

## REPORT

To: CORPORATE SERVICES COMMITTEE		Subject: SUMMARY JUSTICE REFORM - UPDATE
From: HEAD OF LEGAL SERVICES		
Date: 23 November 2007	Ref: JM/MK	

### 1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to advise members of timescales for the implementation of proposals for the reform of summary justice and related matters.

### 2. BACKGROUND

- 2.1. Previous reports to meetings of the General Purposes Committee noted proposals for a number of changes to the system for delivery of summary justice in Scotland following the submission to Ministers of a report by a Committee chaired by Sheriff Principal John McInnes.
- 2.2. As previously noted the main changes affecting the interests of local authorities are:-
- establishment of Justice of the Peace Courts in place of District Courts.
  - reform of procedures for appointment and training of Justices.
  - unification of Courts administration under Scottish Court Service on a Sheriffdom basis.
  - creation of Fines Enforcement Officers under Scottish Court Service.
  - extension of range of alternatives to prosecution.
- 2.3. Primary legislation has been enacted and is contained in the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

### 3. REPORT

- 3.1. From the perspective of local authority "management" of District Courts, Scottish Court Service are now anticipating the following timetable for unification:-
- Lothian and Borders - 10 March 2008.
  - Grampian, Highland and Islands - 2 June 2008.
  - Glasgow - December 2008.
  - Tayside, Central and Fife - February 2009.
  - South Strathclyde, Dumfries and Galloway - June 2009.
  - North Strathclyde - October 2009.

3.2. Scottish Court Service advise that final recommendations on timescales will be submitted to the Cabinet Secretary for Justice once local key stakeholder working groups have had the opportunity to discuss issues and options relative to staff, buildings and services. Stakeholder working groups (otherwise referred to as "Court Unification working groups") for each of the Hamilton and Airdrie Sheriff Court areas have recently been convened by the respective Sheriff Clerks and the key stakeholders have been identified as:- (1) The Sheriff Clerk/District Court Clerk/manager and their staff (and local Trade Union representatives); (2) The judiciary - local Sheriffs and Justices; (3) Crown Office and Procurator Fiscal Service - local PF and staff; (4) Local faculty; (5) Local support services - social work, witness support, Reliance; and (6) Police.

3.3. The terms of reference of the Court Unification working groups are described by Scottish Court Service in the following terms:-

"The Court Unification working group will provide the key stakeholder input needed to plan for and implement unification. The group will be fully involved in the analysis and design needed to inform decisions on the most suitable model for providing the staff, buildings and services needed to support the speedy, efficient and effective operations of the Sheriff and Justice of the Peace Courts."

3.4. Scottish Court Service will produce a draft operational plan for the Courts within the Sheriffdom - both Sheriff and Justice of the Peace - in July 2008 and this will be fully scrutinised within the authority to ensure that the plan is both fit for purpose for delivering a summary justice service and cognisant of our interests in relation to staff and property.

3.5. From the perspective of Justices of the Peace, 31 bench-serving Justices from North Lanarkshire have accepted appointment under the new arrangements and 5-year fixed term contracts will commence on 10 December 2007. All other Justices of the Peace will demit commission on 10 December 2007. New Sheriffdom-wide Committees for appointment, training and appraisal have now been appointed and they also will become operational in December 2007. North Lanarkshire Council will continue to provide full support to Justices of the Peace in respect of legal advice in Court, delivery of training for Justices and any secretarial support and legal advice required by the local Justices Committee. It is anticipated that these activities will continue until full unification takes place.

3.6. There is one further provision contained within the Summary Justice Reform programme which is worthy of note. From 10 December 2007 elected members of local authorities will be able to sign some categories of personal and family documents as "member of a local authority", in lieu of former Justices of the Peace who are demitting office.

3.7. The documents likely to be presented to elected members for signing are typically:-

- The taking of declarations (which involves the taking and authenticating by signature any written declaration).

Examples of this would be counter-signing declarations in relation to lost Insurance Policies, changes of names on Birth Certificates, declarations in relation to second marriage ceremonies, declarations in relation to companies and declarations in relation to emigration.

- Authenticating signatures (which involves signing any document for the purpose of authenticating another person's signature).

- Giving Certificates (which involves giving a signed Certificate of Facts within the member's knowledge or the member's opinion as to any matter).

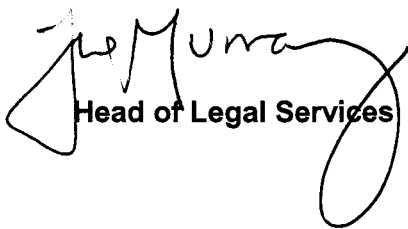
Examples of this would be Passport Applications, Driving Licence Applications or Applications for a Shotgun and Firearms Certificate - which require a personal knowledge of the Applicant on the part of the member.

These signing duties and powers available to elected members do not extend to putting someone on oath, nor do they extend to taking Affidavits or signing Warrants.

- 3.8. The Scottish Government have indicated that a guidance booklet will be issued for the use of elected members.

#### 4. **RECOMMENDATION**

- 4.1. The Committee is asked to note the terms of this report.



**Head of Legal Services**

*Members seeking further information on the contents of this report should contact Mitch Kerr, Chief Solicitor (District Courts & Licensing) on Ext. 2371.*