The Committee will meet at 10.00 am in Committee Room 1 to consider the following agenda items:

1. **Antisocial Behaviour etc. (Scotland) Bill:** The Committee will take evidence on the Bill’s Financial Memorandum from—
   
   Alistair McIntosh, Head of Antisocial Behaviour Division; Michael Kellet, Antisocial Behaviour Bill Team Leader; Rachael Gwyon, Head of Youth Justice and Children's Hearing Division and Bill Baron, Head of Police Regulations and Resource Branch, Scottish Executive

2. **Local Governance (Scotland) Bill:** The Committee will take evidence on the Bill’s Financial Memorandum from—

   Andrew Rushworth, Head of Local Government Constitution and Finance Division and Sarah Morrell, Local Democracy Team Leader, Scottish Executive

3. **Scottish Water (in private):** The Committee will consider a draft report by its reporters as part of the Committee’s investigation into Scottish Water.

   Susan Duffy  
   Clerk to the Committee
The papers for this meeting are:

**Agenda Item 1**

Paper by the Clerk – Written Evidence

PRIVATE PAPER

**Agenda Item 2**

Paper by the Clerk – Written Evidence

PRIVATE PAPER

**Agenda Item 3**

PRIVATE PAPER – to follow
1. In order to assist the Committee in its consideration of the Financial Memorandum of the Antisocial Behaviour etc. (Scotland) Bill, written submissions have been received from the following organisations:

Scottish Legal Aid Board (SLAB)
Association of Chief Police Officers in Scotland (ACPOS)
Scottish Federation of Housing Associations (SFHA)
Scottish Children’s Reporter Administration (SCRA)
Shelter
Crown Office and Procurator Fiscal’s Office (COPFS)
Scottish Churches Social Inclusion Network
Scottish Court Service (SCS)
Scottish Executive Officials
Convention of Scottish Local Authorities (COSLA)

2. The Committee is invited to consider these submissions.

Emma Berry
January 2004
SUBMISSION FROM THE SCOTTISH LEGAL AID BOARD (SLAB)

INTRODUCTION

The Scottish Legal Aid Board (“the Board”) welcomes the opportunity to submit written evidence regarding the general principles of the Bill and its Financial Memorandum. The Board’s response is limited to discussing the legal aid implications of the Bill, and, in particular, cost implications for the Scottish Legal Aid Fund (“the Fund”).

RESPONSE

1. General
   The measures in the Bill would appear to interact with the Vulnerable Witnesses Bill, which could significantly increase the cost of legal aid for civil, criminal and children’s referral proceedings. Citizens who have been affected by anti-social behaviour may well fall within the wide definition of a vulnerable witness. Children are automatically defined as vulnerable witnesses. It is not clear if the costings in the Financial Memorandum have taken the cost implications of special measures into account. The comments below are all subject to additional cost which may arise from the Vulnerable Witnesses Bill.

2. Anti-Social Behaviour Orders (ASBOs)
   The estimate appears reasonable and sufficiently flexible to cover both civil legal aid and any associated advice and assistance costs.

   However, given that there may be onward referral to a children’s hearing there could be further advice and assistance in respect of children’s hearings proceedings. There may also be proceedings before the Sheriff on appeal from the children’s panel regarding any supervision requirement imposed by the children’s hearing. Children’s legal aid would be granted by the Sheriff for such proceedings. Those grants of legal aid could be made to the children concerned, as well as their parents and other relevant persons. This has the potential for much higher costs being incurred. 50 to 100 cases could cost the Fund a further £80,000 to £160,000. Those costs have not been included in the Financial Memorandum.

   Finally, there will be advice and assistance and criminal legal aid costs arising from any criminal proceedings for breaches of ABSOs. Unless there are large numbers of cases, the additional cost to the Fund is likely to be minimal.

3. Closure of premises
   No costings are given in the Financial Memorandum in respect of legal aid for closure orders. However, the cost of between 10 and 30 grants of civil legal aid, with associated advice and assistance, would lie between £15,000 and £48,000.

   Contravention of a closure order is a criminal offence, which could give rise to further costs under both advice and assistance and criminal legal aid. However, the additional costs are likely to be minimal.

4. Housing: anti-social behaviour notices
The Bill proposes various sanctions against landlords in relation to anti-social tenants. Those sanctions include the Sheriff depriving the landlord of rental income. There could be some landlords who are financially eligible for advice and assistance, in which case there could be a small additional cost to the Fund.

Non compliance with an anti-social behaviour notice is a criminal offence, in which case there could be further cost to the Fund through advice and assistance or criminal legal aid. However, the additional costs are likely to be minimal.

5. Housing: registration
Whilst it may be that many landlords would be financially ineligible for advice and assistance and civil or criminal legal aid, it is possible that some may still qualify financially. There could be costs to the Fund in respect of advice and assistance, civil legal aid for appeals to the Sheriff, and criminal legal aid where criminal proceedings are raised against a landlord.

6. Parenting orders
The estimate for the costs of proceedings before the Sheriff is reasonable and sufficiently flexible to cover civil legal aid and any associated advice and assistance costs.

However, there may also be a cost to the Fund in relation to appeals to the Sheriff Principal and Court of Session. This will affect both civil legal aid and advice and assistance. It can be envisaged that there will be at least some orders challenged, particularly in the early implementation period.

Furthermore, there may also be costs in respect of criminal legal assistance where parenting orders are breached.

7. Restriction of liberty orders (RLOs)
There will be a legal aid cost if RLOs are breached by the offender. ABWOR is available for proceedings in relation to the variation, revocation or failure to comply with requirements of a restriction of liberty order. The Financial Memorandum estimates there will be 80 RLOs granted in any year. If all 80 resulted in breach proceedings, this could cost the Fund a further £21,000.

8. Children’s hearings: electronic tagging
A children’s hearing will also be entitled to impose electronic tagging as a supervision requirement. The Financial Memorandum does not provide any legal aid cost for this, but estimates that representation by legally qualified curators will cost up to £100,000 per year.

It can be envisaged that children, parents and other relevant persons will seek advice and assistance on these matters, and that there will be at least some appeals to the Sheriff against the imposition of a supervision requirement, for which children’s legal aid would be available. The Financial Memorandum does not estimate the number of cases which would be affected.
We assume that any additional work undertaken by curators or safeguarders, before the children’s hearing or the Sheriff, will be met by Local Authorities, and not passed onto the Fund through advice and assistance or children’s legal aid.

CONCLUSION

As discussed above, the package of measures in the Bill has a number of financial implications for the Scottish Legal Aid Fund, in respect of civil, children’s and criminal proceedings. The additional costs quantified by the Board are summarised in the table in the appendix to these submissions. The Board is happy to assist the Committee with any further information it may require.

APPENDIX: TABLE SHOWING ADDITIONAL IDENTIFIED COSTS

<table>
<thead>
<tr>
<th>MEASURE</th>
<th>CIVIL LEGAL ASSISTANCE</th>
<th>CHILDREN’S LEGAL ASSISTANCE</th>
<th>ABWOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBOs</td>
<td></td>
<td>£80,000 - £160,000</td>
<td></td>
</tr>
<tr>
<td>CLOSURE OF PREMISES</td>
<td>£15,000 to £48,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RLOs</td>
<td></td>
<td></td>
<td>£21,000</td>
</tr>
</tbody>
</table>
SUBMISSION FROM THE ASSOCIATION OF CHIEF POLICE OFFICERS IN SCOTLAND (ACPOS)

I refer to your correspondence of 11 December 2003 with enclosures relative to the above, and forward the following for your information and consideration.

At the outset it was noted that the Bill will introduce a number of new requirements on the Police Service and other partners and to help deliver such demands the Executive is making significant new resources available over the next two years.

A significant amount of police time is concerned with offences, which come under the heading of ‘antisocial behaviour’ such as vandalism, youth disorder, public disorder, minor assault and breach of the police.

As far as the specific activities outlined in the Bill are concerned the following observations were expressed and deemed worthy of consideration.

Part 1 – Antisocial Behaviour Strategies
This will clearly involve an extra commitment from local police managers but should be seen as a mainstream activity that is difficult to separate our from routine partnership working.

Part 2 - Anti Social Behaviour Orders
Although still very much in the early stages it is understood most Local Authorities have or are considering the establishment of Anti Social Behaviour Units. The success of the units will clearly depend on strong multi agency support and therefore in most areas the secondment of a Police Officer has been identified as crucial and something which the service would support.

It is believed that some Local Authorities had budgeted for this and as such the costs were included in earlier bids to the ‘Building Strong Safe Communities’ fund. However this is not the case for all and whilst unable at this time to be more specific, some officer secondments will be covered by mainstream budgets. Based on one officer per Local Authority the total estimated cost would be £960,000 although any amounts already bid for under the “Building Strong Safe Communities” fund would need to be deducted from this sum.

Seconded officers will also require specific training and this should be provided very soon. Eventually general training will be incorporated into probationer courses, but in the interim additional training is required for all officers. An example of staffing / training costs provided by Strathclyde Police are

Staff Costs (based on 12 Local authorities) - £360,000 per annum
Training Costs – estimated at £50,000

Total Non-recurring Costs: £50,000
Total Recurring Costs: £360,000
Obviously all forces will have differing commitments, which will require to be costed on an in-depth individual basis, however based on Strathclyde’s figures the estimated costs for the Service would be in the region of:

Total Non-recurring Costs: £110,000
Total Recurring Costs: £960,000

Part 3 – Dispersal of Groups
The Bill identifies that the only extra costs are expected to be associated with advertising the proposed use of the power and seems to be very marginal.

Part 4 – Closure of Premises
It is recognised there is the potential for substantial legal costs in this area and the Bill is vague as to whether the Police or the Local Authority should be responsible for meeting them. There may also be costs in mobilising the necessary resources to implement the closure of certain types of premises. It is recommended these costs are clearly deemed to be the responsibility of the local authority to ensure clarity and avoid unnecessary substantial costs being met from existing police revenue budgets.

Part 5 – Noise Nuisance
There is a potential for saving to be made, as it may be easier to process an offender by way of a Fixed Penalty Notice rather than by a summoning report. However the availability of EHO’s is likely to vary widely across force areas with many unable to offer a 24/7 service.

Part 6 – The Environment
It is felt there is likely to be minimal police activity in issuing Fixed Penalty Notices in respect of this type of offence.

Part 7 – Anti Social Behaviour Notices
It is anticipated that the officers seconded to the Local authority Housing Department will be responsible for any administrative actions in this area.

Part 8 – Housing: Registration Areas
Part 9 – Parenting Orders
Part 10 – Further Criminal Measure
There is no mention of police involvement in these sections.

Part 11 - Fixed Penalties
The FPN system has been piloted in England and Wales and the West Midlands, one of the pilot areas is similar to Strathclyde, both in population and available resources.

During the first six months of the project, officers in West Midlands issued 1,854 Penalty Notices for Disorder for crimes such as threatening behaviour, drinking in a designated public place, being drunk in a highway and throwing fireworks.

Whilst statistics are unavailable it is worth noting that many offenders would still have to be apprehended, processed and offered the PND at point of release. Nor is any
information available as to the likely numbers of offenders who will fail to pay fined and ultimately be processed in the criminal system. Again this will impact on the Service, with officers being required to submit reports, on occasions and execute warrants.

Although Fixed Penalty Notices are used as an alternative to prosecution they still place considerable demands on the Police Service. Initially notices would not be offered to offenders who are drunk or likely to become violent or refuse to cooperate. Nor would they apply where an offender’s identity cannot be confirmed for any reason, something, which has to be considered given the urban areas policed in our towns.

The Executive suggests that their use reduces the need for the submission of full police reports and frees up police resources, however experience has shown that this is not always the case. In fact when Conditional Offers and the Vehicle Defect Rectification Scheme were introduced to deal with road safety and traffic offences, the workload of officers actually increased, the additional spare time being put to good use to self generate additional work.

In addition resources required to be identified to complete administration tasks associated with notices and to date the work is undertaken by officers within Divisional / Department Administration and Support Units. Present indications are that one officer day per week is being spent to complete this administration, and this will likely double with the introduction of the new FPN's.

An analysis carried out by Strathclyde Police found that multiplied across their nine territorial divisions, in real terms this would mean that 468 additional working days could be required for the force to meet the administrative demands of an FPN system. The costing of same would be

Training Costs – Included in ASBO costs
Staff Costs (based on 9 territorial divisions) £38,000
Printing Notices £10,000
Computer hardware £10,000
IT software £5,000
Total Non recurring Costs £15,000
Total recurring Costs £48,000

Again this would be replicated across all forces to a greater or lesser degree but in the absence of detailed costings per force, based on the Strathclyde figures, the estimated cost to the Service could be in the region of:

Total Non-recurring Costs: £35,000
Total recurring Costs: £105,000

Part 12 – Children’s Hearings
There is no mention of possible police involvement if the police detain a young person, who is in breach of a Restriction of Liberty Order. There may be the extra burden of returning young people to residential homes, often on a repeat basis.
As previously stated a significant amount of police time is spent dealing with offences, which come under the heading of ‘anti social behaviour’. In an effort to cost same Lothian & Borders Police carried out a costing exercise which provided the following figures:

<table>
<thead>
<tr>
<th>Type of Offence</th>
<th>Time in hrs/ 3 wk Analysis period</th>
<th>Average Time in hrs / 1wk</th>
<th>Time in hrs p.a.</th>
<th>Cost pa @ £17.00 per hr*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vandalism</td>
<td>1819.25</td>
<td>606</td>
<td>31512</td>
<td>£535,704</td>
</tr>
<tr>
<td>Youth Disorder</td>
<td>1433</td>
<td>478</td>
<td>24856</td>
<td>£422,552</td>
</tr>
<tr>
<td>Public Disorder</td>
<td>1177</td>
<td>392</td>
<td>20384</td>
<td>£346,528</td>
</tr>
<tr>
<td>Minor Assault &amp; BoP</td>
<td>5914.25</td>
<td>1971</td>
<td>102492</td>
<td>£1,742,364</td>
</tr>
<tr>
<td>TOTAL</td>
<td>10343.5*</td>
<td>3447</td>
<td>179244</td>
<td>£3,047,148</td>
</tr>
</tbody>
</table>

* Figure used is salary costs per hour of a Constable. This takes no account of involvement of higher ranks and the associated support costs. The total of 10343.5 hours amounts to 6.6% of the total of 155640 that were counted during the activity analysis exercise.

Other Burdens and Costs

There are, as stated, many other sections of the Bill, which will place further burdens and costs on the Police Service, but unfortunately these cannot be ascertained at this time. Some examples include the following:

Legal services costs in seeking Closure Orders
Advertising costs associated with publication of dispersal areas
Information sharing costs – staff interrogating Command and Control and Crime Management systems / preparation, auditing and delivery of reports
Enforcement of ASBO’s

Notwithstanding if the Scottish Police Service is to make a bid for extra funding to implement the new legislation then it is imperative that an activity analysis be undertaken using compatible data.

However based on preliminary information provided by one force it is estimated that the additional cost to the Service could be in the region of £2.2 million. This estimate excludes the estimated cost of time spent dealing with ‘anti social behaviour as provided by Lothian & Borders and also any additional costs for tasks listed under “Other Burdens and Costs” above.

David Strang
Chief Constable, Dumfries and Galloway Police
SUBMISSION FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS (SFHA)

Introduction
The Scottish Federation of Housing Associations (SFHA) welcomes the opportunity to comment upon the cost of implementing the provisions within the proposed Bill. SFHA is the representative body for Scottish housing associations and has over two hundred affiliate members who manage approximately 12% of the housing stock. The Federation has worked with the Scottish Executive on a range of housing policy and legislative matters including this particular Bill. Our members deal with the effects of anti social behaviour on communities on a daily basis and often have to manage conflict between both victims and perpetrators. Therefore the Federation is keen to ensure that their interests and more importantly, those of housing association tenants are represented.

General comments
Anti social behaviour is a serious blight on some of our communities and the Federation supports a coherent strategic approach to the issue. The SFHA strongly believes that if adequate funding is not made available for delivering anti social behaviour strategies then the effectiveness of the legislation will be seriously compromised. Since the responsibility for the implementation of the Bill mainly rests with local authorities SFHA will confine its comments to those sections of the Bill that will have direct cost implications for housing associations. The Federation is particularly concerned about the process of obtaining Anti Social Behaviour Orders (ASBOs).

Anti Social Behaviour Orders – Current system
At the time that the Crime and Disorder Act 1998 first introduced ASBOs there was no funding provision in the Act for the additional costs incurred by local authorities for applying for the Orders on behalf of private landlords, owners and housing associations. Housing associations have been able to apply for ASBOs since June 2003, prior to that they had to apply for them through the local authority thereby placing much of the financial burden on local authorities. Those of our members who did apply for an ASBO at that time often carried the costs of instructing a solicitor and preparing a case, which was then handed over to the local authority. The Criminal Justice Act, 2003 introduced an amendment that enabled housing associations to apply for ASBOs in their own right and SFHA welcomed the changes that enabled housing associations to apply for ASBOs directly. Unfortunately, there was no provision made for funding the cost of obtaining ASBOs and tenants’ rents are expected to cover the costs involved. Private tenants and owners benefit from the local authority’s duty to apply for ASBOs and the cost is generally covered through council tax. Housing association tenants also pay council tax as well as rent (the latter is calculated on the basis of increased management costs associated with dealing with anti social behaviour including applying for ASBOs). The Federation is of the opinion that this is inherently unfair as this meant that those tenants are paying twice for a service - through their rents and through Council tax. Housing associations have little option but to pass on the cost through rent increases as rents are their sole source of income.
ASBOs – new proposals

The current proposals will not only extend the right to apply for ASBOs against anyone over twelve years old but will also introduce interim ASBOs. The Federation understands that the Executive is only prepared to fund new duties rather than new powers and it states that it will be the responsibility of local authorities and housing associations to meet the costs of applying for ASBOs. The Bill introduces an extended power rather than a duty thereby allegedly creating a wider range of options for landlords. In fact, housing associations do not have access to the whole range of options and are often limited to raising eviction action. Our members use eviction as a last resort and will now be able to opt for an ASBO and only move to eviction if an ASBO proves ineffective. The guidance relating to ASBOs instructs sheriffs to consider whether it would be reasonable to grant a repossession order if a landlord has not applied for an ASBO first. It is the Federation’s view that rightly there will be an increasing expectation that social landlords should apply for an ASBO before seeking a repossession order.

However, the use of the range of alternatives such as mediation, ASBOs etc will be costly and could still result in eviction actions being raised. Our members will have to pass that cost onto tenants through their rents since that is the association’s only source of income. This will make the challenge of keeping rents affordable even more difficult.

There appears to be an assumption that since housing association tenants will benefit from curbing anti-social behaviour it is appropriate that their landlords should carry the cost. However, everyone in the community would benefit so it seems unfair that housing association and local authority tenants should bear the brunt of the cost. As noted earlier there is also the likelihood that those tenants will pay twice; through increased rent and through council tax. The Federation urges the Committee to consider how the costs of applying the range of possible solutions could be met more equitably.

At present housing association tenants carry the running costs of CCTV, mediation, investigation, legal and administrative costs associated with legal action regardless of whether it is an ASBO, interdict, or repossession. The average cost of raising an action for an ASBO is £2000 and the cost can range from £500 - £6,500. A repossession action costs similar amounts. The whole range of options presents a significant additional cost which at present is only able to be met through rents. It is worth noting that housing associations often bear the cost of non housing related anti-social behaviour interventions eg contributions to CCTV are often a benefit to the wider community rather than the specific housing association. The Federation is of the view that the Executive should provide a fund for registered social landlords to access to support these activities otherwise a strategic approach to addressing anti-social behaviour may be jeopardised. Local authorities are able to access funding for a range of measures designed to address anti-social behaviour including community wardens, mediation etc. Housing association tenants will have to rely on the local authority delivering a comprehensive enough service to address problems in their area. This may not always be possible and may become a source of contention if a local authority is perceived to be delivering a better service to its own tenants.

---

1 Section 261 of the Explanatory notes relating to the Anti Social Behaviour etc (Scotland) Bill.
It is the Executive’s view\textsuperscript{2} that wider use of ASBOs will benefit both individuals and businesses by making communities safer and more attractive to businesses. This may be true in the long term but is not a situation that will happen overnight. If housing associations are to tackle anti social behaviour directly and to assist in a strategic approach they must be financially supported.

Conclusion
SFHA welcomes the Executive’s intention to produce a coherent and strategic approach to anti social behaviour. In order to deliver such a strategy it is vital that all the elements of the strategy are adequately funded. The Executive has identified funding for most aspects of the strategy and the Federation is of the view that other agencies are more appropriately placed to comment on the detail of those proposals. However, SFHA is concerned that our members will be forced to cover the costs of certain remedies while others such as owner occupiers will get a free service. The Federation recommends that funding is made available to housing associations to support the processing of ASBOs.

\footnote{\textsuperscript{2} Section 267 of the Explanatory notes relating to the Anti Social Behaviour etc (Scotland) Bill.}
SUBMISSION FROM THE SCOTTISH CHILDREN’S REPORTER ADMINISTRATION (SCRA)

Thank you for your letter of 11 December, in which you set out some additional information required from SCRA by the Finance Committee. My initial response is outlined below.

Impact on SCRA’s workload
The main impacts on our workload will be as follows:
Consultation with the reporter (£15k) – this will arise from local authorities applying for ASBOs, from the Sheriff before granting an ASBO, from discussions with Procurators Fiscal about the breach of an ASBO and from local authorities applying for Parenting Orders;
Parenting Orders (£175k) – this will arise from preparation for applications by the Principal Reporter for a Parenting Order and court representation;
Enforcement of Supervision Requirements (£35k) – this will arise from preparation for applications by the Principal Reporter for enforcement and court representation

One-off costs
The main one-off cost for SCRA will be investment in information systems. This is estimated at approximately £300k in 2004/05 for all new legislative changes including ASB and Vulnerable Witnesses.

Number of intensive support programmes
The expected number of 600-700 young people in need of intensive support programmes is based on the number of young people in the 10+ offences category as reported in SCRA’s 2001-02 Annual Report. The figure in the report is 797 but this was adjusted downwards by the Scottish Executive to reflect the anticipated impact of additional youth justice resources for local authorities on the number of young people requiring this kind of support. In relation to the costs of these programmes, SCRA does not have access to the detailed information which it is assumed CoSLA will use to inform their submission.

Costs of Panel Member training
SCRA understands that the projected costs for Panel Member training prepared by the Scottish Executive were based on recent costs for Fast Track hearings training. Anti-social behaviour training will be more complex than Fast Track, although when this is combined with other planned training events economies of scale will be achieved. The Scottish Executive will hold more detailed information on costings relating to Panel Member training.

I hope this information is helpful. Please do not hesitate to contact me if you require any further information or clarification on the above.

Ed Morrison
Director of Finance
SUBMISSION FROM SHELTER SCOTLAND

This written evidence to the Finance Committee sets out Shelter Scotland's concerns about the Financial Memorandum of the Antisocial Behaviour (Scotland) Bill. Shelter supports the government's starting point; that antisocial behaviour needs to be tackled for the sake of our communities. Our concern about the bill is the potential for an increase in homelessness in Scotland, and the impact on service provision on the ground.

Shelter echoes the concerns voiced by COSLA when giving oral evidence on the 9th December 2003 regarding a general lack of clarity on how £65million set aside to tackle antisocial behaviour will be allocated. The Financial Memorandum proposes that the bill will cost £35 million. It leaves a remainder of £30million for non-legal remedies, though this may already have been allocated for Community-Based Initiatives, as announced last year. If this is the case, there are no funds for taking forward other elements of the government's strategy. This would suggest that organisations like Shelter have been correct to voice our concerns that the government is only interested in legal responses to antisocial behaviour. Given that antisocial behaviour is a flagship policy for this government, Shelter is disappointed at the lack of focus by the Scottish Executive on the resource dimension of implementation.

In addition to the lack of clarity regarding levels of funding, we are also concerned that antisocial behaviour will only receive funding for the short term. Parliament should seek a commitment from the Scottish Executive that funding will continue at similar levels beyond 2006. Anything less than this would suggest that the government takes a short-term approach to the problem, rather than implementing sustainable solutions that Shelter believes is crucial to tackle antisocial behaviour. Service providers will struggle to manage legal and non-legal initiatives to tackle antisocial behaviour if there is no knowledge of funding levels beyond 2006. A lack of clarity about resources and a sense that the government is not providing long-term solutions will have a damaging impact on implementation of the bill and the government's strategy.

This lack of clarity extends to the area of support. Many of the measures in the bill will require additional support for individuals. Shelter believes that these solutions must be sustainable, so the provision of support can often be expensive over a long period of time. Shelter has a support project in Edinburgh, Glasgow and South Lanarkshire. Each of our projects is working to capacity; such is the level of need for tenancy sustainment support in Scotland. The current ambiguities around the level of funding being spent by each local authority on Supporting People hampers any attempts to gauge whether sufficient support is available in Scotland. Insufficient support will put implementation of the bill at risk. Shelter hopes that the Finance Committee will request information that clarifies current funding levels under Supporting People.

Shelter has concerns regarding the potential of the bill to increase levels of homelessness in Scotland. The bill proposes the extension of ASBOs to under-16s. However, the Housing (Scotland) Act 2001, established a link between ASBOs and security of tenure. Any individual who is served with an ASBO will in turn have their
tenancy demoted to a less secure tenancy called the Short Scottish Secure Tenancy. Under this tenancy, a landlord can evict a tenant without proving grounds to a sheriff. Members of the legal profession have contacted Shelter on this issue. They are concerned at the potential for local authorities to serve ASBOs more readily because it is easier to secure an eviction. This is a serious concern, as any rise in evictions in Scotland will lead to increased homelessness. This will in turn place greater financial demands on local authorities and other service providers. The potential for increased homelessness is not recognised in the Financial Memorandum of the bill. Shelter’s experience is that it is much more cost-effective to sustain families in housing than to cause homelessness.

The bill will impact significantly on service provision across Scotland. The provisions in the bill will result in a greater demand for advice, information and advocacy from service providers, including local authority housing offices. Resources to match this demand are not set out in the Financial Memorandum.

Finally it is unclear how some figures in the financial memorandum were calculated. For example, in paragraph 248, there is no indication of how the estimated figure of 50 applications for ASBOs for under-16s was arrived at. Similarly, it is not clear from the Financial Memorandum how the government determines that 20 landlords will not heed the threat of sanctions under Part 7 of the act. Shelter is very concerned at the level of ‘guesstimation’ in the Financial Memorandum. It is impossible to tell from the Financial Memorandum how many people the bill will impact on. This lack of clarity could impact on the finances required to implement the bill, and ultimately on the effectiveness of the bill, and how well antisocial behaviour is tackled in Scotland.

Given the limited resources of £65 million, there is a potential for non-legal measures to lose out financially, despite their proven successes. If the bill turns out to be more expensive that originally planned because of a lack of transparency around financing the bill, non-legal measures will suffer.
SUBMISSION FROM THE CROWN OFFICE AND PROCURATOR FISCAL’S OFFICE (COPFS)

I refer to your letter of 26 November 2003 inviting COPFS to submit written evidence on the Financial Memorandum to assist the Finance Committee in their consideration of it.

COPFS have liaised regularly with the Bill Team in the course of preparation of the Financial Memorandum. Assuming policy objectives are achieved in the implementation of the Bill, we anticipate that the Department will be able to absorb any minimal costs which may be incurred. We are content that this is reflected in the terms of the Memorandum.

Particularly with respect to Part 11 of the Bill which covers fixed penalty notices, the Financial Memorandum sets out the intention to pilot the scheme before it is rolled out nationally, and that this in the long term may result in savings for the police, the courts and COPFS. Obviously this refers only to potential savings and is a matter which would be closely monitored in the course of any pilot and subsequent evaluation.

I hope this information is of assistance to the Committee.

Norman McFadyen
Crown Agent
SUBMISSION FROM THE SCOTTISH CHURCHES SOCIAL INCLUSION NETWORK

On the initiative of the Scottish Churches Social Inclusion Network, a Consultation Meeting on the "Putting Our Communities First" proposals was held at Scottish Churches Parliamentary Office on 26 August 2003; Michael Kellett, Bill Team Manager in the Scottish Executive's Anti-Social Behaviour Unit made a presentation on the proposals and responded to questions.

Those attending were drawn from a range of churches and church agencies involved in working across Scotland's communities, including representatives of: Aberlour Child Care Trust; Action of Churches Together in Scotland; Baptist Union of Scotland; Bethany Christian Trust; Catholic Church - Justice & Peace Commission and Parliamentary Office; Church of Scotland - Board of Social Responsibility and Church & Nation Committee; Evangelical Alliance; Free Church of Scotland; Salvation Army; Scottish Churches Parliamentary Office; Society of Friends (Quakers) and Quakers Social Inclusion Board; United Reformed Church; and YMCA Scotland.

A summary of points made during that discussion was submitted to the Executive as part of that consultation exercise, in addition to submissions being made directly by many of the participating groups. A further meeting of Network members on 18 November considered the Antisocial Behaviour etc (Scotland) Bill, in light of the concerns expressed at the earlier meeting. These concerns, updated in light of the Bill, were submitted to the Communities Committee, and representatives of the Network met with that Committee in an informal evidence session in November.

With regard to finance, our submission was as follows:

While the consultation took place in a resource vacuum, we welcome the recent announcements on funding (as outlined in the Financial Memorandum). However, we remain concerned to ensure that (a) councils should not be given new duties without adequate funding and (b) existing services (especially police and social work) must have the increased funding which would, we believe, enable them to plug many of the current gaps in the system. Resources for supporting people who are or are at risk of becoming anti-social tenants are crucial, yet the "supporting people" budget is currently oversubscribed. We are not in a position to assess the adequacy of the promised funding, but we would urge the Committee to recommend rejection of the Bill unless you are confident that the promised funding is adequate to achieve its objectives and will be sustained beyond the two years mentioned in the Memorandum.

We welcome the invitation of the Finance Committee to contribute to your consideration of the Financial Memorandum to the Bill.

While we still recognise that we are not in a position to assess the adequacy of the promised funding for the tasks set down, we remain concerned in these respects:

1. Current problems in relation to funding of services aimed at supporting people who might be at risk of becoming anti-social tenants. The basis for this is in research carried out by the Scottish Council for the Single Homeless, available on their website www.scsh.co.uk, and reflected in an article in Community Care (appended); this shows "serious difficulties", with four out of five providers experiencing delays in payments and 40% receiving a lower than expected grant.
2. Current problems in provision of supervision services for children under the Children's Hearing system, as revealed in the Audit Scotland report "Dealing with Offending by Young People in Scotland" (of which we are sure you are aware). While these are partly the result of severe recruitment problems in social work, there are also resource problems underlying these difficulties.

Sections 268, 347, and 377 all speak of partnership with the voluntary sector (re ASBOs, Parenting Orders and supervision). In each case, the Memorandum says that "There should be no financial implications of this involvement for the voluntary sector as any costs are covered (mainly in allocations to local authorities)".

What we are saying is that these problems with existing service provision in this area – some of which we believe might well have a major contribution to make in tackling antisocial behaviour – go alongside chronic differences between central and local government about the cost of services to be provided locally, to give cause for concern that the funding currently promised will not be adequate for the task. We are aware that many of the most effective people-centred ways of tackling antisocial behaviour are costly, and that it is essential to the objectives of the Bill that the partnerships that will deliver existing and new services are fully funded.

Graham K Blount
Scottish Churches Social Inclusion Network Co-ordinator
Appendix

Communitycare.co.uk | Article

Up to half of all housing support services in Scotland have faced cash flow problems since the introduction of the Supporting People programme earlier this year, new research reveals.

A survey of Supporting People providers, published this week by the Scottish Council for Single Homeless (SCSH), reveals that four out of five providers experienced delays in payments and 40 per cent received a lower than expected grant.

The survey of 104 providers, who account for an estimated 11 per cent of all Supporting People spend in Scotland, also finds that one in five still had no contract in place by August 2003, four months after the programme was introduced.

Andrew Waugh, policy officer for SCSH and author of the report, said: "Cash flow problems are clearly a major headache for some providers, and these have been caused by delayed payments or smaller than expected payments from councils.

"Although there has been a welcome increase in overall funding for housing support services, there are clearly a number of serious difficulties. If we are to meet the objective of reducing homelessness substantially in Scotland, it is vital that support services are in place with their funding secured."

The Scottish executive has written to SCSH, expressing reservations about its findings. A spokesperson said: "It would be a pity if the goodwill which has been established among all parties working towards making the Supporting People project succeed were damaged as the result of the views of such a small, unrepresentative sample of housing support providers being given disproportionate coverage."

Supporting People is the new system of funding for supported housing providers. Local authorities allocate cash based on the amounts they are given by the Scottish executive.

- In Need of Support? from www.scsh.co.uk

Printed: 5 December 2003
SUBMISSION FROM SCOTTISH COURT SERVICE (SCS)

I refer to your letter of 26 November 2003, in which you invited the Scottish Court Service (SCS) to submit written evidence in respect of the Financial Memorandum to the Anti-Social Behaviour (Scotland) Bill.

As an Executive Agency of the Scottish Executive Justice Department, the SCS was involved in discussions with Scottish Executive officials during the preparation of the Financial Memorandum. Based on our experience of similar types of applications to the courts, we are content with the assumptions and estimates contained therein, insofar as they affect the Supreme and Sheriff Courts.

The estimates of the number of cases in each category which are likely to reach the courts were provided by Scottish Executive officials and represent a best estimate of the likely level of take up of the new legislation. The actual demand may vary from these figures. However, in our view sufficient margin has been made in the provision for the costs to the courts to accommodate any reasonable fluctuations and any increase in general court business arising out of the legislation and associated policy developments.

John Ewing
Chief Executive
SUBMISSION BY SCOTTISH EXECUTIVE OFFICIALS

Thank you for your letter of 17 December requesting further information about the Financial Memorandum on the Antisocial Behaviour etc. (Scotland) Bill. I apologise that we missed your deadline of 7 December because of the Christmas break.

You explained that the Committee would like more information about the cost estimates in the Financial Memorandum in relation to the police. As you know, the Financial Memorandum seeks to identify and estimate the direct resource implications for the police and other bodies involved in the implementation of provisions in the Bill.

Keeping communities safe and maintaining public order are core functions of every police force in Scotland. An ACPOS document ‘Policing Priorities for Scotland: 2003 to 2006’, issued in March 2003, makes clear that developing safer communities will remain the primary objective that drives policing policy.

There are no new duties for the police in the Anti Social Behaviour etc (Scotland) Bill. Instead, the Bill will provide the police and other agencies with new tools to deal with offending behaviour and, in so doing, sends a clear message to those who indulge in such behaviour and to their communities. We do not expect that the new powers proposed on closure of premises and on dispersal of groups will have significant resource implications. The police already have to deal with significant and persistent antisocial behaviour. These new measures will simply provide them with another tool by which to do so.

Moreover, as these measures are intended for use only in a minority of very serious cases, it is likely they will be used relatively rarely, where other measures have proved unsuccessful or insufficient.

Indeed, it could be argued that these measures could save police time in dealing with particular situations which in themselves are already resource intensive - for example being able to seal up, for up to six months, premises that have been the centre of serious and ongoing disturbance.

Similarly, the introduction of Fixed Penalty Notices for low level offences is intended, amongst other things, to reduce the amount of time police spend writing full reports under existing arrangements and enable police officers to resume operational duties more quickly after an incident.

As the Committee will be aware, the general budget for each police force is provided to police authorities and joint police boards by the Executive through Police Grant Aided Expenditure (GAE). The level of Police GAE is already at record levels and will rise by over 20% in 3 years, from £822m in 2002-03 to £1bn in 2005-06. Police officer numbers are also at record levels, and the increased funding will provide for further increases in officer numbers by 2005-06. In addition, the contracting out of prisoner escorting in 2004, and Best Value improvements including civilianisation of at least 250 police officer posts by 2006, will lead to further increases in the number of officers on operational duty in every Scottish force.
The funding provided for general policing is not directly linked to the tasks that police officers undertake. Nor do the Scottish Ministers dictate to Chief Constables how they should use the resources at their disposal to meet local needs and priorities. While forces are expected to meet national targets which underpin their core duties, it is for each Chief Constable to determine how to use the resources available to his force to cover all the duties of the force, including the enforcement of the law on antisocial behaviour.

I thought it might also be useful to the Committee in advance of official’s appearance before the Committee on 20 January to explain briefly the extra resources for tackling antisocial behaviour the Executive will make available over the next two financial years. As you will appreciate, it was not possible for us to present this detailed information in the Financial Memorandum.

Firstly, £60m has been allocated in 2004-6 to support local authorities and their community planning partners to tackle antisocial behaviour. The first £30m is intended to help local authorities set up community warden schemes and other community-based antisocial behaviour initiatives, such as mediation and victim support services. Proposals for the use of these funds are currently under consideration. The Committee may be interested to know that some local authorities have elected to use part of their allocations to fund the secondment of police officers to dedicated antisocial behaviour teams.

Ministers are still considering how the additional £30m announced will be allocated, based on the first round of proposals. However, we envisage that some of the funding will be available to put in place core services necessary to underpin the antisocial behaviour strategies that local authorities and the police are required to produce under the ASB Bill, while other elements will be available to develop and improve existing services. The requirement to involve the police and other community planning partners in the development of the strategy should ensure that the resources are used in ways best tailored to local needs.

Secondly, and as the Minister for Justice confirmed during the Youth Justice debate on 8 January, £35m is being made available in 2004-05 and 2005-06 to implement the youth justice elements of the Executive’s strategy to tackle antisocial behaviour. It will cover those elements of the strategy included in the Bill, such as programmes to support under 16s on ASBOs or subject to electronic monitoring, and those not requiring legislation, such as diversionary activity, restorative justice and the extension of the youth court pilot. I have attached separately a table detailing the allocation of the £35m.

I hope this information is helpful to the Committee. Please let me know if there is any further information we can provide before 20 January.

I am copying this letter to the Clerks to the Communities and Justice 2 Committees given their interest in the Bill.

MICHAEL KELLET
<table>
<thead>
<tr>
<th>Breakdown of £35M New Money for Youth Justice 2004-05</th>
<th>2005-06</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restorative Justice in the Hearings system</td>
<td>1.50</td>
<td>1.50</td>
</tr>
<tr>
<td>Programmes to support new measures</td>
<td>4.00</td>
<td>9.00</td>
</tr>
<tr>
<td>Costs for hearings system</td>
<td>0.32</td>
<td>0.15</td>
</tr>
<tr>
<td>Additional cost to SCRA</td>
<td>0.15</td>
<td>0.20</td>
</tr>
<tr>
<td>Information/support for victims</td>
<td>0.50</td>
<td>2.50</td>
</tr>
<tr>
<td>Implementation of National Standards1</td>
<td>1.50</td>
<td>1.50</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local diversionary activity2</td>
<td>5.00</td>
<td>1.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extension of youth court pilot3</td>
<td>1.20</td>
<td>1.20</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Reparation Orders</td>
<td>0.55</td>
<td>1.10</td>
</tr>
<tr>
<td>Court costs of new orders</td>
<td>0.27</td>
<td>0.57</td>
</tr>
<tr>
<td>Contingency money</td>
<td>0.01</td>
<td>1.32</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>15.00</td>
<td>20.00</td>
</tr>
</tbody>
</table>

Notes:

All of the £35m represents new money for agencies.
Figures shaded are those set out in Financial Memorandum to the Antisocial Behaviour etc. (Scotland) Bill.
Other figures = new announcement.
Figures in total column in bold and brackets = total funding for this work, including allocations from existing resources (see below).

1 In addition to existing national standards money - £500k in each year made available under youth crime action plan.
2 Money for local action fund supplemented in 2005-06 by £4m current unallocated youth justice money from Scottish Budget 2002. £10m for diversionary activity was announced in a Partnership for a BetterScotland.
3 In addition to existing youth court funding of £3.25m in 2004-05 and £3.9m in 2005-06.
SUBMISSION FROM COSLA

Further to COSLA’s oral evidence to the Finance Committee on Tuesday, 9 December on the Financial Memorandum to Anti-Social Behaviour etc (Scotland) Bill, we undertook to submit further written evidence on specific areas within the Memorandum where the Committee felt additional comments would be useful. This submission follows that up and provides direct responses to your letter of 11 December 2003. Each of the specific points set out in your letter of 11 December are answered in turn.

Are the estimated costs arising out of the duty to develop Anti-Social Behaviour Strategies adequate?

While COSLA accepts that there is scope for utilising existing staffing and other resources to meet this new duty, the general view within local government is that the allocation within the Financial Memorandum is well below the ‘going rate’ for other strategies (e.g. homelessness), and in some smaller councils, would have very little impact in terms of providing additional capacity.

Your views on the estimated use of ASBOs for 12–15 years – do you think this is reasonable, and if not, do you expect the actual number to be higher or lower?

COSLA does not believe it is possible to predict with any certainty the future usage of ASBOs for under 16 year olds. The Chartered Institute of Housing report Tackling Anti-Social Behaviour: The Use of ASBOs in Scotland (October 2003), (www.cih.org/home_scotland/resproject013.pdf) details the numbers of adult ASBOs both applied for and granted since their introduction. Given that over a four-year period from 1999-2003 a total of 226 ASBOs were granted and 368 ASBO applications made to Sheriff Courts, it would appear that a prediction of 100 ASBOs for 12-15 year olds per year is unlikely to be exceeded, and if anything, represents an over-estimate of their likely usage.

How reasonable are the costs identified relating to applying for ASBOs and will they be sufficient to cover the required supporting programmes? Margarita Morrison undertook to supply information on case studies of the cost calculations for current ASBOs. These would be welcome.

Please see separate paper on the cost of ASBOs, which is based around two case studies from City of Edinburgh Council. The key points that COSLA wishes to emphasise on the costs of ASBOs are:

The circumstances of each case are different, which means that costs can vary hugely.
The greatest single cost relates to solicitors’ time, hence whether a case is defended or not is the single greatest determinant of the overall cost of a particular ASBO application.

The case studies outlined are therefore not intended to represent ‘typical’ or ‘average’ costs, but are designed to highlight the component costs and variables that
determine the overall cost of an ASBO. Some ASBO applications are straightforward and result in relatively modest costs to local authorities. Others are much more complex and can lead to authorities incurring costs of upwards of £20,000.

**Why are these costs only set out for up to 2005-06?**

This is a question for the Scottish Executive to answer. However, COSLA’s understanding is that Ministers’ intention is to build provision for the longer-term funding for anti-social behaviour into the Spending Review 2004, which will inform budgets for the financial year 2006-07 onwards. In the longer-term, the provisions of the Bill and implementation of Anti Social Behaviour Strategies will have financial implications beyond the two year period for which funding has been allocated. From COSLA’s perspective, it is therefore vital that a continuing and flexible long term funding mechanism is established which will support strategic implementation on an ongoing basis.

**Fergus Ewing asked how many ASBOs have been sought by each local authority to date and the costs for both successful and unsuccessful applications.**

Please see the above reference/web link to the CiH Scotland report on use of ASBOs and the separate paper on the costs of ASBO applications. The details set out therein highlight the various component costs of ASBOs that apply whether applications are successful or not and also stress the fact that each application is complex and unique, which makes cost generalisations difficult.

**Ron Lancashire estimated that there would be between 60 – 70 applications for intensive support programmes in a year. How was this estimate arrived at? How does this compare with the number of applications under the current legislation?**

In his evidence, Ron Lancashire was actually referring to the number of applications that Edinburgh City Council would have deal with, calculated on a pro-rata basis from the national figure presented in the Financial Memorandum. This refers to 600-700 requiring access to intensive support across Scotland.

It is for the Scottish Executive to explain its calculations on these national figures to the Committee. However, COSLA has no basis upon which to dispute the assumptions it makes and cannot provide an alternative estimate with any degree of confidence. In COSLA’s view, at this time the predictions contained within the Financial Memorandum appear reasonable.

COSLA cannot provide specific figures on current usage of intensive support programmes. However, we are aware that the number of intensive support programme places are very limited at present and that the Bill is intended to increase capacity in this area significantly over the period covered by the Financial Memorandum. The Scottish Executive may have specific figures on existing places that it could share with the Committee.
Is it expected that the Bill will increase the number of applications for over 16 years too?

There is no evidence base which would allow COSLA to predict with any degree of confidence the impact that the Bill will have on numbers of future adult ASBO applications. To provide a specific answer to this question would be inappropriate and potentially misleading.

Jeremy Purvis asked for comment on the number of full time staff local authorities will employ as a result of the Bill and whether this is comparable with the projections in the Financial Memorandum.

It is very difficult for COSLA to quantify in any degree of detail, the total overall staffing implications the Bill would have for local authorities. Our response on the noise (in which we accept the assumption of two EHOs per authority, but for all 32) and FPN provisions set out fairly specifically what we believe the staffing implications will be for local authorities in respect of those provisions. In relation to both, these exceed what is referred to in the Financial Memorandum. COSLA also takes the view that there will be some additional staffing required to implement the provisions related to Anti-Social Behaviour Strategies, although this is unlikely to exceed one member of staff per authority and in all probability will be lower than this.

It is more difficult to assess the potential staffing implications in relation to housing and social work services, since staff in those areas dealing with implementation of the Bill’s provisions will have more generic functions that go beyond anti-social behaviour. COSLA’s view however, is that the Bill will have staffing implications for social work in particular, where there is already a recruitment issue that is acknowledged by both COSLA and the Scottish Executive. Together, the provisions on CROs, intensive support programmes and (potentially) increased numbers of supervision orders arising from the extension of ASBOs to 12-15 year olds will mean an important and major additional workload to social work.

Will the £2.5m for the provisions relating to noise nuisance be adequate?

COSLA does not believe this figure is adequate. While it accepts the logic of the costs attributed proportionately to councils, the flaw is in the assumption that some local authorities will not use this power. We do not believe any council would choose to deny its residents this cover. Every member of the Society of Chief Environmental Health Officers for Scotland (SOCOEHS) envisages take-up, if not directly, then certainly in partnership with other authorities. Based on this assumption, COSLA believes that costs may be nearer to the full £3.84m.

Is the number of estimated fixed penalty notices for littering realistic?

COSLA has no difficulty with the estimated numbers of Fixed Penalty Notices. COSLA’s concern relates to the figure of £20,000 for implementation of these provisions. COSLA does not accept that existing officers have the capacity to concentrate on these new duties unless other work is put aside. If a major impact on littering and fly tipping is what is expected under the Bill, then a considerably higher
level of investment will be required to provide the necessary additional staff and transport.

COSLA believes that a more realistic estimate of the implementation costings will be £1,278,000. This is based upon the modest requirement of two junior staff and transport per council. Two staff are required for corroboration purposes under Scots Law, while transport will be necessary if they are to be able to cover the main ‘trouble spots’ across the council area. The total figure breaks down as:

32 x 2 staff at AP1 grade + 26% on-costs = £17,905 per officer; Scotland total of £1.15 million
Scotland total transport costs of £400,000

Your views on the estimated use of parenting orders – do you think this is reasonable, and if not, do you expect the actual number to be higher or lower? How reasonable are the costs identified relating to applying for parenting orders and will they be sufficient to cover the required supporting programmes?

In common with our response on intensive support programmes, COSLA has no firm evidence base upon which to challenge the Financial Memorandum’s assumptions about future numbers of Parenting Orders. It is a matter for the Executive to justify these assumptions to the Committee.

There is a general difficulty for COSLA in predicting at this point in time, what the future costs to local authorities will be for child welfare-related provisions within the Bill. This is due to there being no way of predicting what the volume of demand or uptake will be, rather than in predicting the costs of individual orders or programmes. This qualification applies equally to the future uptake of CROs referred to in the question below.

What are your views on the adequacy of the estimated £1.1m for Community Reparation Orders and £1.5m for improving the level of compliance with supervision requirements imposed by a children’s hearing. Do you expect the uptake of these provisions to be similar to those estimated in the Financial Memorandum.

COSLA accepts the Financial Memorandum’s assumptions in relation to CROs, which are consistent with the costings and uptake of adult Community Service Orders.

The issue of compliance with supervision requirements is clearly linked to ongoing problems with social work recruitment and retention, and from COSLA’s perspective, solutions to this problem must be found beyond the confines of this Financial Memorandum.
APPROMATION OF COSTS TO OBTAIN AN ANTI-SOCIAL BEHAVIOUR ORDER

Introduction
It must be stressed that ASB is very much a developing area with many authorities at a very early stage of establishing special services to deal with it at the extreme end of the spectrum and, as such, it is difficult to quantify the costs of the work involved.

Anti-Social Behaviour Orders (ASBOs)
In examining the approximate costs of pursuing an ASBO, it is necessary to be aware that the very nature of anti-social behaviour is complex and, thus, dealing with it is also complex. The circumstances of cases in which behaviour is alleged to be anti-social are very individual and these cannot be addressed in a formulaic manner but require a course of action tailored to the particular circumstances. It is therefore very difficult to generalise about the costs of ASBOs or to talk in any meaningful way about the average cost of an ASBO. It is more meaningful to think of a minimum costs in each application.

Thirdly, many instances of anti-social behaviour are successfully dealt with without the need to consider court action or eviction and are resolved at various stages in the process, whether at a local level or at the special investigation stage.

Costs of Obtaining an ASBO
In developing a costing structure for ASBOs for the purposes of this exercise, the cost has been calculated at the point at which it has been considered that normal housing and tenancy management has been exceeded and the matter enters the specialist area of ASB at the more extreme end of the spectrum of behaviour.

The approach adopted by the City of Edinburgh Council to address the more extreme examples of ASB is for locally based housing officers to undertake the investigation of normal housing and tenancy management levels of behaviour but for more serious cases to be referred to the Anti-Social Behaviour Strategy Unit (ASBSU) where specialist investigation officers and solicitors use a range of approaches to address ASB. In trying to produce indicative costs, it is the activities of this Unit that have been used to develop an appropriate figure.

To reiterate the point, the circumstances of each ASB case are different and different approaches are essential to achieve the desired outcome of reducing ASB. Some of the cases referred to the ASBSU are extremely complicated and involve many months of detailed investigation and evidence gathering before sufficient information is compiled to enable a case to be taken to Court. This will have involved a significant amount of work, not only from the ASBSU but also from the social work and education departments, the police, mediation services and others, increasing the costs significantly. No account is taken in this paper of any costs incurred by other agencies.

Case 1 –Undefended Case
The following costs have been calculated using an actual case from South Edinburgh. Following complaints from a number of local authority tenants about the
behaviour of a 17-year-old youth residing occasionally with his father but officially considered of no fixed address. This individual was known to be responsible for a course of anti-social behaviour and action by the local area housing office was unable to stop this.

As a result, the case was referred to the ASBSU in early April 2003, and a detailed investigation was undertaken by housing investigation officers. This included interviewing complainers and obtaining statements, analysis of diary sheets kept by the various complainers, liaison with the local police and the obtaining of information from them in respect of the subject. This also involved a number of out-of-office-hours attendance by housing investigation officers to witness the behaviour being complained of by the various complaining tenants.

It took until the middle of July, 2003, to obtain sufficient information to enable the ASBSU solicitor to apply to the Court for an interim ASBO and this was obtained at the end of July, being served on the subject in early August. It took until mid-November 2003 to obtain a full ASBO in respect of the subject, which imposed conditions on him, including his being excluded from the area in which his behaviour was causing so many problems.

Overall, this particular case involved approximately 80 hours of work for the housing investigation officer, 70 hours of work for the ASBSU solicitor and the cost of court time was calculated to be £360. Allowing for the hourly costs of a housing investigation officer paid at AP3 level to be approximately £21.00, those of the ASBSU solicitor to be £110.00 and the court costs, this brought the cost of this particular case to an approximate total of £9 740. This takes no account of the involvement of the other agencies that have had an active involvement in this particular case. It is also important to note that this case was undefended.

<table>
<thead>
<tr>
<th>Cost Centre</th>
<th>Hourly Cost</th>
<th>Hours of Work</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Investigation Officer</td>
<td>£21.00</td>
<td>80 hours</td>
<td>£1 680</td>
</tr>
<tr>
<td>ASBSU Solicitor</td>
<td>£110</td>
<td>70 hours</td>
<td>£7 700</td>
</tr>
<tr>
<td>Court Costs</td>
<td>N/A</td>
<td>N/A</td>
<td>£360</td>
</tr>
<tr>
<td>Approximate Total Costs</td>
<td></td>
<td></td>
<td>£9 740</td>
</tr>
</tbody>
</table>

In another case in the same area at the same time similar costs were incurred but the action is still on going as the case is being defended. The time, and therefore the cost, is this second case will be substantially higher by the time the full ASBO hearing proceeds to court in March 2004.

**Case 2 – Incomplete Case**

A much more complicated case that is currently ongoing but which is not yet at a stage at which it can be taken to court has involved approximately 100 hours of housing investigation officer time and 20 hours of solicitor time. This gives a cost of approximately £4 300 with considerably more work still required to bring the case to court, particularly in respect of solicitor time, and no court costs are yet included.
<table>
<thead>
<tr>
<th>Cost Centre</th>
<th>Hourly Cost</th>
<th>Hours of Work</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Investigation Officer</td>
<td>£21.00</td>
<td>100</td>
<td>£2 100</td>
</tr>
<tr>
<td>ASBSU Solicitor</td>
<td>£110.00</td>
<td>20</td>
<td>£2 200</td>
</tr>
<tr>
<td>Court Costs</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Approximate Costs to Date</td>
<td>N/A</td>
<td>N/A</td>
<td>£4 300</td>
</tr>
</tbody>
</table>

**Conclusion**

Obviously, more work is needed to establish ongoing, real costs and the impact of the new duties in the Bill. However, it is worth re-stating some of the key points in this paper:

The number of ASBOs is comparatively small but their circumstances are very individual and this affects the costs and range of approaches needed to address them.

The figures provided on the costs of ASBOs do not include housing officer time, merely that of specialist officers.

Many cases are pursued that do not result in an ASBO but do incur substantial specialist officer costs.

NOTE – The City of Edinburgh Council is aware of the Research Report quoted in the Explanatory Notes to the Anti-Social Behaviour Bill and is conscious that it provided information for that Report. Although the focus of that Report was on mediation costs rather than ASBOs, an attempt was made to identify the costs of ASBOs. Table 18 in that Report identifies a wide range of costs on successful and inconclusive ASBO applications but the Council would confirm that the real costs incurred are as indicated in this Paper. These costs are based on current cases and there is little doubt that, where RSLs have pursued ASBOs, they will raise issues too about the total costs of actions which are in the higher end of the Research Report.
1. During its evidence session on Tuesday 16 December 2003, the Finance Committee requested additional information from COSLA.

2. This additional information has been received and is attached for the Committee’s consideration. Members should note COSLA’s statement that the costings they have provided are entirely hypothetical.

3. Members may also recall that the Finance Committee agreed on 16 December 2003 to seek oral evidence from SOLACE (The Society of Local Authority Chief Executives and Senior Managers) in relation to delivering single transferable vote elections. Unfortunately, given the timescales, SOLACE has been unable to provide oral evidence to the Committee but have agreed to provide written evidence for Monday 19 January 2004.

4. This submission will be circulated to members upon receipt on Monday 19 January 2004.

5. The Committee is invited to consider the COSLA additional submission and the SOLACE submission in due course.

Jane Sutherland
January 2004
SUBMISSION FROM THE CONVENTION OF SCOTTISH LOCAL AUTHORITIES (COSLA)

Thank you for your email of 17th December confirming the items the committee was interested in having rough costs attached in its consideration of the financial memorandum (FM) of the Local Governance (Scotland) Bill.

As you will be aware COSLA has been in contact with SOLACE to progress this matter. I understand that you have been seeking their views on this and other matters relating to the Bill. As a result SOLACE will be providing written evidence to the Committee later this month, which will include estimates on the costs of introducing STV that the Committee expressed interest in during COSLA’s oral evidence.

The Committee was also interested in COSLA’s views on the likely cost of the introduction of a fair remuneration system for councillors. COSLA covered much of this ground in the work we did in responding to the White Paper. The main exercise was based on a survey of councils and was designed to collect payment levels in place in summer 2002. COSLA modelled a range of assumptions based on the survey data.

The costings (this point cannot be overstressed) were entirely hypothetical, and were undertaken to provide some context to further deliberations on the White Paper. On that basis, and for modelling purposes only, COSLA built in the following assumptions:

- a councillor’s salary would be set at roughly half the salary paid to an MSP.
- additional responsibility allowances would come to 10% of the basic salary payments and
- a employer’s superannuation contribution of 15% would be required

This would amount to a total gross cost of roughly £37.3m.

We generally agree with the figure in the FM over the current level of Allowances and Special Responsibility Allowances, estimating that the cost at 2002 was approximately £15.7m. The net cost therefore would therefore have been in the order of £21.6m at that time.

One of the outcomes of this hypothetical piece of work was how little the impact of introducing proper arrangements would be on overall local government expenditure. It came to only 0.2% of spend. At the time we made no attempt to cost potential severance payments or resettlement grants, and would not be able to do so without an outline of the scheme.

I trust this is of assistance

Anil Gupta
Policy Manager
1. LOCAL COVERNANCE (SCOTLAND) BILL: FINANCIAL MEMORANDUM

This paper seeks to identify the additional costs to local government attributable to the introduction of Single Transferable Voting being introduced with effect from 2007 under the terms outlined in the Local Governance Bill 2003. Within the Financial Memorandum to the Bill there are no costings provided.

CoSLA gave evidence to the Finance Committee of the Scottish Parliament on 16 December 2003 and made the point that the Scottish Executive should be costing and funding their proposals. Nevertheless, it is appreciated that the Committee is interested in the views of SOLACE (Scotland) on the assumptions the Financial Memorandum makes in relation to delivering an STV election. The timescale to compile information has been very short and the contents of this paper should be seen as a "starter", based on information drawn together in one Council (West Lothian). It is emphasised that geography, availability of accommodation and availability of staff all have a significant impact on election expenditure, and it could be misleading to extrapolate across Scotland from only one example.

SOLACE is very grateful to West Lothian for their willingness to assist with the costing exercise.

Will STV cost more?

Paragraph 61 of the Financial Memorandum states:

"The Scottish Executive does not therefore expect there to be significant additional costs to local authorities arising purely from the introduction of STV for local government elections."

SOLACE (Scotland) disagrees with that statement. The change to an STV system will require substantial changes in the current organisation of local elections and there will undoubtedly be additional costs.

The first priority must be serving the interests of the voter. Extensive and effective voter education will be essential in order to minimise voter confusion and, crucially, to reduce to a minimum the number of papers which are incorrectly completed and require to be rejected because voters do not show second or subsequent voting preferences.

The change will also require a major education/training programme for all those involved in the election process - for Returning Officers and their immediate staff, for Finance staff, Presiding Officers, Polling Clerks and Enumerator - and not least for political parties, candidates and agents. It is important that the system is as fully understood as possible, to ensure confidence in the election process.
2. INFORMATION FROM WEST LOTHIAN COUNCIL

The costings below are based around the costs attributable to the election to West Lothian Council held in May 2003. The revenue budget for that election totalled £116,000, being the costs attributable to the Council elections after apportioning costs which were aggregated under the administrative arrangements to provide a combined Council and Scottish Parliament election.

To date the election accounting for the May 2003 is not complete and the May 1999 election has not yet been audited so costs are approximations.

These costings are representative of the situation under the proposals outlined in the Bill's financial memorandum. However the separate proposal to decouple the Council and Scottish Parliamentary elections (item 4 below) leads to much less precision and efforts have not progressed in determining the specific cost implications of such a change.

The following sections outline the key areas likely to be influenced by the changes to STV.

TRAINING

Given the radical nature of the change from the first past the post system to STV it is estimated that a significant amount of training of staff will be required to answer questions and alleviate confusion amongst voters. This is in addition to the national campaign mentioned in the paper, which would presumably be funded by the Scottish Executive.

It is recommended that the Scottish Executive would be responsible for providing and funding the following at a national level to achieve economies of scale and to ensure consistency in the process:

- regional seminars for Returning Officers and several other senior officers involved in the election process
- detailed guidance notes and video
- national press and media education advertisements

Senior Staff

As the staff involved at this stage of the training are senior officers (e.g. Chief Executives, Chief Legal Officers etc) it is estimated that the cost to individual local authorities of attending these seminars would be around £1,000, although given that officers currently attend half day courses the additional cost would be around £500 and this would be non-recurring as the basis of the seminars would focus on the changes introduced under STV.
Count & Polling Station Staff

There would require to be significant additional training provided to senior staff involved in the count (accountants, supervisors, and assistant supervisors) and those located at polling stations (presiding officers and polling clerks).

For count staff, it is estimated that the current training fee of £35 would require to double to allow for the additional time taken to provide more intensive training, with the proportion of the training fee attributable to STV becoming around two thirds. Without this knowledge and expertise there would be a significant danger of queues and confusion at polling stations as voters seek explanations on the changes to the process. This is estimated at costing £10,200.

Senior staff involved in the count currently attend a training half-day and it is estimated that this will require to increase to a whole day as there will be a requirement to carry out workshops and follow through the process. Again this is essential as the mechanical and iterative nature of STV and the transfer process means no risks can be taken with the accuracy of vote counting or the distribution of transferred votes. This is estimated to cost a further £3,200.

It is estimated that there would not be any additional training requirements for enumerators.

ELECTION DAY COSTS

The costings in this section are based on the premise (as experienced in the elections for the Northern Ireland elections) that the council’s election count will take around two days, commencing on the Friday after polling and concluding the next day.

Polling Stations

In West Lothian it has been estimated that there are sufficient polling places. However in an effort to minimise queuing as voters take longer in selection it is felt that additional polling stations should be introduced. It is estimated that this will result in additional 21 polling stations. This will result in a one-off capital cost of £5,800 plus 21 additional polling clerks and presiding officers at cost of £8,800.

In addition it is felt appropriate that a further group of staff be introduced – General Assistants – who would provide back-up support during busy periods. The rate would be the same as a polling clerk but they would work a shorter period to allow for the peak in voter activity. It is estimated that this will increase costs by around £3,500.

Should new polling places be required, it is estimated that these cost between £100 and £300 for daily rental, the lower figure being that cost incurred in
council owned property for utility and janitorial costs. As stated above it is not expected that these will be required in West Lothian.

Count Venue

The venues used by Councils across Scotland will vary greatly. WLC require to hire space from an independent company which for the last combined election cost £8,000 for one and a half-day’s use. It is estimated that this area will require to be hired for a further one and a half-days, thereby increasing the cost by a further £8,000.

Count Staff

Costs incurred for fees paid to count staff for the half-day count for the 2003 election amounted to £19,000. Given that the time required would be considerably longer it is estimated that the fee will require to be at least doubled acknowledging a longer Friday count. Staff will be required to work on the Saturday and to attract them it may be required to pay a premium. This is estimated to cost a further £19,000.

Catering Facilities

It is felt that catering facilities will require to be provided for the staff, candidates and agents. This is particularly important for staff, as it would be inappropriate for staff to seek to take a break from the counting areas for lunch, evening meals and any other breaks. It is estimated that this could cost around £2,500, which would be incurred directly.

INCREASED NUMBER OF POLITICAL GROUPINGS

There is an assumption that in areas where one or two political parties gain a disproportionately high share of the vote under the first past the post process, STV will address the lack of representation of smaller parties. This would have the effect of introducing a more varied number of political groupings within councils.

Where councils have exclusive support arrangements with dedicated support staff and restricted office accommodation, there would be cost implications. These costs have been estimated as being one additional full time equivalent admin officer at circa £15,000 with additional office accommodation requirements at circa £20,000.

DECOUPLING OF ELECTIONS

There is no direct pro-rata relationship between the current combined election format and the cost of holding elections on separate days. There are some economies of scale accruing to the joint elections but experience from the combination of elections in the past indicated that savings of only 5% to 7% arose from the combination of elections.
SUMMARY OF ADDITIONAL COSTS

Based on the above assumptions the table below summarises the position for West Lothian. The third column in the table takes the West Lothian figure and applies a pro-rata increase based on population.

<table>
<thead>
<tr>
<th>AREA OF ADDITIONAL COST</th>
<th>WLC ELEMENT (Assuming 3% of Scottish Total)</th>
<th>NATIONAL INDICATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£</td>
<td>£</td>
</tr>
<tr>
<td>TRAINING</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senior Officers</td>
<td>500</td>
<td>17,000</td>
</tr>
<tr>
<td>Polling station Staff</td>
<td>10,200</td>
<td>340,000</td>
</tr>
<tr>
<td>Count staff</td>
<td>3,200</td>
<td>107,000</td>
</tr>
<tr>
<td></td>
<td>13,900</td>
<td>464,000</td>
</tr>
<tr>
<td>ELECTION DAY COSTS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Polling Stations – Staff</td>
<td>8,800</td>
<td>293,000</td>
</tr>
<tr>
<td>Polling Stations – Booths</td>
<td>5,800</td>
<td>193,000</td>
</tr>
<tr>
<td>General Assistants</td>
<td>3,500</td>
<td>117,000</td>
</tr>
<tr>
<td>Additional Polling Places</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Count Venue Hire</td>
<td>8,000</td>
<td>267,000</td>
</tr>
<tr>
<td>Count Staff plus Catering</td>
<td>40,500</td>
<td>1,350,000</td>
</tr>
<tr>
<td></td>
<td>66,600</td>
<td>2,220,000</td>
</tr>
<tr>
<td>INCREASED POLITICAL</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GROUPS</td>
<td>15,000</td>
<td>500,000</td>
</tr>
<tr>
<td>Admin Support</td>
<td>20,000</td>
<td>667,000</td>
</tr>
<tr>
<td>Accommodation Requirements</td>
<td>35,000</td>
<td>1,167,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>115,500</td>
<td>3,851,000</td>
</tr>
</tbody>
</table>

Of the above costs the Training and the purchase of the Polling stations would be one-off costs- totalling £657,000 nationally. This indicates that additional recurring costs as a result of a move to STV, over and above current election costs, will be around £3.2 million.

3. ADDITIONAL POINTS

The introduction makes it clear that it could be misleading to extrapolate across Scotland from only one example and it is strongly suggested that time be taken to firm up on the information presented above, with a view to arriving at a fully considered view of the likely additional costs.

In addition to the West Lothian figures, the following points should be noted:
A figure requires to be added for the public awareness campaign. The Executive has already suggested £1.5m for this, a figure which CoSLA in its evidence described as "very conservative".

From oral contact with a few Councils, views on the need for additional polling station staff, and for additional polling stations vary considerably, and the West Lothian figure is probably at the lower end of the spectrum in this regard.

Experience of STV in Northern Ireland indicates that it can take up to 2 days (9.00am - 9.00pm each day) to do the count. In Scotland, an overnight count for the Scottish Parliamentary election, followed by a local government count starting on the Friday morning and finishing late on the Saturday evening, would present staff with significant difficulties. If the Scottish Parliamentary count was delayed until the Friday, the local government count would go into the Sunday.

Difficulties with recruitment of staff for weekend working could be expected, and indeed the number of long experienced staff who may decide that, because of a change in the system, they no longer wish to continue to assist in the elections process should not be under-estimated.

4. CONCLUSION

Based on the information above, the SOLACE (Scotland) view is that it would be ill-advised to assume an additional expenditure of less than £6m, but it is recommended that SOLACE, CoSLA and the Scottish Executive collaborate in producing a firmer estimate based on calculations conducted within each Council area.

Sandy Watson
Hon Secretary
SOLACE (Scotland)