COMMUNITY JUSTICE (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

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

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

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

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

3. At present, community justice services are delivered through eight regional Community Justice Authorities (CJAs). The role of CJAs is to plan, co-ordinate, monitor and report on the delivery of offender services and to produce a strategic plan for their area in consultation with statutory and non-statutory partner bodies. The membership of CJAs is restricted to elected members from each constituent local authority. However, reports published in 2012 by the Commission on Women Offenders and by Audit Scotland highlighted concerns with the current CJA-based model. Two consultations undertaken by Scottish Government in 2012 and 2014 identified support for a new model for community justice.

4. The Bill establishes a new model for community justice services which has local delivery, partnerships and collaboration at its heart, with national arrangements to provide the profile, leadership and strategic direction which are felt to be missing from the current structure. Robust accountability and driving improvement will also be important aspects of the new model. Enhanced opportunities for innovation, learning and development will also be provided.

5. The Bill consists of 37 sections and 2 schedules. In summary, they make provision as follows:
   - Section 1 defines community justice for the purposes of the Bill.
   - Sections 2 to 11 and schedule 1 establish Community Justice Scotland as an Executive Non-Departmental Public Body and set out its key functions.
   - Section 12 identifies community justice partners.
   - Sections 13 to 16 provide for the development and review of a national strategy for community justice; and for the development and review of a national performance framework.
   - Sections 17 to 22 set out how the statutory community justice planning partners in relation to each local authority area are to prepare and report on an outcomes improvement plan for community justice.
   - Sections 23 to 25 require Community Justice Scotland to monitor performance in the area of each local authority against the national performance framework and to provide periodic reports on performance to local community justice partners.
Community Justice Scotland is empowered to make recommendations to Scottish Ministers on any action it considers necessary in relation to the achievement of outcomes or improvement of performance. Community Justice Scotland must also produce an annual report in relation to performance across Scotland in achieving the outcomes.

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

THE SECTIONS

Section 1: Meaning of community justice

6. Section 1 provides a definition of “community justice” for the purposes of the Bill. It provides that community justice is concerned with the following activities:
   - Giving effect to community disposals and post-release control requirements
   - Supporting and managing offenders in the community in such a way as to reduce re-offending
   - Arranging services so that offenders in the community may access and use them
   - Preparing offenders for release from imprisonment or from detention in a penal institution.

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

Section 2: Establishment

8. This section establishes Community Justice Scotland as a body corporate. Community Justice Scotland’s Gaelic name (Ceartas Coimhearsnachd Alba) has equal legal status. Community Justice Scotland will be an Executive Non-Departmental Public Body. Section 2 introduces schedule 1 which contains further provision about the establishment and operation of Community Justice Scotland.
Section 3: Functions

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

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

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

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

Section 4: General powers

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

Section 5: Provision of information, advice or assistance

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

Section 6: Funding

15. Section 6 allows the Scottish Ministers to make grants to Community Justice Scotland to allow it to carry out its functions, or for any purpose specified by them in connection with its functions, subject to any conditions the Scottish Ministers may determine, such as repayment.
This could include funding to commission national research or for the development of national offender programmes like the “Caledonian System”, which is an existing programme aimed at addressing domestic violence.

Section 7: Directions and guidance

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

Section 8: Governance and accountability

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

Section 9: Corporate plan

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

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

Section 10: Annual reports on exercise of functions

20. Section 10 requires Community Justice Scotland to prepare and publish an annual report as soon as reasonably practicable after the end of each financial year. The report must provide information on the exercise of Community Justice Scotland’s functions. In preparing the report, Community Justice Scotland must engage with each of the community justice partners and anyone else it considers appropriate – which could, for example, include wider stakeholders and delivery partners. Community Justice Scotland must send a copy of the report to the Scottish Ministers who must lay it before the Scottish Parliament. Once the report is laid before the Scottish Parliament, Community Justice Scotland must publish it.
Section 11: Accounts

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

Section 12: Community justice partners

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

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

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

Section 13: National strategy in relation to community justice

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

Section 14: Review of national strategy

26. Section 14 requires the Scottish Ministers to review the national strategy for community justice within 5 years of the publication of the first strategy. Thereafter, they may review the strategy at such time as they see fit but at the latest within five years of the last review. When reviewing or revising the strategy the Scottish Ministers must consult Community Justice Scotland, each of the other community justice planning partners and other persons they consider appropriate. The Scottish Ministers must then either publish a revised strategy or, publish a statement indicating that they consider that the strategy should not be revised. After a revised strategy has been published, the Scottish Ministers must lay a copy before the Scottish Parliament as soon as reasonably practicable. Once published, the revised strategy becomes subject to this section as though it was the original strategy.
Section 15: National performance framework in relation to community justice

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

Section 16: Review of national performance framework

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

Section 17: Preparation of community justice outcomes improvement plan

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

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

31. As soon as reasonably practicable after publishing the community justice outcomes improvement plan, the community justice partners must send a copy to Community Justice Scotland.
Section 18: Community justice outcomes improvement plan: engagement

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

Section 19: Review of community justice outcomes improvement plan

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

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

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

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

36. Section 20 requires community justice partners to publish a report setting out their assessment on whether the nationally determined outcomes and any locally determined outcomes were achieved in their area during the period of the report. If any outcomes were not met, the community justice partners must set out their assessment of what, if any, progress has been made
towards each of these, using the relevant indicators set out in their community justice outcomes improvement plans. The section then sets out what is meant by “relevant indicators”.

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

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

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

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

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

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

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

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

Section 24: Section 23: recommendations to the Scottish Ministers

42. Section 24 provides that Community Justice Scotland may, after monitoring the performance of community justice partners, make recommendations to the Scottish Ministers on actions which it considers are necessary in order to achieve a nationally determined outcome, or which would improve performance in achieving such outcomes, or any other aspect of community justice. These recommendations may apply to Scotland as a whole or a particular
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

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

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

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

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

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

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

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

Section 27: Strategy for innovation, learning and development

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

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

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

Section 29: Innovation, learning and development activity

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

Section 30: Duty of co-operation

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

Section 31: Abolition of community justice authorities

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

Section 32: Interpretation

52. Section 32 defines certain expressions used in the Bill.
Section 33: Consequential and minor modifications

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

Section 34: Regulations

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

Section 35: Ancillary provision

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

SCHEDULE 1

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

Paragraph 3: Membership

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

Paragraph 4: Tenure etc.

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

Paragraph 6: Power to end membership

59. Paragraph 6 confirms that the Scottish Ministers may remove a member who becomes an undischarged bankrupt. The Scottish Ministers may also remove a member where they are satisfied that the member has failed to attend three consecutive meetings of Community Justice Scotland; or where the member is unable to perform the functions required; or where the member is unsuitable to continue being a member.
Paragraph 7: Remuneration and allowances of members

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

Paragraph 8: Chief executive and other staff

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

Paragraph 9: Pensions, allowances and gratuities

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

Paragraph 10: Procedure

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

Paragraph 11: Committees

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

Paragraph 12: Validity of things done

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

Paragraph 13: Authority to exercise functions

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

Paragraph 14: Legislation relating to public bodies

67. Paragraph 14 inserts a reference to Community Justice Scotland into various pieces of legislation relating to public bodies in Scotland.
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

SCHEDULE 2 – PART 1

Paragraph 1

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

Paragraph 2

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

Paragraph 3

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

Paragraph 4

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

Paragraph 5

72. Sub-paragraph (1) and (2) amend the Management of Offenders (Scotland) Act 2005 to remove the references to community justice authorities in section 1 of that Act, in consequence of the abolition of those bodies.
73. Sub-paragraph (3) amends the arrangements for assessing and managing risks posed by certain offenders set out in section 11(2) of the Management of Offenders etc. (Scotland) Act 2005. The amendments require that the responsible authorities submit their report on the discharge of their functions conferred by section 10 of the 2005 Act, to Community Justice Scotland and the other relevant community justice partners.

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

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

**SCHEDULE 2 – PART 2**

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

INTRODUCTION

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

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

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

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

OVERVIEW OF THE BILL

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

- Sections 1 and 12 provide definitions.
- Sections 2 to 11 and schedule 1 establish Community Justice Scotland as an Executive NDPB and set out its key functions of improving national, professional and strategic leadership; promoting innovation, learning and development; providing assurance to Scottish Ministers on the delivery of outcomes; and providing improvement support where required.
- Sections 13 and 14 provide for the development of a national strategy for community justice.
• Sections 15 and 16 provide for the development of a national performance framework.

• Sections 17 to 22 place a duty on community justice partners to prepare a local community justice outcomes improvement plan that sets out their activities and arrangements for meeting community justice outcomes.

• Sections 23 to 25 require Community Justice Scotland to monitor the performance of community justice partners against the national framework. Community Justice Scotland will have powers to make recommendations to Ministers on any action it considers necessary in order to deliver improved outcomes, either nationally or locally. This may include recommendations about the requirement for a joint inspection of any local community justice services.

• Sections 26 enables Community Justice Scotland to carry out activities relating to the development or arrangement community justice services, but not to provide any such services itself. Such activities may include identifying the need for a service; designing a suitable model for delivering the service; and making arrangements for the provision of the service (for example, identifying suitable suppliers or undertaking procurement). It may take these actions on its own and encourage or assist or collaborate with community justice partners. Any administrative costs relating to this activity are already included in the running costs of Community Justice Scotland.

• Sections 27 to 29 set out the arrangements for Community Justice Scotland to publish and review a strategy for innovation, learning and development. The cost of this activity is already included in the running costs of Community Justice Scotland.

• Section 30 defines the duty of co-operation which is placed on Community Justice Scotland, each community justice partner, and the community justice partners for the each local authority area.

• Section 31 abolishes CJAs.

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

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

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

Background

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

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

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

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

Costs on the Scottish Administration

Start-up/shadow body costs

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

13. The funding associated with Community Justice Scotland’s start-up/shadow body period has been included within the overall Scottish Government Community Justice budget for 2016/17.
Table B: Estimated set-up costs and shadow body costs for Community Justice Scotland, inclusive of VAT where applicable

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

Members and staffing

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

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

Appointment of the Community Justice Scotland members

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

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

Remuneration of members

18. The continuing costs of payments to members will be met from Community Justice Scotland’s budget. Estimates for the cost assume that there will be one chair, one deputy chair and five further members. The members will attend meetings as set by Community Justice Scotland. Financial estimates assumed are based on the members and the chair being remunerated at the medium point of the relevant scale set out in Table C below.
19. It will be for Scottish Ministers to determine the most appropriate range for members, taking account of the range of responsibilities Community Justice Scotland will have following passage of the Bill.

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

<table>
<thead>
<tr>
<th>Members</th>
<th>Minimum</th>
<th>Medium</th>
<th>Maximum</th>
<th>Ceiling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chair</td>
<td>£199.00</td>
<td>£271.00</td>
<td>£343.00</td>
<td>£410.00</td>
</tr>
<tr>
<td>Members</td>
<td>£167.00</td>
<td>£207.00</td>
<td>£247.00</td>
<td>£313.00</td>
</tr>
</tbody>
</table>

**Chief executive salary**

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

**Staff salaries**

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

**Pension arrangements**

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

**Timescales for recruitment and associated costs**

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

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

- Chair at £17,344 (8 days per month for 8 months);
- Members at £14,904 (2 days per month for 6 months);
- Chief executive at £75,121 (7 months’ salary at £128,780 inclusive of pension and National Insurance);
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

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

Recruitment costs

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

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

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

Other staffing and members related costs

28. These include training, expenses and travel.

IT set-up

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

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

Accommodation costs

31. The location of Community Justice Scotland is currently being considered. In line with Scottish Government policy, the property selected will conform to the Scottish Public Finance Manual, Asset Management Policy 2008 and Town Centre First policies.
32. The Scottish Government will ensure that the location will be accessible by public transport and in keeping with modern flexible working practices. The Scottish Government will encourage Community Justice Scotland to have in place policies that support home working and flexibility, in terms of staff locations and working practices.

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

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

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

Marketing/branding

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

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

Ongoing costs

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

39. The running costs of Community Justice Scotland are £1.44 million; and services costs of around £764,000 – bringing out a total of £2.2 million. However, included in the services costs are a number of national programmes currently delivered by the Scottish Government, and costing around £654,000.
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

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

<table>
<thead>
<tr>
<th>Annual Running Costs from 2017/18</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Members remuneration</td>
<td>56,000</td>
</tr>
<tr>
<td>Staff salaries</td>
<td>1,129,000</td>
</tr>
<tr>
<td>Recruitment</td>
<td>36,000</td>
</tr>
<tr>
<td>Accommodation</td>
<td>81,000</td>
</tr>
<tr>
<td>Expenses and travel</td>
<td>40,000</td>
</tr>
<tr>
<td>IT support</td>
<td>34,000</td>
</tr>
<tr>
<td>Marketing website/branding</td>
<td>20,000</td>
</tr>
<tr>
<td>Other administrative costs</td>
<td>26,000</td>
</tr>
<tr>
<td>Professional fees</td>
<td>23,000</td>
</tr>
<tr>
<td><strong>Total Administrative costs</strong></td>
<td><strong>1,445,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Services</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Research fund and conference costs</td>
<td>110,000</td>
</tr>
<tr>
<td>National Criminal Justice Social Work Training Schedule, venue hire, printing, travel expenses</td>
<td>200,000</td>
</tr>
<tr>
<td>Level of Service Case Management Inventory System (LS/CMI) – IT system, development, running costs and licence costs</td>
<td>393,000</td>
</tr>
<tr>
<td>Other services costs</td>
<td>61,000</td>
</tr>
<tr>
<td><strong>Total Services costs</strong></td>
<td><strong>764,000</strong></td>
</tr>
</tbody>
</table>

**Grand Total**                                         **£2,209,000**

**Members’ remuneration**

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

**Staff salaries**

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

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

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

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

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

Pension arrangements

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

Accommodation costs

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

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

Expenses and travel

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

IT support

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

Marketing website and branding

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

Other administration costs and professional fees

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

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

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

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

Dilapidation

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

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

<table>
<thead>
<tr>
<th>One-off Costs</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dilapidation</td>
<td>45,000</td>
</tr>
</tbody>
</table>

Assets and liabilities to be transferred to Community Justice Scotland

Assets to be transferred

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

Liabilities to be transferred

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

Cost on Scottish Administration – summary

59. The Scottish Government currently provides funding for the existing model for community justice services based on eight regional CJAs. It is anticipated that the budget for Community Justice Scotland will be met from existing resources. The annual budget for Community Justice Scotland in 2017/18 is expected to be £2,209,000.
Scotland (in exercising its innovation, learning and development function) may charge for on-sale of licences for training materials outside Scotland, provision of training courses, on-sale of licences for tools etc. However, the demand for these cannot be foreseen at present and, therefore, the level of income cannot be estimated. There is to be a strategy for learning, innovation and development which will consider this in more detail.

**Costs on local authorities**

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

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

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

**NATIONAL STRATEGY FOR COMMUNITY JUSTICE**

**Background**

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

**Costs on the Scottish Administration**

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

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

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

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

Costs on other bodies, individuals and businesses

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

PERFORMANCE FRAMEWORK FOR COMMUNITY JUSTICE

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

Costs on the Scottish Administration

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

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

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

Costs on local authorities

72. There may be some resource implications for local authorities associated with engaging in the preparation and review of the performance framework for community justice and in awareness raising and training of staff. Any additional activity should be accommodated within their existing responsibilities for improving community justice outcomes.
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

Costs on other bodies, individuals and businesses

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

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

Background

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

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

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

Costs on the Scottish Administration

77. The fund will total £1.6 million per annum, commencing 2015/16 and will be split equally between the 32 local authorities (planning partners cannot receive funding). The intention is for this fund to be available for three years, ending in 2017/18. However, this position will be reviewed at the end of 2015/16 in light of the outcome of the next UK Comprehensive Spending Review expected to take place following the May 2015 Parliamentary election.
78. Three years of transition funding should provide planning partners with sufficient time to take on their community justice role as well as make arrangements with key partners to share capacity and resources for this work going forward.

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

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

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

Costs on local authorities

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

Costs on other bodies, individuals and businesses

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

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

MONITORING OF PERFORMANCE: INSPECTION SERVICES

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

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

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

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

Costs on local authorities

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

Costs on other bodies, individuals and businesses

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

THE DIS-ESTABLISHMENT OF COMMUNITY JUSTICE AUTHORITIES

Background

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

Costs on the Scottish Administration

Pension liability

92. Section 4(6) of the Management of Offenders etc. (Scotland) Act 2005 requires that the expenditure of a CJA, in so far as it is not met from any other source, may be paid by Scottish Ministers. There will be no successor body to take on the functions, staff and therefore pension
liabilities of the CJAs. The liabilities arising from pension and staff severance costs may therefore fall to be paid by the Scottish Government. However, the responsibility for taking forward the processes pertaining to staffing liabilities would remain with the CJAs.

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

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

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

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

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

Staff severance liability

98. Similarly, it is difficult to be precise in quantifying the severance payments for CJA staff as this is also dependent on the staffing position at 31 March 2017. The level of the payments will depend on the number of staff remaining in post at the dis-establishment date; their ages; their annual salary as at 31 March 2017; and their length of service. Given that Scottish Ministers are potentially settling this liability, paragraph 14 of the Scottish Public Finance Manual requires that the terms of the severance payments should be broadly similar to those of the Civil Service Compensation Scheme. The severance calculations are therefore based on these terms using data from payroll records on the ages of staff; their length of service; and their current salaries. For
These documents relate to the Community Justice (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 7 May 2015

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

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

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

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

Costs on local authorities

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

Costs on other bodies, individuals and businesses

103. The provisions are likely to have little or no financial implications for other bodies, individuals or businesses.
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

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

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

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PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

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

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