

REDESIGNING THE COMMUNITY JUSTICE SYSTEM

A CONSULTATION ON PROPOSALS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

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3. Permissions - I am responding as...

Individual

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(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)? **Please tick as appropriate** Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

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(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

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(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

 Yes

 No



Future Model for Community Justice in Scotland

On behalf of Scotland's Community Justice Authorities (CJAs) we supply our national response to the latest consultation on the Redesign of the Community Justice System – "*Future Model for Community Justice in Scotland*".

The attached Appendix contains detailed responses to the thirteen questions contained in the consultation document. CJAs look forward to working with the Scottish Government, COSLA and our other partners in taking forward the issues highlighted. We recognise that more information, detail and discussion will be required prior to implementation. In particular, more information is required on:

- Community Justice Improvement Scotland (CJIS)
- The concept of local partnerships
- Information about funding and commissioning
- The proposed national framework
- The National Research and Training Hub and
- Crucially the relationship between Local Authorities, Community Planning Partnerships (CPPs), local partnerships and CJIS

In the meantime, you can be assured that Scotland's CJAs both individually and nationally will be as proactive as possible in promoting a smooth transition from the current to the new structure. We will work with national and local partners including Government, COSLA, ADSW and SOLACE and we will encourage our partners who deliver both Justice and Universal Service to co-operate fully in the implementation and to contribute positively to the process of change.

This process should begin as early as possible in recognition of the amount of work required to help prepare CPPs for their new responsibilities. In particular, we shall help in building and maintaining the capacity of CPPs and offer to help resolve any tensions between national and local priorities. CJAs consider that the following key characteristics will be critical to the success of the new model:

- A strong and united voice that represents Community Justice interests with the Judiciary, public and media
- Provision of an overview of the system as a whole, including consistency and breadth of service provision

- A strategic approach to workforce development and leadership for Criminal Justice Social Work staff that is based on evidence of what supports desistance and builds expertise, capacity and resilience and encourages collaborative working with other professionals towards shared outcomes.
- Greater professional identity for Community Justice staff which builds on existing values and provides well defined opportunities for career progression and
- The ability to follow innovation nationally and internationally, as well as develop and share evidence based good practice

In closing, we would emphasise that CJAs are committed to engage in an open and genuine dialogue with Government, partners and stakeholders. We will therefore continue to contribute actively to this process at every opportunity, based on our extensive experience of leading and delivering Community Justice at a local level. We look forward to that ongoing dialogue and ultimately contributing to a redesigned Community Justice System which delivers positive outcomes for victims, for offenders and their families, and for all our communities.



Cllr Peter McNamara
Chair of National CJA Conveners Group

CONSULTATION QUESTIONS

Chapter 2

Question 1: ***Do you have any general comments on the overview of the new arrangements for community justice?***

Generally:

- more detailed information is required about Community Justice Improvement Scotland (CJIS);
- more information is required around the concept of local partnerships;
- more funding info required; and
- the guidance on developing local partnerships and the national strategy to reduce re-offending will be a crucial factor in making the new structure successful.

Therefore the following comments should be seen in this context. We recognise that other factors such as, the Community Empowerment (Scotland) Bill and Health & Social Care integration will also need to be seen in the context of community justice reforms.

The Scottish Government expressed key characteristics as being *“likely to deliver better outcomes for victims, for people who offend and their families, and for local communities”*, the proposed model could meet some of these characteristics: i.e.

- *a strong and united voice that represents Community Justice interests with the judiciary, public and media;*
- *provision of an overview of the system as a whole, including consistency and breadth of service provision;*
- *a strategic approach to workforce development and leadership for criminal justice social work staff that is based on evidence of what supports desistance and builds expertise, capacity and resilience and encourages collaborative working with other professionals towards shared outcomes;*
- *greater professional identity for Community Justice staff which builds on existing values and provides well defined opportunities for career progression; and*
- *the ability to follow innovation nationally and internationally, as well as develop and share evidence based good practice.*

However, it is difficult to see how the proposed new arrangements would fulfil all the characteristics. One of the proposed characteristics was to:

“Provide strategic direction and leadership to drive forward performance improvements and deliver public services that protect victims and communities and meet the needs of people who offend”.

The proposed new national body’s role is advisory (except for the *“Management of any services which have been identified and agreed as being best delivered on a*

national basis by the national body”), (on which see further comment in the response to Question 2). Community Justice Improvement Scotland (CJIS) will not allocate community justice funding (see Section 144), nor will it be accountable for the delivery of community justice (see below) – and it is therefore unlikely that the body will have sufficient credibility and ‘power’ to meaningfully deliver this key function..

A further desirable characteristic was to provide *“clearer lines of strategic, political and operational accountability to support continuous improvement”*. One of the key criticisms of current structures CJAs made during the previous round of consultation on community justice redesign was in relation to lack of clarity about accountability *“With lack of clarity about accountability, inconsistent approaches to membership, limited resources and few powers, many consultees regarded CJAs as simply another layer of bureaucracy that adds little value.”*¹.

As the Parliamentary Audit Committee accepted; there can be no ‘accountability’ without ‘authority’ or vice versa. CJAs have no actual ‘power’ or ‘authority’ over community justice partners in relation to ensuring their involvement in the production of and commitment to the implementation of plans to reduce reoffending. The proposed model appears to repeat this as there is a lack of clarity in the lines of accountability in the proposal. Without this there is a danger that the criticisms levelled at the current arrangements are equally applicable to the proposed new model on two levels:

- i) In the proposed new model the nature of the relationship and lines of authority and accountability, between CJIS and local Community Planning Partnerships (CPPs), are not clear. In Figure 2 (page 7), there are ‘accountability relationship lines’ between: i) Scottish Ministers and CJIS and ii) CPPs and partners/local partnership arrangements. However, there is a ‘relationship line – non-accountable’ between CJIS and CPPs. CPPs appear not to be accountable to the new national body. Further detailed comment on this is contained in our response to Question 2.
- ii) Section 36 (page 9) notes that:

“The Community Empowerment (Scotland) Bill will introduce arrangements to strengthen community planning by placing new duties on public sector partners to play a full and active role in CPPs and to deliver outcomes for communities through effective integrated working. It is our intention to use and build upon these duties.”

Surely there must be an ‘imperative’ on partners to ensure complete commitment from CPP partners to real and substantive integrated working (in community justice and other areas) in comparison to the ‘duty to co-operate’, laid down in the Management of Offenders etc. (Scotland) Act 2005 as applied currently to the relationships between CJAs, local authorities and Scottish Ministers (SPS). Without this imperative or commitment the line of accountability between CPPs and delivery partners will also be less than clear.

¹ Extract from Liddell Thompson report (June 2013) on the first round of Consultation Workshops.

Although as referred to above there is not a direct line of accountability between CPPs and CJIS, Section 62 (page 14) states that CPPs “... will share their published strategic delivery plans for community justice and annual reports with CJIS...” and that “CJIS will have the power to make recommendations to Scottish Ministers and to relevant local government elected members, as appropriate, on any improvements that are required based on its analysis and findings.” (Section 60). CJIS can also offer ‘independent support’ to local partnerships/partners in relation to required improvements etc. if it deems necessary (Section 64) and even “rescue task groups” (Section 67). The above appears to require conformity by CPPs through a ‘backdoor’ route.

In the interests of clarity it would be preferable to state openly and from the outset what the Scottish Government envisages will be the reality. Lack of clarity troubled the effectiveness of the CJAs and causes confusion, creates barriers to achieving desired outcomes, and leads to difficulties in measuring the effectiveness of new arrangements. It is unlikely to lead to “better integration between partnership structures, services and organisations working with offenders and their families” which the Scottish Government expressed as a desired characteristics of any new model for community justice.

A further desirable characteristic was to provide “a focus on prevention and early intervention” (one of the priorities also identified by the Christie Commission).

Section 20 (page 4) states that this model “..deals primarily with people already in the criminal justice system”, although in Section 49 it is noted that it is proposed “to place an additional statutory duty on local authorities and other statutory bodies across the public sector to focus upon preventative approaches to reduce reoffending” . These are not the same as prevention relates to those who may not already be in the system and therefore appears contradictory.

Given that CPPs are required to document their ‘prevention’ plans, it may be useful to include reference to this as part of the role of CPPs in relation to community justice. “... new SOAs should include a specific plan for prevention which demonstrates commitment to the approach extending beyond the Change Funds for Early Years, Reducing Re-offending and reshaping care into mainstream services; quantifies the resources allocated to prevention and commits to increasing them over time; and provides clarity on the preventative actions to be taken and the impact they will have.”² The outcomes intended of the Community Empowerment (Scotland) Bill may address this but, at this stage, it is not apparent what the exact nature of the Bill will be.

Victim Support Scotland (VSS) are not included on the list of likely partners at a local level (Section 30). This is an error given Scottish Government’s statement that “Meeting the needs of victims should be of paramount importance in the criminal justice system’s response to crime.” (VSS are currently specifically listed as a ‘partner body’ in the Management of Offenders etc. (Scotland) Act 2005).

² Extract from 2012 CPP guidance (page 7):

The same comment also applies to the Crown Office and Procurator Fiscal Services (COPFS). Their role, in relation to the Whole System approach, diversion from prosecution etc. are key to the prevention and early intervention agendas. Given the way that COPFS is currently structured, it is difficult to see how this organisation can actively engage with 32 CPPs. This will also present real difficulties for the Scottish Courts Service and other partners..

Section 32 (page 9) advises that it is expected that appropriate links will be made between Local Criminal Justice Boards (LCJB) and CPP Boards in their areas. LCJBs are currently organised by the Sheriff Principal in whose areas they sit. Across Scotland there are differences in the arrangements, local authorities are currently not involved and it might be complex for them to engage with LCJBs. Consideration will therefore need to be given as to how to achieve these 'appropriate links'.

It would be useful to indicate when CJAs are likely to be disestablished , (including on the indicative timetable at Fig 1) and their role over the intervening period.. It would also be useful to demonstrate how the continued engagement of partners will be maintained in relation to statutory duties of CJAs prior to disestablishment..

There is potential for confusion/duplication in the roles of the National Community Planning Group (NCPG) and CJIS insofar as they are both to provide strategic leadership to CPPs, also in particular the NCPG's role (as set out in its Terms of Reference) in:

- building and maintaining the capacity of CPPs, including knowledge sharing and best practice, including identifying performance issues that have a national dimension; and
- brokering and resolving any tensions between national and local priorities and providing an authorising environment within which the arrangements for Scottish Government sponsorship of public bodies can be used to help secure effective engagement by appropriate bodies in community planning and the production of SOAs.

The NCPG's Terms of Reference state specifically that CPPs "*will not be formally accountable to the new National Community Planning Group*".

Chapter 3

Question 2: ***What are your views on the governance and accountability arrangements?***

See additional comments made in relation to governance and accountability in answer to Question 1 above.

The nature of the relationship between CJIS and local CPPs is not clear. In Figure 2 (page 7), there are 'accountability relationship lines' between: i) Scottish Ministers and CJIS; and ii) CPPs and partners/local partnership arrangements. However,

there is a 'relationship line – **non**-accountable' between CJIS and CPPs. Therefore the following issues arise:

- The stated role of CJIS appears to be purely advisory (Sections 39 and 55), except in relation to management of services best delivered on a national basis. Section 53 (page 12) states that the CJIS *“will be accountable to Scottish Ministers”*. If its role is advisory what it will be accountable for- only services delivered on a national basis?
- The proposed model offers no imperative under which it can be assumed, let alone guaranteed, that CPPs and partners will take their steer from this body, as the relationship is '**non**-accountable'.
- The CJIS Board will also have a responsibility to *“produce and publish a national strategic plan taking account of the strategic objectives set by Scottish Ministers and the National Strategy for Community Justice”* and to *“Hold the Chief Executive to account for performance against the strategic plan”*.
- What will the strategic plan cover?. Presumably it will only cover issues for which CJIS has specific responsibility, as it would be impossible for the Chief Executive to be held accountable for performance against the strategic plan without having any direct responsibility and authority for its implementation (by local partners).
- The role of CJIS in relation to CPP plans/annual reports is stated as to *“provide advice”* (Section 55, page 13) – How will this be accomplished? Only if such advice is requested? Being 'advice', does it have to be followed?
- In relation to the stated desirable characteristic of a new model to provide *“strategic commissioning of services that are based on a robust analysis of needs, evidence of what supports desistance and best value for money”* - How will CJIS achieve this successfully in practice and, undertake its responsibility for the *“management of any services identified as being best delivered on a national basis by the national body”* (Section 39, page 10). These services are likely to require delivery through local (community planning) delivery partners, over which the CJIS will not have a direct 'management' line/line of accountability.
- This would create dual reporting lines for delivery partners (to the CPP for locally driven services and to CJIS for those that are nationally commissioned) . Would such 'national' services sit outside local plans for reducing reoffending? This also seems to contravene the 'Christie' approach; *“Recognising that effective services must be designed with and for people and communities – not delivered 'top down' for administrative convenience”*. The practicalities of any opt-out of national commissioning arrangements should be addressed more fully. It is not clear what the mechanism will be for agreeing which services are best commissioned nationally or locally.

Re Section 46; what are the *“certain relevant appointments made by CJIS”* which Scottish Ministers might need to approve.

In relation to Section 50, and as referred to above, it may be challenging to obtain any increased commitment than that which occurs currently from local delivery partners, in terms of accountability, to the planning, performance management and reporting arrangements, irrespective of the new 'statutory' footing.

Chapter 4

Question 3: *What are your views on the arrangements for local strategic planning and delivery of services for community justice?*

The comments above in relation to accountability/the relationship between CJIS and local CPPs refer.

As mentioned as part of the answer to Question 1 above, Victim Support Scotland, COPFS and the Scottish Court Service should be included on the list of likely partners at a local level (Sections 30 and 81) .

CPPs are and will continue to be subject to a wealth of 'guidance', changes to legislation etc. which will impact on how they operate, including:

- SOA Guidance (December 2012);
- Scottish Government/COSLA Statement of Ambition (2012);
- Agreement on Joint Working on Community Planning and Resourcing (September 2013);
- The new 'Community Empowerment' legislation;
- New legislation relating to Community Justice Re-design;
- Guidance produced by Scottish Government, partners and stakeholders to support CPPs in developing local arrangements for community justice.

CPPs are not currently resourced to 'take over' the partnership work currently undertaken by CJAs. They will require enhancement in order to deliver this function and to enable them to keep abreast of, and comply with, consequent obligations. In addition, the issue of the levels of experience/expertise/resourcing/levels of commitment of CPPs staff to the reducing reoffending agenda are unknown but are likely to be insufficient – a not-insignificant factor in the restructuring.

MAPPA

The consultation proposals would lead to MAPPA potentially being funded, and managed/overseen, by very disparate Community Planning structures. Discussions in relation to the future of MAPPA would require to be had with the MAPPA 'Responsible Authorities'. There would be significant dangers to public safety if MAPPA management and effectiveness was diluted in any way or made subordinate to decisions on funding and resources of CPPs.

Therefore future MAPPA funding should not go directly to multiple (32) local authority areas but consolidated in the focussed way it is at present. There is an urgent need for discussion and conclusion on the future of MAPPA arrangements. The suggestion in Section 95 that MAPPA be structured nationally within CJIS would be

preferable to a dilution between 32 areas. However this would be at odds with the thrust of the paper's championing of local delivery arrangements.

Chapter 5

Question 4: ***What suggestions do you have on how a national performance framework for community justice in Scotland could operate under the new model?***

One of Scottish Government's proposed desirable characteristics was to provide *"better data management and evaluation to assess organisational and management performance, including the impact of services"*. The development of a national performance framework for community justice is not a straightforward proposition (as has been shown to be the case). Locally services are gradually moving towards ensuring programmes/interventions are evidence-based, and to the use of logic models for defining desired outcomes, establishing appropriate evaluation criteria etc. It will be important to continue the extension of this focus throughout the transition period and into CPP-led local performance management arrangements.

Under RRP and RRP2, there has been a continued locus of work on establishing a national performance framework for community justice. Despite the contributions of partners, no agreed framework has yet evolved. Agreeing, as a minimum, the high level elements of a national framework needs to be achieved well in advance of the transition to new structures.

CJAs note the current work of the RRP2 Project Board and will support continued efforts to evolve the outcomes of this work. CJAs participate in this Board and contribute fully to the process including further developing the CJA National Interim Performance Framework.

Chapter 6

Question 5: ***What are your views on the functions to be delivered by Community Justice Improvement Scotland?***

See responses above to Questions 1 and 2.

CJIS should be well placed to fulfil the functions listed under *"Providing national, professional and strategic leadership for community justice in Scotland"* (page 23).

In relation to its proposed function *"providing oversight of the delivery of a new national performance, improvement and outcomes framework for community justice in Scotland"*:

- See above response to Question 4 in relation to oversight of a national performance framework.
- See above response to Question 1 with regards to 'buy-in' from CPPs in relation to the review by CJIS of local partnership strategic delivery plans and annual reports.

- The second bullet point on page 24 refers to enabling *“the benchmarking of local partnerships against each other and through existing arrangements to allow for collective and continuous improvement and identifying opportunities to extend best practice.”* Local partnerships will have different community justice priorities and approaches, and therefore it might be challenging to ‘benchmark’ them against each other (e.g. an island authority against a city authority). However, on the whole, we would support the benchmarking across partnerships where this is appropriate.

In relation to the proposed function *“Identifying and advising on how justice and other resources could be aligned to improve outcomes for community justice”*, CJIS will be removed from both the actual allocation of the funding and the delivery of services, and therefore may struggle to have the resources and expertise to fulfil this role.

See comments in response to Question 2 above with regards to *“Management of any services which have been identified and agreed as being best delivered on a national basis/Strategic commissioning arrangements for community justice at a national level where necessary”*.

Question 6: *Does the name “Community Justice Improvement Scotland” adequately reflect the responsibilities of the new national body and the functions?*

No particular view at this time. Given the question marks over the role and functions of the body expressed above it maybe questionable as to the extent to which it can achieve ‘improvement’ in community justice in Scotland.

‘Improvement’ does not imply that current stems are inadequate, although some may be, but that even the best systems can be improved and that constant improvement is an appropriate mission statement.

A range of views – some are not comfortable with the word “Improvement”. There is confusion over choice of words in relation to the remit of the National Body.

Chapter 7

Question 7: *Are the skills and competencies in paragraph 105 and referenced in paragraph 106 sufficient to allow the body to fulfil its functions as noted in Chapter 6?*

The issue will be as to whether the current cost of funding CJAs will be sufficient to support the levels of expertise envisaged. It would be useful to develop a fully costed model which reflects the range of skills and competencies set out in Chapter 7.

Question 8: *Is the organisational structure shown at Figure 3 and the expected size of the staffing complement sufficient to allow Community Justice Improvement Scotland to fulfil its functions as noted in Chapter 6?*

It is not clear from figure 3 which sets out organisational function but does not provide detail on what the staffing complement will be.

Question 9: *What other suggestions do you have for the organisational structure for Community Justice Improvement Scotland to allow it to fulfil its functions as noted in chapter 6?*

It is suggested that the following questions still need to be addressed:

- how the model will link more effectively with 32 local CPPs and local partnerships as opposed to the 8 area current arrangement;
- how will the operational element be structured?;
- how will staff within the structure relate to the CPPs - geographical base? - groups of Local Authorities?
- what skills will staff need?
- what will the links with statutory community justice functions be – will this lie with the Chief Social Work Officer, CPPs or Health and Social Care?; and
- where does Justice Analytical Services fit in terms of providing support to Government, CPPs, local partnerships and CJIS?

The same question marks exist around how CJIS will link to wider Criminal Justice agencies - SPS, Police Courts etc. How will joined up thinking be assured?

It is not apparent from any of the proposals within the document how community justice will be co-ordinated on a national basis with so many variables and uncertainties within the proposed structure. No one appears have an overall co-ordinating role with the authority to back that up.

Question 10: *What are your views on the proposed location for the headquarters of Community Justice Improvement Scotland?*

Collectively the CJAs have no common view on this. The important consideration is good transport links, being fit for purpose and ideally being either co-located or accessible by other relevant agencies in order to facilitate communication and to be 'visible' in the local areas.

Chapter 8

Question 11: *Are the professional areas noted in the list at paragraph 114 appropriate to allow the Board of Community Justice Improvement Scotland to fulfil its functions?*

Yes although we would add Victim Support to the 3rd Sector.

Chapter 9

Question 12: *What are your views on the arrangements for the national Hub for innovation, learning and development?*

It is not clear how the Hub will operate, however, we welcome the principle and consistency that a national hub would provide to staff development and the development of best practice across Scotland. More work will be required on how the hub will co-ordinate with local training facilities and independent national training organisations such as Skills for Justice, Universities etc.

Chapter 10

Question 13: ***What are your views on the arrangements in support of the transition process?***

CJAs will be as proactive as we possibly can be in promoting a smooth transition from the current to new structure. We will work with the organisations providing leadership within the process including Government, COSLA, ADSW and SOLACE. We will encourage our partners to co-operate fully in the implementation and contribute positively to the process of change.

We are prepared to allocate some of our current resources to supplementing the work of government officials and to developing a programme of events at both national and local level to ensure the maintenance of current knowledge and expertise in community justice.

However, CJAs must express their concern about the timeframe involved for change as external circumstances are difficult to predict and could derailed the process in ways which are not yet envisaged. With this in mind, CJAs will undertake to continue to be in a position to ensure the continued delivery of quality services, which to date have proven successful in reducing reoffending and maintaining public confidence in community justice services.

Chapter 12

Question 14: ***What impact on equalities do you think the proposals outlined in this paper may have on different sectors of the population?***

We recognise the continued differential impact of justice systems in relation to specific equalities groups. We would strongly endorse an early start on an Equalities Impact Assessment in relation to both the redesign and transition arrangements.

Chapter 13

Question 15: *What are your views regarding the impact that the proposals in this paper may have on the important contribution to be made by businesses and the third sector?*

There is a risk that the new proposed structure weakens links both nationally and locally with business and 3rd sector that have been build up since the inception of CJAs. Many 3rd sector organisations became engaged with CJAs through the Area Planning process, Board meetings, ongoing planning events and service delivery. We would be concerned that the focus on developing 3rd sector capacity could be reduced if the new arrangements do not take the importance of business and 3rd sector capacity on board.