



SUPPORTING SAFER, STRONGER COMMUNITIES

CONSULTATION ON COMMUNITY JUSTICE AUTHORITIES >>>



safer
scotland
SCOTTISH EXECUTIVE

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CONSULTATION ON COMMUNITY JUSTICE AUTHORITIES >>>

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MINISTERIAL FOREWORD



Supporting Safer, Stronger Communities: Scotland's Criminal Justice Plan brought together proposals for the most radical reform of the criminal justice system in Scotland for a generation. Our ambitious and wide-ranging programme is united by a common purpose – to reduce reoffending.

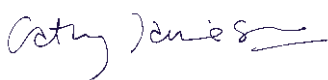
We know from the consultation *Reduce, Rehabilitate, Reform* that there is wide agreement on the weaknesses in the current system of managing offenders. We also know that to make a significant impact on reoffending rates means further change.

I have now introduced the Management of Offenders etc. (Scotland) Bill in the Scottish Parliament. The Bill lays out detailed legislative measures to improve the management of offenders. It includes our proposal to establish Community Justice Authorities (CJAs), placing new duties on local government and Scottish Ministers, through the Scottish Prison Service, to work much more closely together in the development and implementation of plans for the management of sentenced offenders.

It is important that we take account of the views of all those with an interest in criminal justice services. In the Criminal Justice Plan I emphasised the importance of all the services which make up Scotland's criminal justice system working together.

This consultation proposes options for the boundaries of the CJAs and how the membership and operation of these will complement the work of the Scottish Prison Service.

This consultation gives everyone with an interest in our criminal justice system and the management of offenders the opportunity to put forward their views. I look forward to hearing those views and to continuing to work together to make safer, stronger communities.

A handwritten signature in black ink, which appears to read 'Cathy Jamieson'.

Cathy Jamieson MSP

Minister for Justice





▶▶▶ **INTRODUCTION**



INTRODUCTION

The purpose of this document is to gather views on a number of issues related to the creation of Community Justice Authorities (CJAs) being introduced under the Management of Offenders etc. (Scotland) Bill. The proposed new framework aims to improve current arrangements with a particular focus on reducing reoffending. Issues which require to be considered include boundaries of CJAs, membership and constitutional issues and the identification of partnership organisations.

Current structure

There are 32 local authorities in Scotland with responsibility for criminal justice social work. The Scottish Executive provides full grant funding for criminal justice social work. Since 2002, for Criminal Justice Social Work (CJSW) purposes, including the receipt of Scottish Executive funding, local authorities have operated in 8 non-statutory Criminal Justice Social Work Partnerships, in 3 unitary authorities, (Glasgow, Fife and Dumfries and Galloway), and in the 3 island authorities of Shetland, Orkney and Eilean Siar. The Scottish Prison Service (SPS) is responsible for 16 prisons. These organisations, working with a range of voluntary bodies, are responsible for managing offenders and reducing rates of reoffending. Details of current groupings along with information on boundaries for other relevant organisations are attached at Annex A.

Consultation

The Scottish Executive carried out an extensive consultation, *Reduce, Rehabilitate, Reform*, in spring 2004 to explore how the current arrangements for the management of offenders could be improved. The response to this showed an acceptance that improvements were necessary and agreement on the following weaknesses inherent in the current system:

- A lack of shared objectives (and thus accountability) for reducing reoffending;
- Poor communication and integration amongst criminal justice agencies;
- Inconsistent delivery of services across Scotland; and
- The lack of effectiveness of short term prison sentences in reducing reoffending.

These views are supported by inspection evidence from Social Work Services Inspectorate (SWSI) and HM Chief Inspector of Prisons (HMCIP) reports.

Criminal Justice Plan (CJP)

The Scottish Executive's response to the consultation, *Supporting Safer, Stronger Communities: Scotland's Criminal Justice Plan* (<http://www.scotland.gov.uk/library5/justice/scjp-00.asp>), was published in December 2004. In this Ministers set out comprehensive proposals for reducing reoffending by making improvements to current arrangements for managing offenders. This includes clarifying and strengthening accountability at national level for the delivery of offender management services. A national advisory body, chaired by the Minister for Justice, will be established to create a shared focus among all key agencies on the aim of reducing reoffending. It will also give strategic guidance to the Minister in relation to the SPS and monitor SPS's

performance on offender management. This body will also provide guidance to CJAs in producing their local area plan.

In addition the plan laid out Ministers' proposals for legislation to introduce a statutory framework to place local authorities and designated partners, particularly SPS, under specific new obligations to work closely together to manage offenders. The plan also set out proposals to set up CJAs to provide a strategic level for planning, managing performance and reporting on performance by local authorities or groups of local authorities. The Management of Offenders etc. (Scotland) Bill was introduced to the Scottish Parliament on 4 March 2005. Section 2(1) provides for the making of Orders to establish the number and boundaries of the CJAs along with matters related to constitution and proceedings. Section 2(16) provides for an order to designate partner bodies to be included in the development and delivery of area partnership plans. (See Annex B for Extract of Section 2 of the Bill). Also section 7 of the bill allows CJAs to undertake criminal justice social work functions on behalf of local authorities, or for that function to be transferred from local authorities to the CJA.

Timetable

| | |
|--------------------------|---|
| 4 March 05 | Management of Offenders etc. (Scotland) Bill laid before Parliament SPS Framework Document published |
| 7 March 05 | Publication of Bill |
| 31 March 05 | Launch Consultation on CJAs |
| 23 June 05 | Consultation closes |
| June 05 | National advisory body begins work |
| Jan 06 | Earliest implementation of secondary legislation under the Management of Offenders etc. (Scotland) Bill |
| April 06 | National Strategy issued. CJAs begin work |
| Autumn 06 – Spring 07 | Area plans put in place |
| April 07 | CJAs fully operative |

SECTION ONE

▶▶▶ FUNCTIONS AND STRUCTURE



1. FUNCTIONS AND STRUCTURE

The primary aim of the new framework is to improve the management of offenders through greater integration of the activities of criminal justice agencies with the ultimate aim of reducing levels of reoffending in Scotland.

1.1 Community Justice Authorities (CJAs)

The members of CJAs will be drawn from the membership of local authorities lying within the CJA area, thereby effectively bringing individual councils together for the purposes of:

- Developing a Strategic Area Plan for the management of offenders in liaison with the Scottish Prison Service and other partners;
- Receiving and distributing amongst local authorities funds provided by Ministers for criminal justice social work under section 27A of the Social Work (Scotland) Act 1968;
- Promoting and sharing good practice;
- Monitoring and reporting on local authority performance;
- If necessary intervening to ensure the local authority elements of the area plan are delivered; and
- Carrying out wider monitoring and reporting functions on other partners, including SPS.

Each CJA will be a separate body from the constituent local authorities. It is likely that in most cases the area covered by a CJA will comprise the area of two or more local authorities, however the Bill does not preclude a CJA covering the area of a single local authority. The role of CJAs will be strategic, and distinct from that of individual councils. There is no change to the current legal position by which local authorities are responsible for delivering criminal justice social work functions on the ground, principally under the Social Work (Scotland) Act 1968 and Social Work (Scotland) Act 1995.

1.2 Scottish Prison Service (SPS)

The SPS will remain responsible for the operational delivery of services within prisons. The Criminal Justice Plan announced Ministers' intention to issue a new Framework Document for the SPS. This was published on 4 March and is available on the SPS website (<http://www.sps.gov.uk/keydocs/framework/default.asp>). As the SPS is an Executive Agency the appropriate means for setting in place performance management arrangements will be through guidance issued to the SPS under this new Framework Document. This guidance will be prepared in consultation with the SPS, local government and other interested organisations prior to issue by Ministers.

The Management of Offenders etc. (Scotland) Bill will create new area-based partnerships by placing local authorities and Scottish Ministers through the SPS under new duties to co-operate and share information in relation to the management of offenders and bring them together in a new joint planning and reporting framework. In each area the new CJA will take lead responsibility for co-ordinating the area plan and producing the annual report in consultation with the SPS and other partners. New performance management arrangements will be put in place for both the SPS and local authorities.

1.3 Boundary considerations and issues

To achieve the improvements in service which the consultation said were needed, it is critical that CJAs are established on boundaries which will both support the strengthening of local relationships and the delivery of a national strategy. It is important that the new structure should build on existing good practice in joint working. Our proposals therefore build on existing CJSW Groupings. They also take into consideration the existing structures of other criminal justice partners. Ministers have taken account of a number of further considerations in guiding their decisions.

- The number of authorities included within the area should be large enough to provide significant opportunities for the local sharing of resources and expertise, particularly for specialist functions, and mutual learning.
- The smaller the number of CJAs the easier communication will be with national agencies and the more likely that Chief Officers will be able to liaise with each other easily and form an effective network.
- The smaller number of area partnership plans which require to be considered by the Minister and the national advisory body, the more likely it is that such consideration will be undertaken in sufficient depth and within a reasonable timescale.
- The larger the number of authorities in a CJA, the more complex the CJA's co-ordination task will be.
- The larger the area covered by a CJA, the more important it will be that the area plan leaves space for continued local decision-making over the detail of day-to-day delivery.
- A very small number of authorities in a CJA may make the funding distribution and performance monitoring role more difficult to deliver.
- The more different in scale individual CJAs are from one another, the more difficult it will be to expect similar things of each.

Whilst there are some tensions between the principles outlined above, the Executive believes that on balance these principles point towards a significant reduction in the number of funding and planning units from the current 14 units – 8 partnerships and 6 councils acting independently (see paragraph on Current Structure in the introduction). Taking these principles into account the following paragraphs propose two alternative configurations for the CJAs either of which the Executive believes would provide a good future framework for local partnership working.

1.4 Glasgow

The Management of Offenders etc. (Scotland) Bill does not preclude CJAs covering a single council. The scale of provision in Glasgow, which receives almost 20% of national funds, would make it difficult to achieve an equitable partnership with other surrounding local authorities. Recent inspection evidence would also suggest that there is a need to focus on improvements necessary to provision in Glasgow. Ministers therefore propose that Glasgow should be a self-standing CJA. As in the rest of Scotland, the CJA would be a separate body from the Council, with all the same statutory duties and functions, including the duty to appoint a chief officer. Its members would be appointed by Glasgow City Council.

1.5 Options for CJA Structure

Taking Scotland as a whole, Ministers propose two options for how CJAs should be structured. These options are four CJAs based on the Scottish Court Service (SCS) areas or six CJAs based on sheriffdoms.

Option 1 *Four CJAs based on SCS areas*

The SCS is currently responsible for the administration of the courts (other than the District Courts) and is organised on three areas – North, East and West. In this option, the CJAs would be based on these areas plus a CJA for Glasgow (see Para 1.4):

Glasgow

North – Aberdeenshire, Aberdeen City, Moray, Highland, and the Islands* (Orkney, Shetland and Eilean Siar).

East – Fife, Clackmannanshire, Falkirk, Stirling, Angus, Dundee City, Perth and Kinross, City of Edinburgh, East Lothian, West Lothian, Midlothian and Scottish Borders.

West – Argyll and Bute, East Dunbartonshire, West Dunbartonshire, East Renfrewshire, Renfrewshire, Inverclyde, North Lanarkshire, South Lanarkshire, East Ayrshire, North Ayrshire, South Ayrshire, and Dumfries and Galloway.

* But see paragraph 1.7 below for a discussion of the specific issues relating to the Island authorities.

This would not split up any of the existing CJSW groupings, SCS areas (other than Glasgow), Crown Office and Procurator Fiscal Service (COPFS) or Local Criminal Justice Boards (LCJB). It would not split police forces with the exception in Strathclyde of the separation of Glasgow. A map showing the boundaries for this option is at Annex C. The existing Tayside Partnership (Angus, Dundee City, Perth and Kinross) is shown in the Eastern CJA in line with the SCS areas but could be considered for inclusion in the Northern CJA.

This is the smallest number of CJAs the Executive believes is workable and would provide the strongest base for implementation of a national strategy and generally ease communication and consistency at a national level. Each of these CJAs would have significant critical mass. This structure would enable the Executive to monitor activity and effectiveness in carrying out their functions which would assist with strategic direction and national level accountability. On the other hand the size of each authority would mean that the internal co-ordination task would be more challenging, and it could be difficult to sustain a sufficient degree of common identity in each CJA.

Option 2 *Six CJAs based on sheriffdoms*

An alternative option would be one broadly based on the six sheriffdoms. Each sheriffdom has a Sheriff Principal who in addition to hearing appeals in civil matters has responsibility for the conduct of the Sheriff courts in the area.

Glasgow

Grampian, Highland and Islands* (Aberdeenshire, Aberdeen City, Moray, Highland, Orkney, Shetland, Eilean Siar)

Tayside, Central and Fife (Angus, Dundee City, Perth and Kinross, Fife, Clackmannanshire, Falkirk, Stirling)

Lothians and Borders (City of Edinburgh, East Lothian, West Lothian, Midlothian, Scottish Borders)

North Strathclyde (Argyll and Bute, East Dunbartonshire, West Dunbartonshire, East Renfrewshire, Renfrewshire, Inverclyde)

South Strathclyde (North and South Lanarkshire, East, North and South Ayrshire, Dumfries and Galloway)

*But see paragraph 1.7 below for a discussion of the specific issues relating to the Island authorities.

The six CJA areas would be based on the six sheriffdoms but would take into account the fact that local authority and sheriffdom boundaries are not coterminous in the area surrounding Glasgow. Glasgow City would still be a single authority: the Strathkelvin area of East Dunbartonshire is in the sheriffdom of Glasgow & Strathkelvin, as is the Rutherglen area of South Lanarkshire, but to avoid splitting these Councils we think it is preferable to put the whole of East Dunbartonshire and the whole of South Lanarkshire into the North Strathclyde CJA. The issue of coterminosity is discussed further in paragraph 1.6.

There is a further difference from the sheriffdoms. This option includes North Ayrshire in South Strathclyde (rather than in the sheriffdom of North Strathclyde) to avoid breaking up the working links already built up in the Ayrshire grouping. This option creates CJAs with areas as close as possible to the six sheriffdoms without splitting any local authority or existing local authority grouping.

A map showing the proposed boundaries for this option is at Annex C.

Although not as easily as with option 1, six CJAs would be a small enough number to enable them to operate at the level of strategic overview which would be likely to achieve the improvement in communication, integration between criminal justice agencies and consistent delivery of services across Scotland which is necessary. The relatively smaller the size of each authority would mean that internal co-ordination would be easier and a degree of common identity would be retained.

The tables in Annex D indicate the relative populations and workload (measured as the total of probation orders, community service orders, and social enquiry reports) for both options.

Q. In your view, which option would form the better basis for the CJA areas?

1.6 Sherifffdoms

Many respondents to the consultation on reducing reoffending highlighted the central importance of the relationship between criminal justice social work and the sheriff courts. The sheriff courts not only make most of the disposals which lead to some form of community supervision; they also rely on criminal justice social workers to produce a variety of reports to assist with sentencing decisions. The production of such reports for the courts can account for as much as half the workload of criminal justice social workers. It is therefore important that the day-to-day operational relationship between the sheriff courts and local authorities functions well. In most of Scotland, local authority areas fit within sherifffdoms. However, as noted above, in some parts of the West of Scotland, there are boundary differences which make the task of managing these relationships more complicated.

The Report of the Summary Justice Review Committee (<http://www.scotland.gov.uk/library5/justice/sjrcrm-00.asp>) specifically recommends that as far as practicable sheriff court, and sherifffdom, boundaries should be brought into line with local authority boundaries. The realignment of boundaries is a wider issue that goes beyond the scope of this consultation, raising practical issues about court capacity which could only be addressed on a rolling programme over time. Nonetheless Ministers are committed to a long-term aim of addressing these boundary differences through a review. Such a review would obviously have to involve the Scottish Court Service and in due course would require full consultation with all justice system interests.

1.7 The Islands

There are specific issues relevant to the delivery of community justice services in Orkney, Shetland and Eilean Siar, because of the special features of the communities they serve. These include issues related to the size and nature of the communities, the small number of CJSW staff involved in each Island area and the challenge of maintaining Out of Hours provision in services which are too small to support a dedicated team. The new arrangements will have to take account of these factors.

Equally, however, it is important to note that the CJA will be a strategic body – service delivery remains local. The service enhancement agenda and the benefits to authorities of being within a CJA – streamlining of high-level relationships with other agencies, easier structures for joint working and opportunities for sharing experience – will apply to all authorities. The Islands should also be enabled to contribute to and influence the wider strategic thinking on the management of offenders whilst retaining responsibility for local delivery of services.

There remains therefore a question of how best to use these changes to support service improvement in the Islands.

The Executive proposes to use the consultation period to explore these issues in further detail with the Islands authorities.

Q. What do you consider would be necessary to recognise the particular circumstances faced by Orkney, Shetland and Eilean Siar and assist them in the new CJA landscape?

1.8 Other Options considered

A number of alternative proposals for CJA areas have been considered, but rejected. To convert the existing 14 CJSW units into CJAs would provide too fragmented a structure with too many of the CJAs too small in size for the nature of the role they would be required to play.

Also considered, but rejected, was the option of basing CJAs round the eight prisons which have a predominantly local function (the other eight prisons primarily serve a national function). This would result in the following:

- Aberdeen** – Aberdeenshire, Aberdeen City, Shetland Islands
- Inverness** – Highland, Moray, Orkney Islands, Eilean Siar
- Perth** – Angus, Dundee City, Perth and Kinross, Fife
- Barlinnie** – Clackmannanshire, Falkirk, Stirling, Glasgow City, North Lanarkshire, South Lanarkshire
- Edinburgh** – City of Edinburgh, East Lothian, West Lothian, Midlothian, Scottish Borders
- Greenock** – Argyll and Bute, East Dunbartonshire, West Dunbartonshire, East Renfrewshire, Renfrewshire, Inverclyde
- Kilmarnock** – East Ayrshire, North Ayrshire, South Ayrshire
- Dumfries** – Dumfries and Galloway

Eight CJAs would deliver some advantages in reducing the number of contact points for purposes of communication and monitoring. However, this option tests badly against the considerations set out at paragraph 1.3 above. Equally critically, prison catchment areas and functions require some flexibility over time, which would make this too unstable a basis for long-term partnership working.

The Executive does not think that either the existing 14 units or 8 prison catchment areas would achieve the improvement in service quality and support for the delivery of a national strategy which is required. Neither would they perform as well against the considerations identified at paragraph 1.3 above in terms of the issues related to easier communication both nationally and internally, local performance management and the local sharing of resources and expertise.

SECTION TWO

» » » CONSTITUTION



2. CONSTITUTION

2.1 Membership

CJAs will bring together local authorities in a structure in which they can work together to plan services and facilitate liaison with other criminal justice agencies. Their membership will comprise councillors of local authorities lying within the CJA area who will be appointed by their local authority.

The Bill proposes that the CJA members appointed by councils will be serving elected members. In addition the Executive proposes that:

- Members shall hold office until the first meeting of the constituent authority after the next ordinary election of councillors and after each succeeding ordinary election of councillors.
- If they should lose their seat, or are de-barred for any reason from office, members would lose their membership of the CJA.
- Members should be able to send substitutes in case of unavoidable absence from meetings. Substitute members would however have to be elected members of the same council.
- A constituent authority may at any time terminate the membership of any person appointed by them as a member of a CJA.

As is the case with existing joint boards the Executive will not impose any rules about political balance in the membership of a CJA which will be a matter for each council.

2.2 Proportionality of membership

A decision is needed on the number of members who should be appointed by each authority and their voting rights in relationship to their respective size. There are two approaches which could be taken:

- Each authority could be represented by one member whose vote would be weighted in relation to either the population of the authority **or** the criminal justice social work caseload; **or**
- Alternatively each authority could have a different number of appointees again based on population **or** caseload.

This provides four permutations for a system of appointment and weighting of votes.

It is proposed that each authority should be represented by one member whose vote would be weighted in relation to the population of the authority on a scale of 1-4.

A system of one member per council has the advantage of being a more reasonable commitment of elected members' time and of resulting in a less unwieldy membership, better able to work as a strategic group.

Population is proposed as the basis for weighted voting, in line with other arrangements which exist for joint decision-making by councils. Population provides a stable and easily-understood basis, and its use reflects the fact that any council's interest in effective offender management goes beyond the simple volume of cases the council handles. The Executive recognises that the volume of criminal justice social work business undertaken by authorities is not always proportionate to population. However, caseload shares tend to be more volatile than population, and general caseload figures can take no account of the difference between managing, say, a complex sex offender case, and production of a relatively straightforward court report. The Executive therefore does not believe that this would be an appropriate basis for setting voting weights.

The Executive will set initial voting allocations per council in the Order, after further discussion with CoSLA on how a detailed population-based formula should be applied. However if the constituent authorities within a CJA subsequently reach a consensus on an alternative pattern of voting they would prefer for their CJA then this would be approved by the Scottish Ministers. Alternative arrangements will have to be made for Glasgow which will take account of the average number of members in the other CJAs.

Q. Do you agree with these proposals for establishing membership and weighting of voting rights?

2.3 Convener

Each CJA shall appoint a convener and a deputy convener from its membership. The convener or deputy convener shall preside at meetings of the CJA but if both are absent from any meeting the members present shall appoint a convener for that meeting. In the event of an equality of votes at a meeting the convener of that meeting shall have a casting vote as well as a deliberative vote. The Executive will designate the representative of a specific council within the CJA as convener to open the first meeting until the CJA makes its own appointment.

2.4 Proceedings and constitution

CJAs will have power to make or adopt standing orders regulating the procedures and business of the Authority and any sub-committees which may be necessary. It would be expected that the majority of decisions taken by CJAs would be reached through discussion and consensus. From time to time however there may be occasions where members will be required to vote on an issue. We presume simple majority voting should be the norm in such cases. But we recognise that there may be votes taken on some issues (for example regarding matters of constitution) for which there may be a case to require a higher share of the votes in favour or unanimity.

Q. Do you agree that on occasions when a vote is needed to reach a decision, that this ordinarily be decided by a simple majority?



Q. Are there issues on which decisions should require a larger majority and, if so, what are they? e.g.

Constitutional issues, such as appointment of the Convener or adoption of standing orders;

Annual funding allocations of Executive grant;

Decisions to pass to the CJA any functions of individual councils.

2.5 Role of Staff

The Management of Offenders etc. (Scotland) Bill requires that CJAs will employ a chief officer who will be appointed by the CJA to support the day-to-day discharge of its functions and who will be accountable to both the CJA and Ministers for the co-ordination and implementation of the plan and will monitor the delivery of services by local authorities. The CJA will be required to report annually to Ministers on delivery of the plan. Under the Bill the chief officer will have specific personal duties to report to Ministers where a CJA is failing in its functions, or the SPS is failing to co-operate or a local authority is failing to comply with the area plan. The chief officer will be clerk to the CJA (in the same way as Chief Executives are clerks to their councils). Transitional arrangements will be made to cover the period before the first chief officer is appointed. There is no intention that there should be any conflict between the work of the chief officer and that of the Chief Social Work Officers.

Q. You are invited to comment on any practical issues you think may need to be addressed in relation to the appointment of chief officers?

The order to be made under section 2(1) of the Management of Offenders etc. (Scotland) Bill will provide that each CJA may in addition appoint such other staff as may be required for the discharge of its functions.

2.6 Financial implications

The Executive currently provides 100% funding to local authorities for delivery of community justice services under Section 27 of the Social Work Services Act 1967. There will be certain new costs associated with each CJA. The estimated annual cost of a CJA is around £200,000, which it is expected will be sufficient to meet the salary of the chief officer, accommodation, administrative support, other running costs and the costs of the committee structure. This represents an additional cost but there is an expectation that the new structure will achieve efficiency gains in the medium term. CJAs will build in such gains to their financial planning arrangements. The Management of Offenders etc. (Scotland) Bill does not preclude a CJA from accepting funds from other bodies, including individual local authorities. Most of the costs of a CJA will be the same for all CJAs, albeit that CJAs covering larger areas may require slightly larger budgets. It is expected therefore that the more CJAs there are the higher the total budget for CJAs will require to be.

SECTION THREE

▶▶▶ PARTNER ORGANISATIONS



3. PARTNER ORGANISATIONS

3.1 Designation of Partner bodies

The Executive recognises that in addition to CJAs and the SPS other organisations, including the police, the Crown Office and voluntary sector, will be important partners in the planning and delivery of more integrated offender management and in reducing reoffending. This wider set of partners will be entitled to be consulted on the area plan and on annual reports on area performance. Partner organisations will also be expected to be brought within an information-sharing framework within each area.

Section 2(16) of the Management of Offenders etc. (Scotland) Bill defines the term “partner body” as such bodies designated by Ministers as such by Order. A purpose of this is to allow for consultation with stakeholders. It would be helpful therefore to have any comments on which organisations should be designated as partner bodies.

Our initial view is that the organisations which should be designated statutory partner bodies are those public bodies which deal directly with offenders, ex-offenders and victims and those voluntary bodies in receipt of public funds for this purpose. These are:

- Police
- Local health services
- Voluntary Groups in receipt of public funding for working with offenders or victims
- Crown Office and Procurator Fiscal Service (COPFS)
- Scottish Court Service (SCS)
- Further Education colleges

Q. Do you agree this list of partner bodies?

Q. Do you agree the definition of voluntary bodies?

Q. Which other agencies do you think should be identified as partner organisations?

It is intended that guidance should be issued from the Executive in respect of partner bodies.

Q. What do you think this guidance in respect of partner bodies should cover?

There are a number of other organisations which obviously have an important role to play in working with CJAs but which cannot or need not be designated as statutory partner bodies. These include Jobcentre Plus which cannot be referred to in the legislation as the functions of this organisation are reserved. There is however a role for the Executive to ensure that there is appropriate involvement of Jobcentre Plus within these new arrangements. In addition, other local authority services e.g. housing and education do not need to be designated as partner bodies as local authorities are already within the framework.



In particular housing is of considerable importance and consideration must be given to how best to ensure that housing associations can be effectively involved within the partnerships.

Q. How should housing interests be represented within the partnerships?

The Executive recognises the independence of the judiciary and that it would not be appropriate to include judicial office-holders, such as Sheriffs, in a list of statutory partner bodies. However CJAs would be expected to develop effective relationships within their local areas with sentencers.

Other relevant organisations which are probably not appropriate for inclusion in a statutory list but which will from time to time work with CJAs include:

- Voluntary groups which are not in receipt of public funds may nonetheless have a role to play in working with CJAs
- Fire and rescue authorities
- The Parole Board
- The Risk Management Authority

The relationship between these bodies and CJAs could be covered in guidance which it is intended the Executive should issue in due course.

Q. Are there other bodies which should not be included in a statutory list but which may work with CJAs and should be referred to in any guidance?

The Executive considers however that it would be useful in terms of facilitating communication and effective working arrangements amongst partners that there should be provision for representatives of partner organisations to attend and perhaps contribute to meetings at the CJA's invitation.

Q. Do you agree non-members should be able to attend and speak at the invitation of the CJA?

Q. If so should these non-members be restricted to statutory partners or should the CJA have the discretion to include others?



SECTION FOUR

▶▶▶ SUMMARY OF QUESTIONS



4. SUMMARY OF QUESTIONS

This document gives everyone with an interest in our criminal justice system, and the management of offenders, an opportunity to express their views on a number of issues related to the establishment of CJAs.

Section 1 Functions and Structure

There are two options for the CJA structure upon which views are sought. These are four CJAs based on the SCS areas or six CJAs based on sheriffdoms. In addition, there are specific issues in respect of the Islands related to the size and nature of the communities they serve and the Executive proposes to use the consultation period to explore these issues in further detail with the Islands authorities.

Q. In your view, which option would form the better basis for the CJA areas? (Para 1.5)

Q. What do you consider would be necessary to recognise the particular circumstances faced by Orkney, Shetland and Eilean Siar and assist them in the new CJA landscape? (Para 1.7)

Section 2 Constitution

This section details proposals regarding proportionality of membership, proceedings and constitution. It is proposed that each authority should be represented by one serving elected member whose vote would be weighted in relation to the population of the authority on a scale of 1-4. The role of staff is also covered along with information on the expected cost of a CJA.

Q. Do you agree with these proposals for establishing membership and weighting of voting rights? (Para 2.2)

Q. Do you agree that on occasions when a vote is needed to reach a decision, that this ordinarily be decided by a simple majority? (Para 2.4)

Q. Are there issues on which decisions should require a larger majority and, if so, what are they? e.g.

Constitutional issues, such as appointment of the Convener or adoption of standing orders;

Annual funding allocations of Executive grant;

Decisions to pass to the CJA any functions of individual councils? (Para 2.4)

Q. You are invited to comment on any practical issues you think may need to be addressed in relation to the appointment of chief officers? (Para 2.5)



Section 3 Partner Organisations

Section 2(16) of the Management of Offenders etc. (Scotland) Bill defines the term 'partner body' as such bodies designated by Ministers as such by Order. Views are therefore sought on who are the important partners in the delivery of more integrated offender management. This section, which refers to paragraph 3.1, lists some bodies and seeks views on which others could be involved and what guidance should be issued in respect of partner bodies.

- Q. Do you agree this list of partner bodies?**
- Q. Do you agree the definition of voluntary bodies?**
- Q. Which other agencies do you think should be identified as partner organisations?**
- Q. What do you think this guidance, in respect of partner bodies, should cover?**
- Q. How should housing interests be represented within the partnerships?**
- Q. Are there other bodies which should not be included in a statutory list but which may work with CJAs and should be referred to in any guidance?**
- Q. Do you agree non-members should be able to attend and speak at the invitation of the CJA?**
- Q. If so, should these non-members be restricted to statutory partners or should they include others?**





SECTION FIVE

▶▶▶ CONSULTATION PROCESS AND TIMING



5. CONSULTATION PROCESS AND TIMING

- 5.1** The consultation lasts for a period of 12 weeks closing on 23 June 2005.
- 5.2** This consultation document and an electronic response form are available on the Scottish Executive website: <http://www.scotland.gov.uk/consultations>. The site also provides the facility of online discussion of the issues involved.
- 5.3** Comments, questions, and requests for further information may be sent to cjaconsultation@scotland.gsi.gov.uk or to:

CJA Consultation Team
 Room GW.15
 St. Andrew's House
 Regent Road
 EDINBURGH
 EH1 3DG

5.4 Useful References:

5.4.1 Consultation *Re:duce Re:habilitate Re:form*

<http://www.scotland.gov.uk/consultations/justice/rrrc-00.asp>

5.4.2 Analysis of Consultation Responses:

<http://www.scotland.gov.uk/consultations/justice/rrrar-00.asp>

Executive Summary:

<http://www.scotland.gov.uk/consultations/justice/rrres-00.asp>

Analysis of Focus Groups:

<http://www.scotland.gov.uk/consultations/justice/rrrafg-00.asp>

In-street Interviews and Public Discussions:

<http://www.scotland.gov.uk/consultations/justice/rrrisi-00.asp>

5.4.3 Criminal Justice Plan (particularly Chapter 5)

<http://www.scotland.gov.uk/library5/justice/scjp-00.asp>

5.4.4 Scottish Prison Service Framework Document 2005

<http://www.sps.gov.uk/keydocs/framework/default.asp>

5.4.5 The Summary Justice Review Committee Report (McInnes)

<http://www.scotland.gov.uk/library5/justice/sjrcrm-00.asp>

5.4.6 The Management of Offenders etc. (Scotland) Bill

<http://www.scotland.parliament.uk/business/bills/billsinprogress/offenders.htm>

ANNEXES



ANNEX A

EXISTING ORGANISATIONAL AREAS USED BY RELEVANT CRIMINAL JUSTICE ORGANISATIONS

The table overleaf indicates presently existing organisational boundaries. Where possible, the proposals for CJAs have built on the foundation of existing groupings.

CJSW = Criminal Justice Social Work units. Currently, there are 8 partnerships and Orkney, Shetland, Eilean Siar, Fife, Glasgow and Dumfries and Galloway are free-standing authorities.

COPFS = Crown Office and Procurator Fiscal Service. (<http://www.crownoffice.gov.uk/>)

SCS = Scottish Courts Service. The body responsible for the administration of the Courts other than District Courts. (<http://www.scotcourts.gov.uk>)

LCJB = Local Criminal Justice Board. Non-statutory board chaired by Sheriff Principal to develop arrangements for liaison and co-ordination among criminal justice agencies at a local level.



| CJSW | Local Prisons | Police Forces | COPFS | SCS | LCJB | Sheriffdoms | Health Boards |
|--|---------------|--------------------------|--------------------------|--------------------------|-----------------------|---|------------------------------------|
| Northern Partnership Aberdeen Aberdeen City Moray Highland | Aberdeen | Grampian | Grampian | North | Grampian | Grampian Highland & Islands | Grampian |
| | Inverness | Northern | Highland & Islands | | Highland & Islands | | Highland |
| <i>Island Authorities</i> Orkney Shetland Eilean Siar | | | | | | | Orkney Shetland W. Isles |
| <i>Tayside Partnership</i> Angus Dundee City Perth & Kinross | Perth | Tayside | Tayside | East | Tayside | Tayside, Central & Fife | Tayside |
| | | | | | | | |
| <i>Fife Unitary Authority</i> | | Fife | Fife | | Fife | | Fife |
| <i>Forth Valley</i> Clackmannanshire Falkirk Stirling | Barlinnie | Central Scotland | Central | | Central | | |
| <i>Lothian & Scottish Borders</i> City of Edinburgh East Lothian West Lothian Midlothian Scottish Borders | Edinburgh | Lothians & Borders | Lothians & Borders | Lothians & Borders | Lothians & Borders | Lothians Borders | |
| <i>Argyll, Bute and Dunbartonshires</i> Argyle and Bute East Dunbartonshire West Dunbartonshire | Greenock | Strathclyde | Argyll and Clyde | West | Argyll and Clyde | North Strathclyde | Argyll and Clyde |
| | | | | | | | GGHB ¹ |
| | | | (GGHB) ¹ | | | | |
| East Renfrewshire Renfrewshire Inverclyde | | | | | | | |
| Glasgow City (Unitary) | Barlinnie | | Glasgow | | Glasgow | Glasgow and Strathkelvin | Greater Glasgow |
| <i>Lanarkshire</i> ² North Lanarkshire South Lanarkshire | | | Lanarkshire | | Lanarkshire | South Strathclyde, Dumfries & Galloway | Lanarkshire (GGHB) ¹ |
| <i>Ayrshire</i> East Ayrshire North Ayrshire South Ayrshire | Kilmarnock | | Ayrshire | | Ayrshire | N Strathclyde | Ayrshire and Arran |
| | | | | | | | |
| Dumfries and Galloway (Unitary) | Dumfries | Dumfries and Galloway | Dumfries and Galloway | Dumfries and Galloway | | Dumfries and Galloway | |

¹ All of East Dunbartonshire and parts of West Dunbartonshire, East Renfrewshire, North and South Lanarkshire are included in Greater Glasgow Health Board.

² See Page 8 Option 2 for further information about non-coterminous boundaries.

ANNEX B**EXTRACT FROM MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) BILL***Community justice authorities***1 Community justice authorities**

- (1) The Scottish Ministers may by order made by statutory instrument establish, for an area specified in the order, a body corporate to be known as a community justice authority.
- (2) A community justice authority is not to be regarded as the servant or agent of the Crown or have any status, immunity or privilege of the Crown; nor are its members or employees to be regarded as civil servants.
- (3) Subject to subsection (4), an order under subsection (1) may include provision with regard to—
 - (a) the constitution and proceedings of the community justice authority;
 - (b) matters relating to the membership of that authority; and
 - (c) the supply of services or facilities by appropriate local authorities to that authority.
- (4) No person may be a member of the community justice authority who is not—
 - (a) a councillor of an appropriate local authority, and
 - (b) nominated for such membership by that authority.
- (5) The functions of a community justice authority are—
 - (a) at such intervals as the Scottish Ministers may determine—
 - (i) to prepare, in consultation with the partner bodies, the Scottish Ministers, the appropriate local authorities and such other bodies as the Scottish Ministers may specify, a plan for reducing re-offending by relevant persons; and
 - (ii) to submit that plan to the Scottish Ministers (the plan as approved under subsection (14) being referred to in this section and in section 4 as the community justice authority’s “area plan”);
 - (b) to monitor the performance of—
 - (i) appropriate local authorities; and
 - (ii) the Scottish Ministers,
 in complying with, and in co-operating with each other, the community justice authority and others to facilitate compliance with, the area plan;
 - (c) in so far as it considers such performance by—
 - (i) a local authority to be unsatisfactory, to issue such directions to that authority; or
 - (ii) the Scottish Ministers to be unsatisfactory, to make such recommendations to the Scottish Ministers,
 as it thinks fit;
 - (d) to promote good practice in the management of the behaviour of relevant persons (“management” being management with a view to reducing re-offending by those persons);

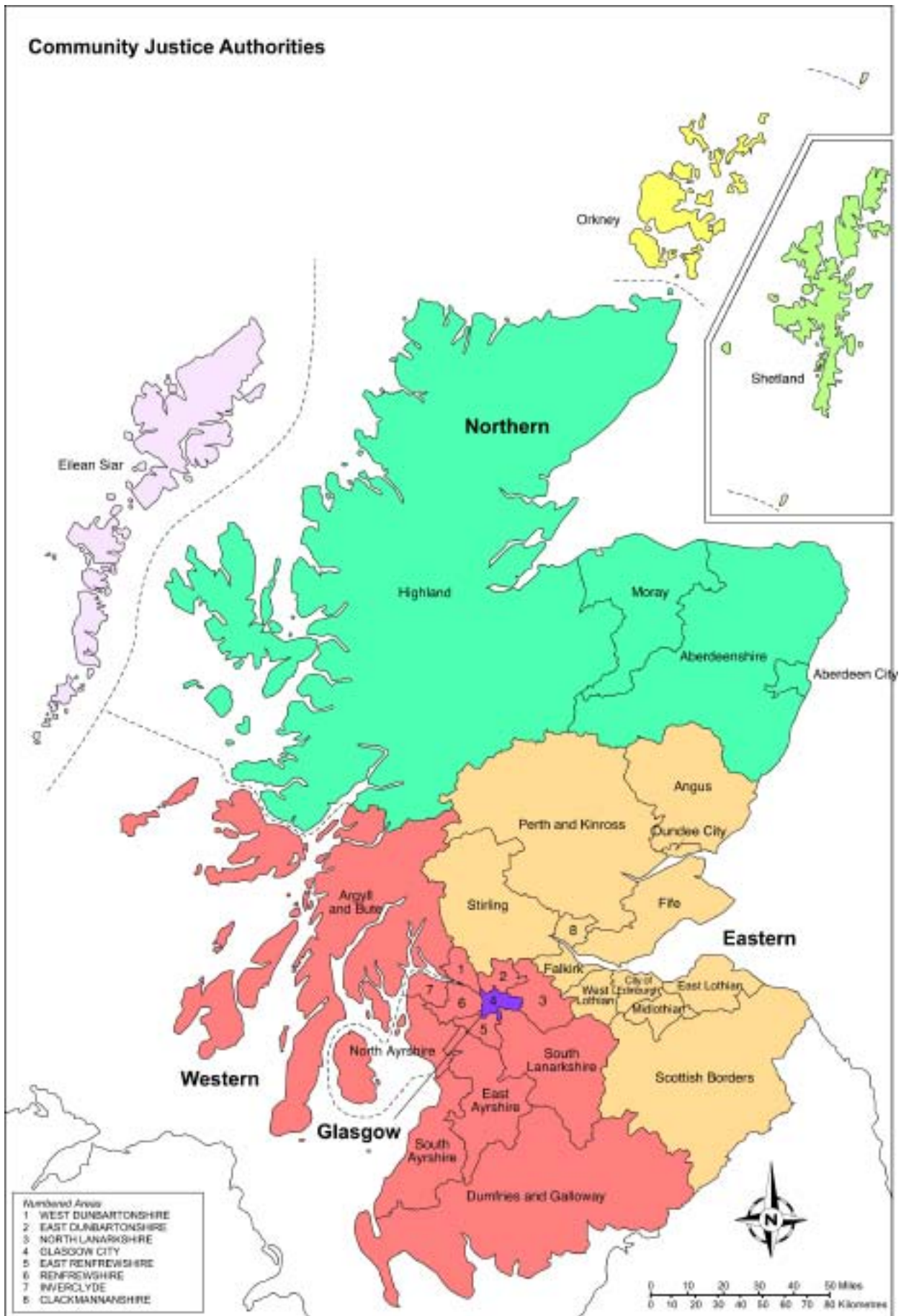
- (e) to allocate to the appropriate local authorities any amount paid to it under section 27A(1) of the Social Work (Scotland) Act 1968 (c.49) (grants in respect of community service facilities);
 - (f) to arrange with the partner bodies that, so far as practicable, any information—
 - (i) relating to relevant persons, and
 - (ii) in the possession of any of those party to the arrangements,
 is furnished or made available to the others party to them;
 - (g) as soon as practicable after the end of each financial year, to report to the Scottish Ministers on—
 - (i) its activities and performance during that year in discharging its functions under this section; and
 - (ii) the activities and performance during that year of appropriate local authorities, partner bodies and the Scottish Ministers in complying with, or facilitating compliance with, the area plan; and
 - (h) any function which it has by virtue of section 7 of this Act.
- (6) In preparing a report under paragraph (g) of subsection (5), the community justice authority is to consult as mentioned in paragraph (a)(i) of that subsection.
- (7) The Scottish Ministers may by order made by statutory instrument amend subsection (5) so as (either or both)—
- (a) to add to the functions for the time being described;
 - (b) to alter or omit any of those functions.
- (8) Different provision may be made under subsection (7) for different community justice authorities.
- (9) The Scottish Ministers are from time to time to inspect and assess the arrangements set in place, and the services provided, by local authorities for complying with the area plan and to satisfy themselves as to the sufficiency of those arrangements and services.
- (10) The Scottish Ministers may from time to time issue to a community justice authority—
- (a) directions as to the exercise of its functions under this section; and
 - (b) guidance as to the preparation and content of any plan under this section.
- (11) In carrying out—
- (a) their functions under section 27 of the Social Work (Scotland) Act 1968, an appropriate local authority are,
 - (b) by virtue of section 7 (of this Act), its functions, or functions on behalf of an appropriate local authority, under that section 27, a community justice authority is,
- so far as practicable, to comply with the area plan.
- (12) The Scottish Ministers are, so far as practicable, to comply with the area plan.
- (13) If directions are issued—
- (a) under subsection (5)(c)(i), the local authority receiving the directions;
 - (b) under subsection (10)(a), the community justice authority,
- must comply with them.

- (14) The Scottish Ministers, on receiving a plan by virtue of sub-paragraph (ii) of subsection (5)(a), may approve it or require the authority to revise the plan, in such manner as the Scottish Ministers may specify, and to re-submit it under that sub-paragraph.
- (15) Subsection (14) applies in relation to a plan re-submitted as it applies to one submitted.
- (16) In this section—
- an “appropriate local authority” is a local authority the area of which is comprised within the area of the community justice authority; and
 - “partner bodies” means such bodies as are for the time being designated as such for the purposes of this section by the Scottish Ministers by order made by statutory instrument.
- (17) The references in subsections (5)(b)(ii) and (g)(ii) and (12) to the Scottish Ministers are to the Scottish Ministers in exercise of their functions under the Prisons (Scotland) Act 1989 (c.45) as is the first reference to the Scottish Ministers in each of paragraphs (a)(i) and (c)(ii) of subsection (5); and
- (18) A statutory instrument containing an order under—
- (a) subsection (1) or (7) is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament;
 - (b) subsection (16) is subject to annulment in pursuance of a resolution of the Parliament.

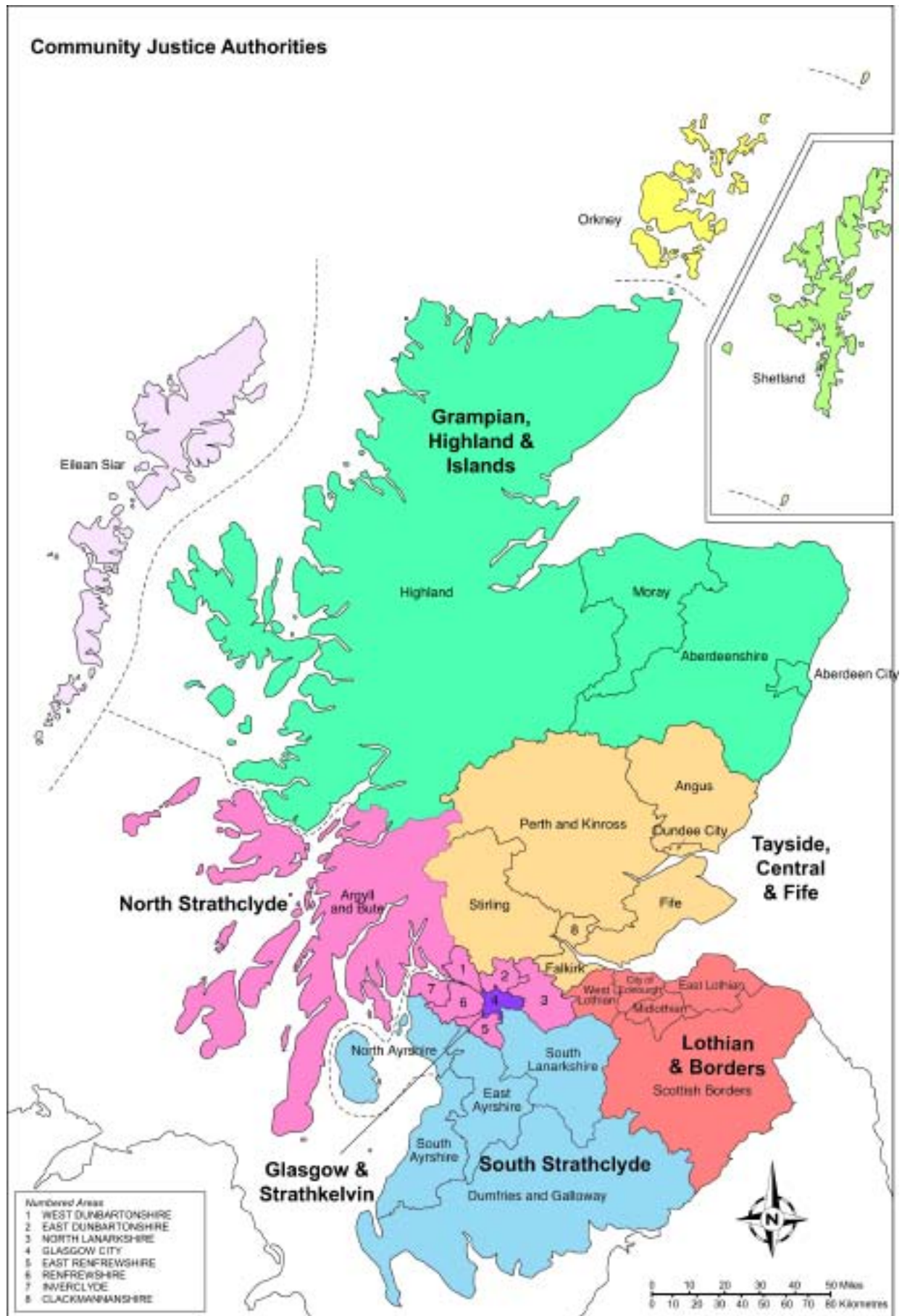


ANNEX C

FOUR COMMUNITY JUSTICE AUTHORITIES



SIX COMMUNITY JUSTICE AUTHORITIES



ANNEX D

QUANTITATIVE ASSESSMENT OF CRIMINAL JUSTICE BUSINESS

The following tables are an approximation of the proportional responsibilities for the proposed Community Justice Authorities. The information on budgets and orders is derived by aggregating **historical data**.

Table 1 Caseloads and Population for proposed 4 CJAs

| Four Community Justice Authorities | Percentage Reports/Orders | Population | | |
|------------------------------------|---------------------------|-----------------------|--------------|-------------|
| | | | 000s | %age |
| Glasgow CJA | 16.8 | Glasgow | 577 | 11.4 |
| Northern CJA | 5.7 | Aberdeen | 209 | 4.1 |
| | 2.0 | Aberdeenshire | 227 | 4.5 |
| | 0.7 | Moray | 87 | 1.7 |
| | 3.4 | Highland | 208 | 4.1 |
| | 0.2 | Eilean Siar | 26 | 0.5 |
| | 0.2 | Orkneys | 19 | 0.4 |
| | 0.3 | Shetlands | 22 | 0.4 |
| | 12.5 | TOTAL | 799 | 15.8 |
| Eastern CJA | 3.5 | Angus | 108 | 2.1 |
| | 6.5 | Dundee | 144 | 2.9 |
| | 3.0 | Perth and Kinross | 135 | 2.7 |
| | 6.1 | Fife | 351 | 6.9 |
| | 1.6 | Clackmannanshire | 48 | 1.0 |
| | 2.6 | Falkirk | 146 | 2.9 |
| | 2.0 | Stirling | 86 | 1.7 |
| | 7.1 | Edinburgh | 448 | 8.9 |
| | 1.0 | East Lothian | 91 | 1.8 |
| | 1.2 | Midlothian | 81 | 1.6 |
| | 2.9 | West Lothian | 160 | 3.2 |
| | 1.5 | Borders | 107 | 2.1 |
| | 38.8 | TOTAL | 1,905 | 37.7 |
| Western CJA | 1.1 | Argyll and Bute | 91 | 1.8 |
| | 0.9 | East Dunbartonshire | 107 | 2.1 |
| | 2.3 | West Dunbartonshire | 93 | 1.8 |
| | 0.7 | East Renfrewshire | 90 | 1.8 |
| | 3.5 | Renfrewshire | 172 | 3.4 |
| | 2.3 | Inverclyde | 84 | 1.7 |
| | 8.0 | North Lanark | 321 | 6.4 |
| | 5.7 | South Lanark | 302 | 6.0 |
| | 2.8 | East Ayrshire | 120 | 2.4 |
| | 2.5 | North Ayrshire | 136 | 2.7 |
| | 2.2 | South Ayrshire | 112 | 2.2 |
| | 3.0 | Dumfries and Galloway | 147 | 2.9 |
| | 31.9 | TOTAL | 1,774 | 35.1 |

Table 2 Caseloads and Population for proposed 6 CJAs

| Six Community Justice Authorities | Percentage Reports/Orders | Population | | |
|--|---------------------------|-----------------------|--------------|-------------|
| | | | 000s | %age |
| Glasgow CJA | 16.8 | Glasgow | 577 | 11.4 |
| Northern CJA | 5.7 | Aberdeen | 209 | 4.1 |
| | 2.0 | Aberdeenshire | 227 | 4.5 |
| | 0.7 | Moray | 87 | 1.7 |
| | 3.4 | Highland | 208 | 4.1 |
| | 0.2 | Eilean Siar | 26 | 0.5 |
| | 0.2 | Orkneys | 19 | 0.4 |
| | 0.3 | Shetlands | 22 | 0.4 |
| | 12.5 | TOTAL | 799 | 15.8 |
| Tayside, Fife & Central CJA | 3.5 | Angus | 108 | 2.1 |
| | 6.5 | Dundee | 144 | 2.9 |
| | 3.0 | Perth and Kinross | 135 | 2.7 |
| | 6.1 | Fife | 351 | 6.9 |
| | 1.6 | Clackmannanshire | 48 | 1.0 |
| | 2.6 | Falkirk | 146 | 2.9 |
| | 2.0 | Stirling | 86 | 1.7 |
| | 25.2 | TOTAL | 1,018 | 20.1 |
| Lothians & Scottish Borders CJA | 7.1 | Edinburgh | 448 | 8.9 |
| | 1.0 | East Lothian | 91 | 1.8 |
| | 1.2 | Midlothian | 81 | 1.6 |
| | 2.9 | West Lothian | 160 | 3.2 |
| | 1.5 | Borders | 107 | 2.1 |
| | 13.7 | TOTAL | 887 | 17.5 |
| North Strathclyde CJA | 1.1 | Argyll and Bute | 91 | 1.8 |
| | 0.9 | East Dunbartonshire | 107 | 2.1 |
| | 2.3 | West Dunbartonshire | 93 | 1.8 |
| | 0.7 | East Renfrewshire | 90 | 1.8 |
| | 3.5 | Renfrewshire | 172 | 3.4 |
| | 2.3 | Inverclyde | 84 | 1.7 |
| | 10.7 | TOTAL | 636 | 12.6 |
| South Strathclyde CJA | 8.0 | North Lanark | 321 | 6.4 |
| | 5.7 | South Lanark | 302 | 6.0 |
| | 2.8 | East Ayrshire | 120 | 2.4 |
| | 2.5 | North Ayrshire | 136 | 2.7 |
| | 2.2 | South Ayrshire | 112 | 2.2 |
| | 3.0 | Dumfries and Galloway | 147 | 2.9 |
| | 24.2 | TOTAL | 1,138 | 22.5 |

NOTES ON TABLES

1. The percentage regarding caseload reports/orders include social enquiry reports (SER), probation orders (PO), community service orders (CSO), supervised attendance orders (SAO) and drug treatment and testing orders (DTTO). The data is already published in *Statistical Bulletin CrJ/2005/01: Criminal Justice Social Work Statistics, 2003-04* (Page 22 Table 2). (<http://www.scotland.gov.uk/stats/bulletins/00386-00.asp>)
2. *Eilean Siar, Orkney and Shetland* have been shown as part of the Northern Community Justice Authority. Please see Section 1.7 for further information specific to the Island authorities.





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