



REPORT

To: GENERAL PURPOSES COMMITTEE		Subject: SUMMARY JUSTICE REVIEW – COSLA CONSULTATION
From: DIRECTOR OF ADMINISTRATION		
Date: 15 DECEMBER 2003	Ref: WBK/TD	

**1. Purpose of Report**

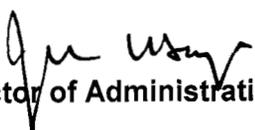
- 1.1 To advise the Committee of the response which has been made to COSLA on issues arising from the review of summary justice and to recommend that the Committee homologates the response which has been issued.

**2. Report**

- 2.1 The Committee are referred to the Report submitted to the meeting of 8<sup>th</sup> May 2002 recommending a response to the consultation paper issued by the committee under the chairmanship of Sheriff-Principal McInnes into the review of the summary justice system. That paper concentrated on what it termed “first order” issues, that is the major questions of principle such as whether summary justice should be administered by lay magistrates or by full-time legally qualified judges. At that time, the McInnes Committee advised that the “second order” or administrative issues would be subject to a second round of consultation.
  - 2.2 Matters have moved on since then. In particular, the timetable for reporting to the Scottish Executive has been truncated and the Committee, in an attempt to gauge the reaction of local government to certain issues, has engaged with COSLA. For its part COSLA has resisted making assumptions on behalf of its members and has insisted that it be given the opportunity to consult its members. The date for response was 15<sup>th</sup> December 2003. A copy of the letter from COSLA to all local authorities is appended to this report and also the response, which the Convener of General Purposes has approved.
3. The Committee are asked to note that the consultation questions raised by the McInness Committee do not infer that a view has been formulated by the Committee that justices of the peace will no longer sit in judgement in summary courts. As far as it has been able to be ascertained, the options being considered are (a) a “junior” level of full-time Sheriffs dealing with summary justices, either within Sheriff Courthouses or in existing District Courthouses. (b) the appointment of stipendiary magistrates, i.e. full-time legally qualified persons, throughout Scotland to sit in the District Courts. [There are currently only four stipendiary magistrates in Scotland who all sit in Glasgow]. (c) the retention of the existing system of lay justices. (d) a mixture of (a) or (b) with (c) to accord with local circumstances throughout Scotland.

#### 4. Recommendation

The Committee are asked to note the content of the report and homologate the response to COSLA.

  
Director of Administration



17 November 2003

To all Leaders and Conveners of Administration

Our Ref: MSD/5/1

Dear Colleague,

## **CONSULTATION ON THE REVIEW OF SUMMARY JUSTICE**

COSLA would be grateful to know your Council's views on three questions which affect local government's interests in the administration of the justice system. These are :

- Whether, given protection of 'local authorities' financial and staff interests, the District Courts should be unified with the Sheriff Courts and managed by the Scottish Courts Service
- Whether a national fines enforcement agency should be established
- Whether there should be special prosecution arrangements for offences within local government's regulatory regimes

These are questions to which we should make a political response, albeit within a very tight timescale. Further detail is provided below and your response is requested by **15 December**.

### **Unification of the District Courts and Sheriff Courts**

The Scottish Ministers set up a summary justice review committee in late 2001 to review the provision of summary justice in Scotland, including the structures and procedures of the Sheriff Courts and District Courts, and to make recommendations for the more efficient and effective delivery of summary justice in Scotland.

Summary criminal justice and the summary courts account for the 96% of criminal cases heard without a jury, by a sheriff in the Sheriff Court or by one or more lay magistrates (JPs) in the District Court. 34% of these cases are heard in the District Courts, which each Council manages in its own way. (There are no District Courts in Orkney or Shetland, while in Glasgow District Court cases are heard by both lay and professional stipendiary magistrates.)

Evidence gathered by the Review Committee suggests that there may be benefits from unification of the summary courts and their being run as a single system by the Scottish Courts Service (SCS). The benefits are seen as possible efficiency savings and consistency of provision throughout Scotland.

The Review Committee wishes to be sure that its proposals have the understanding, and ideally the support, of local authorities before it makes its recommendations to Ministers before the New Year. The Review Committee has undertaken considerable consultation with stakeholders in the justice system, including local authority officers, and produced a consultation paper on the issues of principle which was sent to all local authorities in March 2002. However, the Review Committee is aware that it needs to take account of our political perspective.

WHEN CALLING PLEASE ASK FOR: **Bob Christie 0131 474 9269**      **bob@cosla.gov.uk**

Summary Justice - consultation 17nov03 6  
Bob Christie

The Review Committee is also aware that local authorities' views will necessarily be strongly influenced by their financial responsibilities and by their responsibilities for their staff and courts premises. In considering your reaction to this proposal for unification the Review Committee has therefore asked that Councils assume that, if unification of the summary courts were to proceed, the interests of all affected local authority staff would be fully protected in accordance with extant legislation, UK Government guidance and any further guidance issued by Scottish Ministers.

The Review Committee has further asked that you should assume that, were any transfer of the District Courts to the SCS to be undertaken, this would not be detrimental to the financial interests of any local authority. COSLA is undertaking this consultation on the basis of these assumptions and understands that the Review Committee will make this clear in representing COSLA's response on this proposal to Ministers.

In parallel with this consultation, the SCS will develop its thinking on the rationalisation of courts premises and services. Local authorities will have the opportunity to comment on the detail of those plans following submission of the Review Committee's report to Ministers and assuming that Ministers wish to take forward the proposal.

It has been suggested during the review that lay magistrates should be abolished, to be replaced by a professional bench. The Review Committee's consultations have already clearly established that most local authorities would be opposed to this suggestion, on a number of grounds, principally that their local knowledge enables lay magistrates to respond to community concerns.

### **A national fines enforcement agency**

The Review Committee is considering proposing that there should be a new national agency dedicated to the enforcement of fines in default. This would not affect fines collection arrangements, unless a fine was in default (although it should be noted that local authorities would, in the event of a unified summary court, no longer be responsible for collecting court-imposed fines). The Review Committee wishes to know our views on :

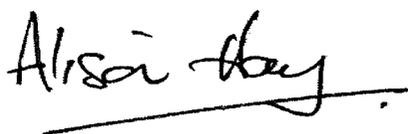
- whether the new agency should enforce the collection of parking fines that were in default
- whether the new agency could enforce other financial penalties on behalf of local authorities
- the implications for local authorities of the removal of their fines enforcement responsibilities.

### **Special prosecution of offences reported by local authorities**

The Review Committee is aware that local authorities are often not successful in obtaining prosecution of a range of offences within their regulatory regimes. Such offences can include dog fouling, littering, and breaches of food safety, licensing, trading standards and planning legislation. The Committee wishes to know COSLA's views on the need for special prosecution arrangements for offences within local government regulatory regimes, and the form which these might take. If there is clear agreement on the need for special arrangements then COSLA will provide an opportunity for local government to develop its thinking on their scope and form in the New Year.

I have copied this letter to your Chief Executive and I would be grateful to know your Council's views on these three questions by Monday 15 December. Thank you for your assistance.

Yours sincerely,



Councillor Alison Hay  
COSLA Environment, Sustainability and Community Safety Spokesperson

## Response to COSLA Consultation on Summary Justice Review

Q - Whether, given protection of local authorities' financial and staff interests, the District Courts should be unified with the Sheriff Courts and managed by the Scottish Courts Service.

R - North Lanarkshire Council operates District Courts at three locations, namely Motherwell, Coatbridge and Cumbernauld.

In Motherwell, there are two courtrooms, which are located within the Civic Centre office complex. There has been a modest amount of refurbishment since 1996.

In Coatbridge, the courtroom is located in the former Sheriff Court. Until recently the building housed Environmental Health and trading Standards staff but is now empty apart from accommodation for the Civic Government Enforcement Officers.

In Cumbernauld, the courtroom is located in the extension to the Bron Way Council Offices built in 1996 as a council chamber.

In each location there is subsidiary accommodation for administrative staff, including fine collection, justices retiring room, procurator-fiscal's office and police holding cells.

The Council employs 3 dedicated solicitor posts, 3 administrative and 6 clerical staff. It is to be anticipated that there would be a TUPE transfer of these staff to the Scottish Courts Service.

With the caveats contained in the question, North Lanarkshire Council would have no objection in principle to the unification of the summary justice system under the auspices of the Scottish Court Service. Unification should provide consistency of training and funding throughout Scotland.

Q - Whether a national fines enforcement agency should be established.

R - It is acknowledged that if District Courts fell under the jurisdiction of the Scottish Courts Service, the question of the principle of setting up a national fines enforcement agency is largely academic for local government.

The collection of parking fines in default could usefully be passed to this agency given the understanding that it would possess innovative methods of enforcement.

If it is to be anticipated that the introduction of Community Wardens will bring the imposition of financial penalties by local authorities, it would be advantageous for the new agency to deal with defaults.

The Council's fines enforcement responsibilities were confined to the District court staff. If they were to transfer to the Scottish Courts Service, there would be no further implications for the Council.

Q - Whether there should be special prosecution arrangements for offences within local government's regulatory regimes.

R - If local authorities' responsibility for the administration of District courts were removed, an opportunity exists to examine the case for special prosecution arrangements. Further detailed consultation would be required. However, it is felt that COSLA should develop this proposal as suggested.