissemination (Paragraphs 62 to 67)	£25,000 (every 5 years approximately, beginning in 2015/16) £50,000 (every 5 years approximately, beginning in 2016/17)
Community Justice Performance Framework (1) staff cost  (2) awareness-raising & dissemination (Paragraphs 68 to 73)	£25,000 (one-off cost prior to publication)  £nil
Supporting Transition: Community Planning (Paragraphs 74 to 79 and 82 to 84)	£1,600,000 (per annum for each of 2015/16; 2016/17; and 2017/18)
Supporting Transition: the Community Justice Voluntary Sector Forum (Paragraphs 80 to 84)	£50,000 (per annum for each of 2015/16; 2016/17; and 2017/18)
Inspection Services (Paragraphs 85 to 90)	£120,000 ( a contingency for an annual cost from 2018/19 onwards)
Community Justice Authorities – Pension Liability (Paragraphs 91 to 97 and 102 to 103)	Up to £2,500,000 (one-off cost for 2016/17)
Community Justice Authorities – Severance Liability (Paragraphs 98 to 103)	£248,094 – £744,284 (one-off cost for 2016/17)

## **COMMUNITY JUSTICE SCOTLAND**

### **Background**

8. Following enactment of the legislation, Community Justice Scotland will take on its full functions from 1 April 2017. As a new public body, and to facilitate the transition between the existing model and the new model, Community Justice Scotland will exist in a shadow capacity for a period of approximately six months. The length of the shadow period will be dependent on timescales for senior appointment recruitment.

9. The costs of Community Justice Scotland are therefore presented in two sections – firstly, the set-up costs and the costs associated with the shadow body from 1 October 2016 to 31 March 2017; and secondly, the annual running costs from 1 April 2017 onwards.

10. The costs of Community Justice Scotland have been estimated based on costs incurred by comparator bodies and on guidance received from professional advisers within the Scottish Government. Therefore, given that the type of costs being estimated in Tables B, C and D as shown can be predicted with a reasonable degree of certainty, the margins of uncertainty are low.

11. It is important to note that there will be no overall reduction in the level of funds currently provided by the Scottish Government for Community Justice. One of the underlying principles of the new model is the drive to improve community justice outcomes. There may therefore be specific improvement activities identified – by Scottish Ministers or at a local level – which are to be funded by Community Justice Scotland. Any such costs would be over and above those set out in Table D and would have to be met from within existing funding levels. As the level of improvement support required would depend upon the level of progress made on community justice outcomes, there is a margin of uncertainty over the level of improvement funding required.

### **Costs on the Scottish Administration**

#### **Start-up/shadow body costs**

12. The figures included in Table B below show the estimated set-up and shadow body costs for Community Justice Scotland, covering the six month period from 1 October 2016 to 31 March 2017.

13. The funding associated with Community Justice Scotland's start-up/shadow body period has been included within the overall Scottish Government Community Justice budget for 2016/17.

**Table B: Estimated set-up costs and shadow body costs for Community Justice Scotland, inclusive of VAT where applicable**

<b>Set-up Costs</b>	<b>£</b>
Members' remuneration	33,000
Staff salaries (including chief executive)	141,000
Recruitment costs	42,000
Other staffing and members related costs	7,000
IT Set up	104,000
Accommodation	188,000
Marketing website/branding	100,000
<b>Total</b>	<b>£615,000</b>

#### *Members and staffing*

14. The skills, knowledge and professionalism of the members and staff will be key to ensuring the success of Community Justice Scotland. The complement of the shadow body is likely to be limited to the chief executive and members. These appointments will be made by Scottish Ministers through the public appointments process.

15. The initial functions of the body will be to agree and set with Scottish Ministers its strategic direction and financial framework, as well as to recruit staff in readiness for 1 April 2017 when the body will take on its full functions. Staff recruitment and appointments will be the responsibility of the chief executive and, where appropriate, the members. All staff will be recruited through a fair and open recruitment process. It has been assumed that the chief executive may wish to appoint the management team and some HR and administrative staff in the two months preceding the full establishment of Community Justice Scotland.

#### *Appointment of the Community Justice Scotland members*

16. The Bill provides for no fewer than five and no more than eight non-executive members, in addition to a member who will be appointed by Scottish Ministers to chair Community Justice Scotland. For the purposes of this document the members total seven, including the chair. The appointment of members will be regulated according to the code of the Commission for Ethical Standards in Public Life and the Code of Practice for Ministerial Appointments to Public Bodies in Scotland.

17. The Scottish Government will meet the cost of subsequent appointments when they fall due. Members will serve for terms of up to three years. Appointments may be staggered to ensure consistency during transitions.

#### *Remuneration of members*

18. The continuing costs of payments to members will be met from Community Justice Scotland's budget. Estimates for the cost assume that there will be one chair, one deputy chair and five further members. The members will attend meetings as set by Community Justice Scotland. Financial estimates assumed are based on the members and the chair being remunerated at the medium point of the relevant scale set out in Table C below.

19. It will be for Scottish Ministers to determine the most appropriate range for members, taking account of the range of responsibilities Community Justice Scotland will have following passage of the Bill.

***Table C: Daily rates for the members of Community Justice Scotland***

Members Remuneration	Minimum	Medium	Maximum	Ceiling
Chair	£199.00	£271.00	£343.00	£410.00
Members	£167.00	£207.00	£247.00	£313.00

*Chief executive salary*

20. The success of Community Justice Scotland will rely heavily on the leadership abilities of the chief executive. The appointment will therefore be made in line with the Scottish Chief Executive Pay Framework at a basic pay range of £82,900 to £162,500. It will be for Scottish Ministers to determine the most appropriate range for the chief executive, taking account of the range of responsibilities that Community Justice Scotland will have following passage of the Bill.

*Staff salaries*

21. The full staffing complement at Community Justice Scotland is expected to be around 22 full-time members of staff. It will be for the chief executive to determine the timing of staff appointments. For estimate purposes, it is assumed that one Administrative/Finance Officer will be in post for the duration of the shadow period; and that the Management Team and HR support (totalling 5 staff members) will be in post for two months.

*Pension arrangements*

22. Although Community Justice Scotland staff, including the chief executive, are not to be civil servants, it is anticipated that they will join the Civil Service Pension Scheme. The chief executive salary costs included within Table B are inclusive of pension and national insurance contributions.

*Timescales for recruitment and associated costs*

23. For the shadow period and to ensure that the chair, chief executive and members are in place for 1 October 2016, the chair and chief executive will be recruited from August 2016. This is to allow the chair to be involved in the recruitment process for the chief executive and members; and for the chief executive to be involved in the recruitment process for the staff.

24. The members and staff cost estimates set out within Table B are therefore based on:

- Chair at £17,344 (8 days per month for 8 months);
- Members at £14,904 (2 days per month for 6 months);
- Chief executive at £75,121 (7 months' salary at £128,780 inclusive of pension and National Insurance);



- Administrative/Finance Officer at £15,613 (6 months' salary at £31,225 inclusive of pension and National Insurance); and
- Management Team and HR support, totalling 5 staff members for 2 months at a total of £50,000 (2 months' salary for a Director of Operations; a Manager for the hub; a Performance Manager; a Head of Corporate Services; and an HR manager – with varying salaries – inclusive of pensions and national insurance).

#### *Recruitment costs*

25. As a new body, Community Justice Scotland will require to recruit staff to carry out its functions. All staff will be recruited through fair and open competition and every effort will be made to recruit staff as cost effectively as possible. It is assumed that some recruitment will take place in the shadow period as indicated above. It is also assumed that the majority of staff recruitment and appointment activity will take place in 2017/18, as indicated in Table D. Recruitment costs of up to £42,000 have been allowed for in the set-up costs.

26. These costs are based on the recruitment of:

- Chair, chief executive and members at a total of £15,000;
- Management Team and other staff, totalling nine roles at £27,000 – being the six staff appointed above plus a possible additional three staff members who may be recruited during the shadow period but who take up post on or shortly after 1 April 2017.

27. The cost of advertising, interviewing and making appointments are based on recent similar exercises.

#### *Other staffing and members related costs*

28. These include training, expenses and travel.

#### *IT set-up*

29. It is envisaged that, Community Justice Scotland staff will use the Scottish Government IT system, "SCOTS". While the accommodation for the new body has yet to be decided, the outline costs in Table B are based on a complete installation of SCOTS into a non-SCOTS building, as well as hardware and software costs for a total staffing complement of 22 staff and seven members.

30. If Community Justice Scotland staff were to be located in an existing SCOTS networked building, the installation costs would reduce.

#### *Accommodation costs*

31. The location of Community Justice Scotland is currently being considered. In line with Scottish Government policy, the property selected will conform to the Scottish Public Finance Manual, Asset Management Policy 2008 and Town Centre First policies.

32. The Scottish Government will ensure that the location will be accessible by public transport and in keeping with modern flexible working practices. The Scottish Government will encourage Community Justice Scotland to have in place policies that support home working and flexibility, in terms of staff locations and working practices.

33. The estimates in Table B are based on rent and rates for three months for a privately let office space of around 2,500 square feet, in a building which also hosts a similar non-departmental public body. We would anticipate that the shadow body would be based within an SG building for the first three months of its existence.

34. The costs in Table B reflect complete fit-out costs, furniture, surveyor and legal fees.

35. An estimate of potential dilapidation costs for returning the building back to its original state on conclusion of the lease is noted at Table E.

#### *Marketing/branding*

36. The re-launch of the proposed model for Community Justice in Scotland will require a marketing/branding exercise that will raise awareness about the new service and highlight the changeover from the existing CJAs.

37. While a detailed marketing plan has yet to be finalised, a budget of £100,000 has been estimated. This will include the cost of establishing a new brand and website for Community Justice Scotland.

#### **Ongoing costs**

38. Table D estimates the annual running costs for Community Justice Scotland. These costs will be met from the existing Scottish Government Community Justice budget, with no additional funding required. The running costs of the current model are composed of the CJAs at £1.8 million per annum; and the cost of Training Development Officers at £480,000 per annum – bringing out a total £2.28 million per annum.

39. The running costs of Community Justice Scotland are £1.44 million; and services costs of around £764,000 – bringing out a total of £2.2 million. However, included in the services costs are a number of national programmes currently delivered by the Scottish Government, and costing around £654,000.

**Table D: Estimated ongoing costs for Community Justice Scotland, inclusive of VAT where appropriate**

<b>Annual Running Costs from 2017/18</b>	<b>£</b>
Members remuneration	56,000
Staff salaries	1,129,000
Recruitment	36,000
Accommodation	81,000
Expenses and travel	40,000
IT support	34,000
Marketing website/branding	20,000
Other administrative costs	26,000
Professional fees	23,000
<b>Total Administrative costs</b>	<b>1,445,000</b>
<b>Services</b>	
Research fund and conference costs	110,000
National Criminal Justice Social Work Training Schedule, venue hire, printing, travel expenses	200,000
Level of Service Case Management Inventory System (LS/CMI) – IT system, development, running costs and licence costs	393,000
Other services costs	61,000
<b>Total Services costs</b>	<b>764,000</b>
<b>Grand Total</b>	<b>£2,209,000</b>

*Members' remuneration*

40. This is the cost for the chair and members, for a 12 month period.

*Staff salaries*

41. As noted above, Community Justice Scotland will consist of approximately 22 full-time equivalent staff members.

42. No staff from the CJAs will be transferred under the TUPE regulations to Community Justice Scotland.

43. The staffing complement and mix are based on a Scottish Government estimate for the functionality of the new national body. Salaries are based on Scottish Government average staff costs 2014/15 as a comparator body.

44. Staff recruitment will be the responsibility of the chief executive and members. All staff will be recruited through a fair and open recruitment process.

#### *Staff recruitment*

45. Once appointed, it will be for the chief executive to decide on recruitment priorities and timescales. Table D includes a recruitment budget of £36,000 for the remaining 12 positions – an average of £3,000 per position. In future years, the recruitment costs would be significantly less.

#### *Pension arrangements*

46. Although Community Justice Scotland staff members, including the chief executive, will not be civil servants, it is anticipated that they will be eligible to join the Civil Service Pension Scheme.

#### *Accommodation costs*

47. As noted above the location of Community Justice Scotland is currently being considered. In line with Scottish Government policy, the property selected will conform to the Scottish Public Finance Manual, Asset Management Policy 2008 and Town Centre First policies.

48. The estimates in Table D are based on renting a privately let office space of around 2,500 square feet, in a building which also hosts a similar non-departmental public body. The estimates include rent, rates and service charges.

#### *Expenses and travel*

49. To perform its functions effectively, Community Justice Scotland will be required to form and maintain close partnerships with statutory and non-statutory community justice partners. Based on a pro-rata comparison with other non-departmental public bodies of similar scale an estimate of £40,000 per annum has been allowed for travel and expenses.

#### *IT support*

50. Annual SCOTS IT support costs have been estimated at £34,000 by Scottish Government IT specialists.

#### *Marketing website and branding*

51. Whilst a detailed marketing plan has yet to be finalised an estimated budget of £20,000 per annum has been estimated by Scottish Government marketing specialists for on-going marketing and branding requirements, including website support.

#### *Other administration costs and professional fees*

52. Administration costs include staff training; stationery; and catering. The estimate is based on an extrapolation of those same costs for the Risk Management Authority. The professional fees include external audit fee and legal fees and expenses, and are based on comparator bodies.

### *Services costs*

53. To ensure that Community Justice Scotland is able to carry out its functions, an annual budget for services will be allocated by the Scottish Government.

54. Included within the services estimate in Table D is funding of £10,000 for an annual stakeholder conference as well as a research fund of £100,000. These estimates are based on similar costs of annual conferences run by comparative organisations and of comparative research funds estimated by Scottish Government research specialists.

55. The remaining services budget relates to national programmes linked to community justice and currently administered by the Scottish Government, which it is anticipated will transfer to Community Justice Scotland in exercise of the powers conferred by section 3 of the Bill. All of the costs reflect the current annual spend of these programmes. The services include those provided in respect of the National Criminal Justice Social Work Training; Level of Service Case Management inventory System (LS/CMI); and Other services (including the accreditation of the Scottish Advisory Panel for Offender Rehabilitation; “Moving Forward, Making Changes”; and “Caledonian” licence costs).

### *Dilapidation*

56. Dilapidation costs for returning the building back to its original state on termination of the lease is reflected at Table E below. This cost is based on a percentage of the fit-out costs and therefore the margin of uncertainty is low.

***Table E: Dilapidation costs for Community Justice Scotland, inclusive of VAT***

One-off Costs	£
Dilapidation	45,000

### *Assets and liabilities to be transferred to Community Justice Scotland*

#### Assets to be transferred

57. The CJAs have confirmed that the assets held by them are equipment. It is expected that these will transfer to Community Justice Scotland, in accordance with the Scottish Public Finance Manual. The anticipated value is minimal.

#### Liabilities to be transferred

58. No liabilities are expected to be transferred from the CJAs to Community Justice Scotland.

### **Cost on Scottish Administration – summary**

59. The Scottish Government currently provides funding for the existing model for community justice services based on eight regional CJAs. It is anticipated that the budget for Community Justice Scotland will be met from existing resources. The annual budget for Community Justice Scotland in 2017/18 is expected to be £2,209,000. Community Justice

Scotland (in exercising its innovation, learning and development function) may charge for on-sale of licences for training materials outside Scotland, provision of training courses, on-sale of licences for tools etc. However, the demand for these cannot be foreseen at present and, therefore, the level of income cannot be estimated. There is to be a strategy for learning, innovation and development which will consider this in more detail.

### **Costs on local authorities**

60. The provisions will have few if any financial implications for local authorities.

### **Costs on other bodies, individuals and businesses**

61. Generally, the provisions establishing the new national body will have no financial implications for individuals or businesses. In terms of who might be charged for the licences and training materials mentioned above, this would depend on who may wish to use the licences or access training courses. Again, the extent of this cannot be foreseen and, therefore, the level of cost cannot presently be estimated. The strategy for learning, innovation and development will consider this in more detail in due course.

## **NATIONAL STRATEGY FOR COMMUNITY JUSTICE**

### **Background**

62. The Bill places a duty on Scottish Ministers to prepare, publish and regularly review and update a national strategy for community justice. As part of this process, the provisions place a duty on Ministers to consult with each of the community justice partners and such other persons as they consider appropriate. The estimated costs included at Table D are based on previous comparator activities, and the uncertainty margin is therefore low.

### **Costs on the Scottish Administration**

63. Activity arising from these provisions within the Bill will build on the activity and current resources already committed to this area of work.

64. The estimated additional staff costs to the Scottish Ministers of preparing and reviewing a national strategy for community justice will be £25,000, recurring approximately every five years. The first version of the strategy is likely to be produced in 2016 drawing on existing staff resource.

65. Alongside the preparation and publication of the strategy, Scottish Ministers would also support additional awareness raising and dissemination activity. The cost of hiring contractors, publishing reports and engagement events is estimated at £50,000, recurring approximately every five years.

### **Costs on local authorities**

66. There may be some resource implications for local authorities associated with engaging in the preparation and review of the national strategy for community justice and in awareness raising and training of staff. Any additional activity should be accommodated within their existing responsibilities for improving community justice outcomes.

### **Costs on other bodies, individuals and businesses**

67. There may be some resource implications for other bodies, individuals and businesses in engaging with Scottish Ministers in the preparation and publication of the national strategy for community justice. This will depend on their level of engagement, which in turn will depend on the relevance of community justice to their work. Any additional activity is expected to be accommodated within their existing responsibilities for improving community justice outcomes.

## **PERFORMANCE FRAMEWORK FOR COMMUNITY JUSTICE**

68. The Bill places a duty on Scottish Ministers to prepare and publish the first national performance framework for community justice. As part of this process, the provisions place a duty on Ministers to consult with each of the community justice partners and such other persons as they consider appropriate. Any subsequent revisions after the publication of the first framework would be the responsibility of Community Justice Scotland. All costs associated with Community Justice Scotland reviewing, publishing and promoting the framework are accounted for at Table D, within the running costs for Community Justice Scotland. The estimated costs are based on similar comparator activities, and the uncertainty margin is therefore low.

### **Costs on the Scottish Administration**

69. Activity arising from these provisions within the Bill will build on the activity and current resources already committed to this area of work.

70. Based on similar activities, the estimated additional staff costs to the Scottish Ministers of preparing the first performance framework for community justice will be £25,000. The first version of the framework is likely to be produced in 2016 drawing on existing staff resource.

71. Alongside the preparation and publication of the framework, Scottish Ministers would also support additional awareness raising and dissemination activity. The cost of this activity has been factored into the costs of the National Strategy at paragraph 65.

### **Costs on local authorities**

72. There may be some resource implications for local authorities associated with engaging in the preparation and review of the performance framework for community justice and in awareness raising and training of staff. Any additional activity should be accommodated within their existing responsibilities for improving community justice outcomes.

### **Costs on other bodies, individuals and businesses**

73. There may be some resource implications for other bodies, individuals and businesses in engaging with Scottish Ministers in the preparation and publication of the performance framework for community justice. This will depend on their level of engagement, which in turn will depend on the relevance of community justice to their work. Any additional activity is expected to be accommodated within their existing responsibilities for improving community justice outcomes.

## **TRANSITIONAL SUPPORT FOR COMMUNITY PLANNING AND THE CRIMINAL JUSTICE VOLUNTARY SECTOR FORUM**

### **Background**

74. Community planning partners are already involved in the provision of community justice services. The role that they will play in planning and reporting under the new model should not therefore require additional resources, but rather a re-allocation of existing resources. Under the new model for community justice, rather than community justice bodies planning in isolation, they will be coming together to make plans for how best to improve community justice outcomes.

75. Although the infrastructure for community planning is already in place in every local authority, the Scottish Government recognises that in some areas it may take time and resources to establish forums for discussing community justice matters and securing the involvement of partners. All local planning partners within each local authority area will take on the responsibility for building the capability and capacity within their organisation in a way that allows them to understand how they will contribute individually and collectively to improved outcomes for community justice. Strategic and operational planning functions exist within all partner organisations and it is critical to the success of the new model that these are mobilised appropriately.

76. However, the Scottish Government recognises that in some areas resources will be required to support the change. Therefore, the Scottish Government has made available a transition fund to support partners' efforts to build capability and capacity to work together on the achievement of improved outcomes for community justice. The expectation is that once that capacity has been established then it will become embedded in the working practices of the community justice partners.

### **Costs on the Scottish Administration**

77. The fund will total £1.6 million per annum, commencing 2015/16 and will be split equally between the 32 local authorities (planning partners cannot receive funding). The intention is for this fund to be available for three years, ending in 2017/18. However, this position will be reviewed at the end of 2015/16 in light of the outcome of the next UK Comprehensive Spending Review expected to take place following the May 2015 Parliamentary election.



78. Three years of transition funding should provide planning partners with sufficient time to take on their community justice role as well as make arrangements with key partners to share capacity and resources for this work going forward.

79. Partners are at different stages of readiness. The Scottish Government expects those partners who have already developed partnerships around community justice to use their transition funding to assist other partners to build their capability and capacity. They will be required to work with the third sector, community based organisations, communities, offenders and victims in the transition and in preparing their outcomes-focussed plans. At the end of the financial year, the partners in each local authority area must confirm how the funds were spent.

80. The third sector has a crucial role under the new arrangements for community justice. In recognition of this, the Scottish Government intends to provide £50,000 per annum to the Criminal Justice Voluntary Sector Forum (CJVSF) to help them build capability and capacity and engage with the partnership arrangements across Scotland.

81. It is expected that this fund will be available for three years, ending in 2017/18. However, this position will be reviewed at the end of 2015/16 in light of the outcome of the next UK Comprehensive Spending Review. CJVSF will monitor the use of the transitional funding provided and will produce an end of year report which will set out how the resources have been used in-year for scrutiny by the Scottish Government.

#### **Costs on local authorities**

82. The transitional funding will initiate collaborative activity which should then be largely absorbed by the community justice partners in the future. However, the Scottish Government and the Convention of Scottish Local Authorities (COSLA) recognise that the transitional period may identify potential costs around supporting partners under the new model. The Scottish Government and COSLA are committed to working together on this matter.

#### **Costs on other bodies, individuals and businesses**

83. The provisions will have little or no financial implications for individuals or businesses.

84. The provisions may impact on the third sector as indicated above. Funding is being provided to fund capability and capacity-building and engage with the partnership arrangements across Scotland.

#### **MONITORING OF PERFORMANCE: INSPECTION SERVICES**

85. The Bill enables Community Justice Scotland to make recommendations to Scottish Ministers on any action which it considers necessary to deliver improved outcomes. The Bill does not prescribe what that action might be, but it is anticipated that the action may include inspections as required. However, such an action is not specified on the face of the Bill. In addition, Scottish Ministers may accept or reject Community Justice Scotland's recommendations. Therefore, the cost attached to inspections is speculative as an inspection would only be triggered should circumstances require it.

### **Costs on the Scottish Administration**

86. An inspection is designed to provide independent assurance about the quality of services and on the impact and outcomes for service users and the wider community and support improvement. Inspectors would focus their work on confirming areas of strength evident from self-evaluation or other information or intelligence and exploring areas of uncertainty or concern. Each inspection is scoped from the outset to determine the specific areas of focus. The scope would therefore vary depending on information, intelligence and self-evaluations.

87. The Scottish Government is carrying out further work into the remit of community justice inspections and that of other inspection bodies, and therefore the full costs are not available at this time. While this is a new cost, it is expected that it will be able to be met from existing resources.

88. The Scottish Government would expect the Care Inspectorate to take the lead in the inspections. It is anticipated that other statutory inspection bodies would contribute as applicable in line with the Care Inspectorate's Memorandum of Understanding. The involvement of other scrutiny bodies would be under a duty of co-operation and the extent of their involvement would be proportionate to their area of focus in, and contribution to, the overall inspection. The estimate of £120,000 relates to the cost of one in-depth inspection carried out by a single Inspectorate. The cost would increase were more Inspectorates involved; and were more inspections required.

### **Costs on local authorities**

89. The provisions will have little or no financial implications for local authorities.

### **Costs on other bodies, individuals and businesses**

90. The provisions will have little or no financial implications for other bodies, individuals or businesses.

## **THE DIS-ESTABLISHMENT OF COMMUNITY JUSTICE AUTHORITIES**

### **Background**

91. The Bill dis-establishes CJAs. The liabilities set out below arise from staffing and other operational issues, and include pension liabilities; staff severances; operational costs. The staffing complement at CJAs is approximately 25 people. CJAs share office accommodation with other public bodies.

### **Costs on the Scottish Administration**

#### **Pension liability**

92. Section 4(6) of the Management of Offenders etc. (Scotland) Act 2005 requires that the expenditure of a CJA, in so far as it is not met from any other source, may be paid by Scottish Ministers. There will be no successor body to take on the functions, staff and therefore pension

liabilities of the CJAs. The liabilities arising from pension and staff severance costs may therefore fall to be paid by the Scottish Government. However, the responsibility for taking forward the processes pertaining to staffing liabilities would remain with the CJAs.

93. There are five pension fund providers who collect contributions on behalf of the CJAs to pay into the Local Government Pension Scheme (LGPS). The pension liability for CJA staff pensions will be calculated by each pension fund's actuary to quantify liabilities at the point of dis-establishment. Cessation valuations will be based on membership data and financial conditions on the dis-establishment date i.e. 31 March 2017. It is therefore difficult to be precise now about quantifying what those costs will be in some two years' time. The liability will be payable for staff who remain in post at the dis-establishment date; staff who are receiving a pension; and staff who hold a deferred pension.

94. The Scottish Government has asked each Fund to provide an estimate of what the cessation valuation is likely to be in 2017, based on current membership and financial conditions. However, this information takes some time to collate and is not yet available. In addition, it is expected that there will be changes to the LGPS from 1 April 2015 which may impact on the pension calculations. The Scottish Government will provide an updated estimate to the Parliament during Stage 1.

95. For estimate purposes, the costings in Table A reflect the CJA pension liabilities as calculated in the most recent triennial actuarial valuation exercise as at 31 March 2014. This valuation has been conducted on an "ongoing" basis which assumes that the employer will continue to operate. The CJAs will be dis-established, and therefore a "cessation" basis would have been more appropriate. It is likely that the triennial actuarial valuation used for the estimate in Table A will be an under-valuation, though it is not possible to quantify the extent of that.

96. The cost estimate is £2.5 million which reflects an assumption that all staff remain in post at the date of dis-establishment. The more likely position is that some staff will leave the CJAs before the date of dis-establishment – but whether and by how much this would reduce the pension liability depends on whether they transfer to their new employer's pension scheme. Where staff choose not to transfer their pension, then the liability would remain to be paid, in the form of a deferred pension.

97. Any costs which may arise for Scottish Ministers from the pension liability would be met from existing resources.

### **Staff severance liability**

98. Similarly, it is difficult to be precise in quantifying the severance payments for CJA staff as this is also dependent on the staffing position at 31 March 2017. The level of the payments will depend on the number of staff remaining in post at the dis-establishment date; their ages; their annual salary as at 31 March 2017; and their length of service. Given that Scottish Ministers are potentially settling this liability, paragraph 14 of the Scottish Public Finance Manual requires that the terms of the severance payments should be broadly similar to those of the Civil Service Compensation Scheme. The severance calculations are therefore based on these terms using data from payroll records on the ages of staff; their length of service; and their current salaries. For

estimate purposes, a range of costs is presented. The upper value of around £745,000 assumes that all staff remain in post at the date of dis-establishment. The lower value of around £248,000 assumes that one third remain in post.

99. An annual pay uplift of 1% has been applied to 2014/15 salary levels to generate an estimate for 2015/16; and a further 1% has been applied to the 2015/16 figure to generate an estimate for 2016/17. This reflects an assumption that recent pay increases of 1% will continue.

100. An assumption has been made that staff reaching the minimum scheme pension age at 31 March 2017, will opt to take a severance payment rather than access their pension.

101. Any costs which may arise for Scottish Ministers from the severance liability would be met from existing resources.

#### **Costs on local authorities**

102. The provisions are likely to have little or no financial implications for local authorities.

#### **Costs on other bodies, individuals and businesses**

103. The provisions are likely to have little or no financial implications for other bodies, individuals or businesses.

*These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015*

## **SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE**

On 7 May 2015, the Cabinet Secretary for Justice (Michael Matheson MSP) made the following statement:

“In my view, the provisions of the Community Justice (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

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## **PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE**

On 7 May 2015, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Community Justice (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

*These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015*

# **COMMUNITY JUSTICE (SCOTLAND) BILL**

## **EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)**

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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS  
Group Scotland.

ISBN 978-1-78568-537-8