

**MINUTE OF THE MEETING OF THE  
LOTHIAN AND BORDERS COMMUNITY JUSTICE AUTHORITY**

**Newbattle Abbey College, Dalkeith  
Thursday 29 November 2012**

**Present:** Councillor Catherine Johnstone (MLC) (**Chair**), Councillor Donald Moffat (SBC), Councillor Donald Grant (ELC), Councillor Ricky Henderson (CEC).

**In Attendance:** Rob Strachan (CJA), Andrea McLachlan (CJA), Margaret Brewer (MLC), Tim Ward (WLC), Nick Smith (EADP), Simon McLean (SACRO), Tricia Kaminski (ELC) Kirsty Whyte (Audit Scotland), Miranda Alcock (Audit Scotland), Linda Hamilton (Scottish Government), Laura Baxter (Victim Support), Graeme Stenhouse (CEC), Colin Beck (CEC), David Cressey (SBC), Nancy Loucks (Families Outside), Myra Binnie (CEC), Dr Alan Mordue (NHS Borders), Beth Crowe (NHS Borders), Alister Perston (Audit Scotland), Michelle Miller (CEC), Dave Young (SCS), Veronica MacMillan (Minute Taker).

**Apologies:** Councillor Tony Boyle (WLC), Jennifer Scott (WLC), David Shand (SCS), Elaine Glasgow (L&B Police), Nancy Loucks (Families Outside), Alison Wright (Barnardos)

**CONVENER'S REMARKS**

1. The Convener welcomed everyone to the meeting. Ms Kirsty Whyte and Ms Miranda Alcock (Audit Scotland), Ms Linda Hamilton (Scottish Government), Mr Nick Smith (EADP) and Ms Myra Binnie (CEC) were newcomers to the meeting and the Convener welcomed them.

**ORDER OF BUSINESS**

2. The Chief Officer varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

**FINANCE**

3. **Proposal for Offender Recovery Service – recovery for prolific and persistent offenders.** There had been circulated copies of a report by Mr Nick Smith from City of Edinburgh Alcohol and Drugs Partnership and Mr Harry Robertson from City of Edinburgh Council proposing an Offender Recovery Service for Edinburgh. A review of best practice and the evidence base on substance misuse support in the offender population demonstrated that the key features of an offender substance misuse service should include a Recovery Capital focused approach, peer support and aftercare in the community. Whilst existing services provided excellent links to generic support services, current service provision did not offer these key features across the entire criminal justice system. Scottish Prison Service (SPS) data suggested approximately 51 residents of Edinburgh City that were released from prison every month would accept help for an identified substance misuse problem if this were offered to them while inside prison. Based on SPS data and Arrest Referral service activity figures, it was estimated that another 10 – 38 new individuals entering the criminal justice system each month required and would accept help from a substance misuse support service.
4. The proposed Offender Recovery Service would for the first time in Edinburgh and Midlothian, provide continuous recovery support at every stage of the criminal justice system and aimed to: focus on building an individual's core Recovery Capital and

encourage the creation of additional Recovery Capital inside prison and in the community, reduce the risk of re-offending by assertively linking individuals into long-term community recovery support, provide complete continuity of care from community services, to inside prison and back into the community, minimise the risk of relapse for individuals exiting the criminal justice system by providing more intense support for those with greater need and risk, and provide direct peer support to service users and encourage the growth of peer support groups. The proposed service would be delivered within the current funding used to deliver offender substance misuse services, which was made up £282,011 from NHS Lothian and £515,168 from the CJA, totalling £797,179. Members expressed concern that funding might not be available next year as it was dependent on the allocation and the basis for grant allocations between the CJA and local authorities. The Chief Officer acknowledged these concerns but advised that support was required at strategic level, and that the ORS could be used as an example of what could be achieved in terms of reducing reoffending when funding could be applied flexibly.

#### **DECISION**

**AGREED to APPROVE the proposal to create an Offender Recovery Service for Edinburgh and Midlothian.**

#### **MINUTE**

5. The Minute of the meeting of 30 August 2012, and the Note of the Learning and Innovation Workshop in Women Offenders had been circulated.

#### **DECISION**

**APPROVED and to be added to the CJA website.**

#### **CJA GOVERNANCE, PLANNING AND PERFORMANCE – PRIORITIES AND STATUTORY FUNCTIONS**

6. **Annual Report and Annual Reducing Reoffending Action Plan Update** – With reference to paragraph 6 of the Minute of 30 August 2012, there had been circulated copies of the CJA Annual Report 2011-12 and the CJA Action Plan 2012-13. The Annual Report and the Action Plan were informed by evidence from a range of sources, and the Chief Officer summarised the key elements from each report.

#### **DECISION**

**NOTED the reports.**

7. **Annual reconviction performance** – There had been circulated copies of a report by the Chief Officer providing an update on the reconviction statistics released by the Scottish Government in September 2012. The report explained that the reconviction statistics for the 2009/10 offender cohort were launched on 25 September 2012. The cohort of offenders included those released from custodial sentence or had received a non-custodial disposal in 09/10, including non-court disposals. The statistics provided an analysis of: 1 year reconviction rates and 1 year reconviction frequency rates. The reconviction frequency rate was the average number of convictions within a specified follow up period from the date of the index conviction, per 100 offenders. They were predominantly based on a follow up period of 1 year (when 80% of any reoffending was likely to take place). The reconviction rate was the percentage of offenders with index convictions in the offender cohort who were reconvicted one or more times within a specified period, normally 1 year. The reconviction rate and reconviction frequency rate provided evidence to support prolific and persistent offenders as the CJA's top priority.
8. The importance of CPO as a disposal was also evidenced – those who served a sentence of 3 months or less had the highest reconviction frequency rate (129.1) and highest reconviction rate (58.4%) compared to those released from longer sentences and

compared to the reconviction frequency for those given a community service order – 37.3 for every 100 offenders in 2009/10. There was a need to promote the CPO as an effective alternative to custody as much as possible. Some of the key statistics that Members were directed to were as follows: the 1 year conviction rate had fallen by 1.4% to 30.1%. The Scottish Government drew particular attention to the positive trends such as the fall in reconviction for the under 21 age group, from 42.4% (97/98) to 36.1% (09/10); the 1 year reconviction frequency rate had fallen from 63.9 convictions for every 100 offenders in 02/03 to 59.6 convictions for every 100 offenders in 08/09 and further to 54 convictions in 09/10. Offenders that were given a DTTO had the highest reconviction frequency rate – in 02/03 it was 240.6 convictions for every 100 offenders to 149.6 convictions in 09/10; offenders who committed a crime of dishonesty had highest reconviction frequency rate 93.4 per 100. This evidenced the decision of the CJA to prioritise prolific and persistent offenders in Action Planning; and in terms of offending history, 44,000 offenders were convicted on at least 1 occasion in 10/11 – 71% had 1 previous conviction and 22% had more than 10 previous convictions. Of those offenders with more than 10 previous convictions, 60% were over 30. The evidence clearly stated that offenders who committed acquisitive crime were more likely to be reconvicted than those who committed serious crimes. Offenders who were convicted of prostitution, shoplifting or housebreaking had the highest reconviction rates.

9. In terms of the performance of Lothian and Borders, analysis conducted by the Chief Officer, against a Scottish average of 30.1% reconviction rate and 54 convictions per 100 offenders, pointed to the following: offenders – 6,785 in Lothian and Borders 2009/10 cohort of offenders (overall population 939,000); East Lothian – 593 (28.7% reconviction rate and 46.4 convictions per 100 offenders) 9% of offenders in LB with 10.5% of LB population (98,000); Edinburgh and Midlothian – 4,362 (27.9% and 52.2 per 100) 64% of offenders in LB with 60.4% of LB population (568,000); Scottish Borders – 802 (26.2% and 46.6 per 100) 12% of offenders in LB with 12% of LB population (113,000); and West Lothian – 1028 (23.4% and 36.5 per 100) 15% of offenders in LB with 18.4% of LB population (173,000). Lothian and Borders had approximately 14% of the national offender cohort in Scotland for 2009/10 covering approximately 18.4% of Scotland's population (939,000). This was in comparison to Glasgow, for example, which had 21% of the national offender cohort in Scotland for 2009/10 but approximately 11.5% of Scotland's population.

#### **DECISION**

**(a) NOTED:-**

- (i) the evidence around volume crime and prolific and persistent offenders, as drawn from the statistical pack; and**
- (ii) the contents of the report as it related to Lothian and Borders specifically.**

**(b) AGREED to REQUEST a statement from the Chief Officer and the Strategic Officers Group which illustrated how the data would be used for strategic planning so that resources could be targeted effectively.**

10. **Performance Management: Are you getting it right? Report by Audit Scotland. Any lessons to be learned by the CJA?** – There had been circulated copies of a report published by Audit Scotland in October 2012 as part of the 'how councils work' series of reports. The purpose of this report was to highlight potential overlaps with CJA business. The report was attached in full at Annex A for Members information. The report covered a great deal of ground which was applicable in the CJA context. The Chief Officer highlighted the key messages in the report that were applicable to the CJA, and that managing performance was an area where all Councils could improve. Consequently, it

was important that the CJA supported local improvement activity where it could. The 'characteristics of a council with effective performance management and improvement' (detailed in page 36 of the report) could easily be amended to reflect the 'characteristics of a CJA with effective performance management and improvement'. As well as aspiring to meet characteristics, there were a number of strategic questions, specific to performance management and relevant to the CJA that were connected to each chapter of the report that the Chief Officer highlighted. There had been a great deal of progress around performance within the CJA in the last 18 months, which was described by the Chief Officer. However, the CJA had to ensure that the CJA Performance Framework, the Annual Survey of Members and Induction of Members were all fit for purpose. While the induction planned for Members would include a summary of CJA performance management, it was clear that the time currently allocated did not afford the levels of emphasis that the Audit Scotland report would expect. Therefore, it was suggested that it would be beneficial for Members for a further half day or full day session to be added to the induction process, in Spring 2013, and for the Chief Officer to explore the potential for bringing in expertise to provide a more detailed induction around managing performance.

**DECISION  
AGREED:-**

- (i) that Members would have a slightly expanded induction to include a half or full day session on managing performance;**
- (ii) that the Annual Survey of Members was amended to reflect the Audit Scotland report; and**
- (iii) that the CJA's Improvement Framework and Performance Framework should be tested against the key strategic expectations of the Audit Scotland report and the Chief Officer would report back to the board in Summer 2013.**

11. **NHS Financial Performance 11/12 report for Audit Scotland – What does it mean for CJA's?** – There had been circulated copies of a report by Audit Scotland on NHS Financial Performance. The Chief Officer highlighted a number of key messages that applied to public boards in general and were therefore highly relevant to CJAs. There were 6 key messages that were relevant that reinforced work ongoing around financial management and the CJA's governance framework that the Chief Officer described.

**DECISION  
NOTED the report.**

**CJA GOVERNANCE, PLANNING AND PERFORMANCE – PRIORITIES AND STATUTORY FUNCTIONS**

12. **Performance report for CJA Board Members, including update on Reducing Re-offending Priorities and Strategies and key service performance** – With reference to paragraph 7 of the Minute of 30 August 2012, there had been circulated copies of a report by the Chief Officer providing an update on Community Justice performance reporting and Reducing Re-Offending Priorities and Strategies. The report explained that the CJA had gone through a number of road-tests of performance reporting and agreement had now been reached across partners on the process for performance reporting to the Board. The Chief Officer advised that the performance report was in two parts. The first part would be a commentary on Community Justice Authority performance by the Chief Officer, based on the performance reporting format attached at Annex A to the report. Local service performance reporting had been included for the CJA Board, as agreed at the August

Board, and this would be led by lead Directors. Any updates on the Priorities and Strategies paper (Annex B to the report) based on feedback from the Strategic Officers Group would be fed back to the board under this agenda item. Officers answered Members' questions.

**DECISION**

**NOTED the update.**

13. **Community Payback Orders – Annual Report for Lothian and Borders CJA** – There had been circulated copies of a report by Mr Harry Robertson, City of Edinburgh Council, providing information on Community Payback Orders (CPO) in Lothian and Borders. The CPO came into force in Scotland on 1 February 2012 and replaced provisions for Community Service Orders, Probation Orders and Supervised Attendance Orders. The CPO consisted of a number of requirements. From these, the court selected one or more in deciding on the make up of the Order. These could be tailored specifically to each offender based on the nature of their crime and the underlying issues which were fuelling it, and which might need to be addressed in order to stop then re-offending in the future. The Order could, for example, include a requirement to carry out hours of unpaid work in the community with benefits for the community, completion of intensive supervision, alcohol, drug or behavioural programmes. Clearing pathways of snow and ice, building eco-plant areas for school children, repainting community centres or churches, cleaning up beaches, growing vegetables and distributing the produce to care homes and local charities, were just a few examples of the unpaid work activities that were carried out by offenders in communities across Scotland. The preparation for the introduction of CPOs had been thorough and training had been delivered to staff. Sheriffs had begun to use CPOs as an alternative to prison and there would be information available to the public on CPOs. Mr Robertson answered Members' questions.

**DECISION**

**NOTED the report.**

**FINANCE**

14. **Financial Memorandum and Financial Protocol** - With reference to paragraph 10 of the Minute of 30 August 2012, there had been circulated copies of a report by the Chief Officer providing members with an update of the development of a financial management protocol and a governance framework for the CJA. It included recommendations on the process for allocating non-core funding for 2013/14. The development of the protocol had proved more challenging than expected. In particular, the question of where to draw the boundaries had proved difficult in practice. The CJA needed to develop our shared understanding across a range of other arrangements. These included roles and responsibilities, financial management, risk management, partnership working and performance management. The work had also been made more difficult by the need to respond to and anticipate recent and forthcoming audit reports at local and national level. The next steps for allocating non-core resources were already underway. At the time of writing, the initial results of the mapping exercise were being gathered to identify under resourced priorities and suggest opportunities for re-directing spending. After the meeting today the process would continue as set out in the report. The next steps for developing the simple governance framework would be to continue drafting the document in line with the suggested contents page (see Annex B). This drafting would be overseen by the Chief Officer and an early draft would be circulated to all partners for comment. It was anticipated that a revised draft would be presented to the Strategic Officers Group at its January meeting before being brought to the CJA for sign off.

**DECISION**

**(a) AGREED:-**

- (i) to support the recommended process for allocating non-core resources for 2013/14; and
- (ii) to support the approach to drafting and agreeing the CJA governance framework.

(b) NOTED the progress of the financial memorandum and financial protocol to date.

15. **Reducing reoffending change fund – implications for Lothian and Borders** – There had been circulated copies of report by the Chief Officer providing an update on the outcome of the recent Reducing Reoffending Change Fund process, as confirmed by the administrators of the Change Fund, The Robertson Trust. The Decision Making Group for the Reducing Reoffending Change Fund met last week to consider the Year 1 funding applications. The list of organisations who had been awarded funding in the Delivery and Public Social Responsibility Partnership Development strands of the Fund were attached as Annex A and B to the report. It was unlikely that there would be enough funding available for every organisation who received Year 1 Public Social Partnership (PSP) Development funding to be successful at the next stage. Members welcomed the success of the NHS Lothian led bid as well as successful bids by the Wise Group, SACRO, Phoenix Futures and Apex which covered some or all of the Lothian and Borders CJA area. However, there was a clear expectation that CJAs would work with partners to support PSP activity within each CJA area to help avoid duplication in bids and ensure all relevant organisations were aware of the Fund.

**DECISION**

**NOTED:-**

- (i) the contents of the report; and
- (ii) the success of the bid led by Linda Irvine, NHS Lothian, in particular, for prolific offenders.

16. **S27 Quarter 2 Report and Financial Statement and CJA Accounts** - With reference to paragraph 11 of the Minute of 30 August 2012 there had been circulated copies of a report by Mr Graeme Stenhouse, Finance Manager, informing Members of the Quarter 2 position in relation to the Section 27 Criminal Justice Social Work Services grant for 2012/13 and to highlight areas of significant over or under spend. Scottish Government no longer required reports for Quarters 1 and 2 and instead focused on accurate forecasts that would be provided for Quarter 3. This report was for the CJA Board and the Chief Officer only. The report focused on the high level forecasts based on expenditure to 30 September 2012, factors that impacted on these forecasts and the risks which might lead to changes during the year. The individual declarations from each local authority that highlighted risks and mitigated actions were detailed in Appendix 1 to the report. The summary positions at 30/09/12 were: CEC - £26k under spend; East Lothian - £2k over spend; Midlothian - £40k overspend; West Lothian - £15 k overspend; and Scottish Borders - £6 under spend, which resulted in a CJA wide £25 k overspend. Mr Stenhouse answered Members' questions.

**DECISION**

**NOTED the report.**

## **FINANCE**

17. **Statement of Internal Financial Control** – With reference to paragraph 12 of the Minute of 29 November 2012, there had been circulated copies of a report by the Chief Officer providing an update on the Accountable Officer's responsibility to produce a Statement of Internal Control for the Annual Accounts. The Accountable Officer had a personal duty of signing the accounts for the Section 27 grant and the CJA administration grant and could have the further duty of being a witness before the Audit Committee of the Scottish Parliament. The CJA, as an Authority, must provide an Annual Assurance Statement signed by the Chief Officer for inclusion in the Statement of Accounts. To assist this process, the effectiveness of internal controls within the organisation and the controls in place to mitigate major risks to the organisation's objectives should be considered. This assurance was given in the form of the Statement of Internal Control (Annex A to the report).

The Chief Officer would complete the Internal Control Questionnaire provided by the Internal Audit team and then meet to discuss its content. Having agreed any business improvements necessary to provide reasonable assurance the Statement of Internal Control would be signed by the Accountable Officer. The report described what the Internal Control Questionnaire covered. The work undertaken by the Internal Audit Service to produce the Statement of Internal Control forms one of the services included in the Finance Service Level Agreement. City of Edinburgh Council was the current provider for the services included in this Service Level Agreement.

### **DECISION**

**NOTED the report.**

18. **Internal Standard on Auditing Report, Audit Scotland** – There had been circulated a report by Audit Scotland on International Standard on Auditing. Mr Allister Perston explained that International Standard on Auditing (ISA) 260 required auditors to report certain matters that arose from the audit of the financial statements to those charged with governance of a body in sufficient time to enable appropriate action. The report set out for the Authority's consideration the matters that arose from the audit of the Lothian and Borders CJA's financial statements for 2012/12 that required reporting under ISA 260. No issues were required to be brought to the CJA's attention regarding the appropriateness of the Authority's accounting policies or accounting estimates and judgements, the timing of transactions, the existence of any material unusual transactions or the potential effect of the financial statements of any uncertainties. All financial misstatements had been adjusted during the course of the audit.

### **DECISION**

**NOTED the report.**

## **POLICY ROUND UP**

19. **Scottish Government Policy Update** – Ms Linda Hamilton from Scottish Government provided policy updates linked to the CJA. Ms Hamilton reported that there had been a number of developments with the Change Fund and that changes in the landscape would be welcomed in terms of reducing reoffending. The Corporate Governance Assurance (CGA) model was being used in Northern Ireland to reduce reoffending. Ms Hamilton agreed that a national performance framework was required for the CJA and that there had not been enough flexibility around funding within Criminal Justice services in the past but there would be positive changes in the future.

### **DECISION**

(a) **AGREED that Scottish Government would cover the CGA model being used in Northern Ireland to reduce reoffending at the next CJA in February 2013 as part of a presentation on structures.**

(b) **NOTED the update.**

20. **Audit Scotland Reducing Reoffending Report** – There had been circulated copies of a report by Audit Scotland on reducing reoffending in Scotland. Ms Miranda Alcock and Ms Kirsty Whyte explained that the overall aim of the audit was to assess the efficiency and effectiveness of approaches taken to reduce reoffending. The audit focused on what happened to adult offenders sentenced in court. The audit had not looked at preventative work designed to stop people offending in the first place or measures to prevent low-level offenders going to court, such as police warnings or fines imposed by a procurator fiscal. The audit identified the scale and the nature of reoffending, the range of options for sentencing and the amount of money spent in reducing reoffending. Assessments of the effectiveness of partnership working, including the role of CJAs were carried out. Evidence for the audit was based on an analysis of national and local data and details were described in the report. The report was in four parts: reoffending in Scotland, expenditure on reducing reoffending, services to reduce reoffending and effectiveness of current arrangements. The key messages and recommendations from the audit were described in the report. The report was discussed and Ms Alcock and Ms Whyte answered Members' questions.

**DECISION**

**NOTED the report.**

21. **Scottish Courts Service Consultation** - Mr Dave Young from the Scottish Court Service (SCS) was present at the meeting to explain the consultation being carried out by SCS into the possible closure of courts across Scotland. The SCS consultation paper considered the provision of court services in future. It was about the way the provision of these services was structured in a modern country where the diverse needs of people were considered. The consultation paper noted that resources were not unlimited and that the court system had to be structured in a way which made best use of the public money which government invested in the system. The consultation paper considered a number of proposed changes to the court structure in Scotland but the proposals which impacted most directly on Scottish Borders Council and East Lothian Council related to Sheriff and Justice of the Peace (JP) courts with low volumes of business. In particular, the consultation paper proposed to close the Sheriff and JP courts at Duns, Peebles, and Haddington and transfer the business into the neighbouring Sheriff Court districts of Jedburgh and Edinburgh respectively. Councillor Moffat advised that in relation to Scottish Borders Council, there were concerns about the lack of transport and the expense involved for vulnerable people who would have to travel long distances to court in Jedburgh or Edinburgh if Duns and Peebles Courts were closed, and also the impact on the local economy as there would be a reduction of a throughput of people using local businesses as a result of the closure of the courts. Councillor Moffat suggested that there should be a response submitted to the SCS on behalf of the CJA by the Chief Officer and after discussion, Members agreed. The Chief Officer was advised that the deadline for responding to the SCS consultation was 21 December 2012.

**DECISION**

**AGREED that the Chief Officer would create a draft response to the consultation by the SCS to close Duns, Peebles and Haddington Sheriff and Justice of the Peace courts and would send it to Members for approval.**

**DATE OF NEXT MEETING**

22. The next CJA meeting was scheduled to take place on the 21 February 2013 at Newbattle Abbey College, Dalkeith.

**DECISION  
NOTED.**

*The meeting concluded at 4.30 p.m.*