

POLICY NOTE

THE PUBLIC APPOINTMENTS AND PUBLIC BODIES ETC. (SCOTLAND) ACT 2003 (TREATMENT OF COMMUNITY JUSTICE SCOTLAND AS SPECIFIED AUTHORITY) ORDER 2016

SSI 2016/

1. The above instrument was made in exercise of the powers conferred by section 3(3) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“the 2003 Act”).
2. The instrument is subject to affirmative procedure.

Policy Objectives

3. This order is designed to allow the appointments to the Board of Community Justice Scotland to be regulated by the Commissioner for Ethical Standards in Public Life.
4. The Community Justice (Scotland) Bill is currently being considered by the Scottish Parliament and passed Stage 1 on 19 November 2015. One of the principle purposes of the Bill is to create a new Executive Non-Departmental Public Body (NDPB) to provide leadership for the Community Justice sector in Scotland. It makes provision for the creation of Community Justice Scotland and for the appointments to the Board to be regulated under the 2003 Act.
5. It is proposed in the Bill that Community Justice Scotland will take on its full functions from 1 April 2017. In order for this timetable to be met, a section 3(3) order under the 2003 Act will be required so that Community Justice Scotland will be treated as a regulated body ahead of the Bill being passed by Parliament and coming into force.
6. Following the precedent being set by a number of other new public bodies, this order is being laid following the conclusion of the Stage 1 debate. This is to allow the recruitment of the Board to begin so that the Chair will be in place in early Summer 2016 and can be involved in the recruitment of the Chief Executive. The Board will then be recruited and will be in place in early Autumn 2016. The Audit Scotland report on merging public bodies, “Learning the Lessons of Merging Public Bodies” recommends that the leadership of merged and new bodies is in place 6 months ahead of the new body taking on its full functions. This order is designed to help this recommendation to be met.
7. Scottish Ministers could make appointments to the first Board of Community Justice Scotland on an unregulated basis, meaning that this order would not be necessary. However, it was felt to be important for the appointments process to be as rigorous and transparent as possible and that the involvement of the Commissioner for Ethical Standards in Public Life was desirable in achieving this.

Consultation

8. “Redesigning the Community Justice System – A Consultation on Proposals” was launched in December 2012, setting out three options for the change identified by the Commission on Women Offenders report in April 2012 which stated that “*there were*

significant structural and funding barriers to the effective delivery of offender services in the community and that radical reform was required". 112 written responses were received however analysis of those responses showed no clear preference for any of the options provided. Further consultation was carried out with stakeholders to develop a fourth option which was announced by the Cabinet Secretary for Justice in December 2013. A further consultation on the detail for "The Future Model for Community Justice in Scotland" was launched on 9 April 2014 and closed on 2 July. Overall the consultation responses received were supportive of the model.

9. Consultation with stakeholders has continued through the development of the Bill and the Parliamentary process. As there is general support for the establishment of Community Justice Scotland and this order merely allows for the appointments to be regulated in line with the provisions of the Bill, specific consultation on this instrument was not felt necessary. The Minister for Community Safety and Legal Affairs wrote to the Conveners of the Justice Committee and the Delegated Powers and Law Reform Committee who are considering the Bill to inform them of the proposal to lay this order. The letter is available here: http://www.scottish.parliament.uk/S4_JusticeCommittee/Inquiries/20151116PWtoCG.pdf

Impact Assessments

10. An Equality Impact Assessment is not necessary as the instrument in itself does not have any equalities impacts. A full Equality Impact Assessment was carried out in the development of the Bill.

11. A Business and Regulatory Impact Assessment was not considered to be necessary for this instrument as the order itself does not create any new burdens on business, charities or the voluntary sector. A Business and Regulatory Impact Assessment, which included the creation of Community Justice Scotland, was undertaken in the development of the Bill.

12. The Business and Regulatory Impact Assessment and the Equality Impact Assessment are available here: <http://www.gov.scot/Publications/2015/05/6773/1>
<http://www.gov.scot/Publications/2015/05/4023/1>

Financial Effects

13. The instrument will have no direct financial effects as it merely allows for the regulation of the appointments process. Any costs incurred from the recruitment of the Board are covered in the Financial Memorandum to the Bill and are likely to be minimal.

Scottish Government
Justice Directorate
17 November 2015