EXECUTIVE NOTE TO

DRAFT : THE MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) ACT 2005 (MEMBERS' REMUNERATION AND SUPPLEMENTARY PROVISIONS) ORDER 2008

The above instrument is to be made in exercise of the powers conferred by sections 3(1), 22(1) and (2) of the Management of Offenders etc (Scotland) Act 2005 ("the Act"). The instrument is subject to affirmative resolution procedure and is due to come into force on 31st March 2008

Policy Objectives

Audit of Community Justice Authorities

Community Justice Authorities (CJAs) were established under Section 3 of the Act. In the Financial Memorandum accompanying the Bill it was estimated that each CJA would require £200,000 per annum in administration costs. In addition, under Section 3(5)(e) of the Act CJAs have, since April 2007, been responsible for the allocation of criminal justice social work funding. It was the intention under the Act that CJAs would be required to submit accounts for their own administration budget and the criminal justice social work budget to Audit Scotland, via Scottish Ministers, as had been the case for local authorities under the previous funding arrangements. However, the legislation as it stands does not invest Audit Scotland with the necessary powers to audit the CJA accounts. In consultation with Audit Scotland it has been agreed that secondary legislation is required in order for the proper auditing of accounts under the Public Finance and Accountability (Scotland) Act 2000.

CJA Members allowances and expenses

Provision was made under the Community Justice Authorities (Establishment, Constitution and Proceedings) (Scotland) Order 2006 for members of CJAs to claim allowances and expenses under the framework of local government legislation. However, the relevant legislation was revoked in 2007, and a new framework came into force following the recent local government elections (Local Government (Allowances and Expenses) (Scotland) Regulations 2007). CJAs, which are independent statutory and not local government bodies, are not covered by this new legislation, therefore they are currently unable to reimburse their members for travel and other expenses. Given that it had previously been agreed that CJA members' allowances should be linked to the local government framework, this instrument seeks to restore that position.

Remuneration of CJA conveners and vice-conveners

Under the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, local government elected members are entitled to additional remuneration if undertaking certain additional responsibilities. CJA conveners and deputy-Conveners are currently not entitled to any remuneration in addition to that of a basic grade councillor (£15,452), unless they already hold the status of a Senior Councillor by virtue of their responsibilities within their own local authority, or are the convener of a joint board. This instrument establishes that conveners and

deputy-Conveners of CJAs are entitled to additional remuneration in recognition of the additional responsibilities of their positions.

Taking into account the remuneration framework for councillors with additional responsibilities, this instrument specifies that CJA conveners and vice-conveners should be remunerated at the same level as has been set nationally for conveners and vice-conveners of non-police/fire joint boards (£19,316 and £18,350 respectively). A CJA convener or vice-convener will only receive this additional remuneration if they are not already being paid additional remuneration as a senior councillor for a position within their own authority. The CJA will be responsible for payment of the additional allowance and not for any part of the basic grade councillor remuneration.

Consultation

The proposed arrangements for auditing of CJAs has been developed in consultation with representatives from Audit Scotland. There has also been consultation with CoSLA and Community Justice Authorities on the development of the scheme for remuneration of CJA conveners and deputy conveners.

Financial Effects

There are no financial implications resulting from the audit arrangements created through this instrument.

The financial effects of the creation of CJAs were set out in the Financial Memorandum accompanying the Management of Offenders etc. (Scotland) Bill. In presenting the Bill to Parliament, Scottish Ministers recognised there would be additional costs associated with the establishment and maintenance of CJAs and provision has been made for this. This included the payment of CJA members expenses and allowances.

The proposed scheme for remuneration of CJA conveners and vice-conveners does have potential financial implications for CJAs. For instance, if all eight CJAs were in the same position of having to remunerate both the convener and deputy convener, then the financial burden could be as much as £6,762 per CJA per annum, or £54,096 for all CJAs. However, the figure will be lower, since several CJA conveners and deputy conveners are already Senior Councillors within their own authority. Any additional burden arising from Convener or deputy convener remuneration will be met from within existing provision agreed under the Act, and will not impact on the criminal justice social work funding allocated to the CJAs.

The instrument has no additional financial effects on the Scottish Government, local authorities, or other bodies or individuals.

Community Justice Services Division
Criminal Justice Directorate
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