The Committee will meet at 10.00 am in Committee Room 2 to consider the following agenda items:

1. **Budget Process 2005-06**: The Committee will take evidence on the Spending Review 2004, the Draft Budget and EYF from—

   Tom McCabe, MSP, Minister for Finance and Public Service Reform;

   Richard Dennis, Finance Co-ordination Team Leader; Andrew Rushworth, Head of Local Government Constitution and Funding Division; and Fiona Montgomery, Policy Analysis Team Leader, Scottish Executive Finance and Central Services Department.

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

   David Brew, Head of Cultural Policy Division; Douglas Ansdell, Bill Team Leader; and Steven Macgregor, Bill Team Member, Gaelic Unit, Cultural Policy Division, Scottish Executive Education Department.

3. **Scrutiny of Financial Memoranda**: The Committee will consider papers regarding the Committee’s approach to scrutinising the Financial Memoranda of the Prohibition of Female Genital Mutilation (Scotland) Bill and the Protection of Children and Prevention of Sexual Offences (Scotland) Bill.

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

**Agenda Item 1**

PRIVATE PAPER

Supplementary paper – published after the meeting

**Agenda Item 2**

*Gaelic Language (Scotland) Bill, Explanatory Notes and Policy Memorandum*

Written evidence  

PRIVATE PAPER

**Agenda Item 3**

*Prohibition of Female Genital Mutilation (Scotland) Bill, Explanatory Notes and Policy Memorandum*

Paper by the Clerk  

*Protection of Children and Prevention of Sexual Offences (Scotland) Bill, Explanatory Notes and Policy Memorandum*

Paper by the Clerk
Finance Committee

28th Meeting 2004 – Tuesday 9 November 2004

Gaelic Language (Scotland) Bill - Financial Memorandum
Written Submissions

1. At its meeting on 28 September 2004, the Finance Committee agreed to conduct level two scrutiny of the Financial Memorandum of the Gaelic Language (Scotland) Bill. This was in line with the three level approach to the scrutiny of Financial Memorandum which the Committee agreed at its meeting on 14 September 2004.

2. Questionnaires were sent out to organisations affected by, or with an interest in, the Financial Memorandum: COSLA, all Scottish local authorities, the Welsh Language Board and Bòrd na Gàidhlig. Because the Bill could apply to all Scottish public authorities, a small sample of such bodies was also selected, namely: VisitScotland, the Scottish NHS Confederation and Scottish Natural Heritage.

3. To date, responses have been received from the following bodies:

   East Ayrshire Council
   Glasgow City Council
   Orkney Islands Council
   Bòrd na Gàidhlig

4. A number of other organisations have indicated that they intend to make a submission and these shall be published on receipt.

5. The Committee is invited to consider these submissions.

Terry Shevlin
November 2004
SUBMISSION FROM EAST AYRSHIRE COUNCIL

QUESTIONNAIRE

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the Financial Memorandum for the Gaelic Language (Scotland) Bill. In addition to the questions below, please add any other comments you may have which would assist the Committee’s scrutiny.

Consultation
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

   East Ayrshire Council responded to the consultation exercise for the Bill in a document dated 23 December 2003. No comment was made on the financial assumptions made.

2. Did you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

   As East Ayrshire did not comment on the financial assumptions it is inappropriate to comment on the detail in the Financial Memorandum.

3. Did you have sufficient time to contribute to the consultation exercise?

   The Council welcomed the opportunity to respond to the consultation exercise and believes that the timescale allowed a full and proper response to be prepared.

Costs
4. If the bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

   The Council believes that the financial implications reflected in the Financial Memorandum accurately reflect costs that may be incurred. This is due to the fact that individual authorities can determine, in conjunction with Bord na Gaidhlig, what is appropriate for their own needs in terms of the implementation of the Bill, and can flexibly develop their language plans.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

   Paragraph 94 of the Financial Memorandum sets out the detail of assistance local authorities may receive from the Gaelic Language Development Fund to produce and implement its language plan. For recurring costs, arising from the Bill, the Council believes that additional financial support should be given by the Scottish Executive. The logical way for this assistance should be
through specific grant funding whereby the Scottish Executive can monitor local authority spending and ensure financial probity.

6. **Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?**

East Ayrshire Council believes that the margins of uncertainty are accurately reflected within the Financial Memorandum. Within the Council area there are a significant minority of Gaelic speakers recognised by the Education Service development of nursery, primary and secondary units for Gaelic Learning and Teaching.

**Wider Issues**

7. **If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?**

The Council agrees that the wider policy implications are reflected in the estimated costs table. Although the Education provision should remain without any additional burden the implications for other Council services could be significant in relation to the preparation of plans and communication in Gaelic to Gaelic speakers.

8. **Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?**

Until language plans have been developed and the Bill implemented it is unreasonable to quantify costs which may arise. The Council believes that future costs will arise and would reiterate its opinion the financial support should be forthcoming from the Scottish Executive.
SUBMISSION FROM GLASGOW CITY COUNCIL

Consultation
1. Glasgow City Council responded to the consultation exercise for the Bill and made specific comment on the financial implications;

2. The implications for finance are clear and reflect the Council's concerns;

3. The timing of the consultation exercise was very limited. Given the scope of the implications for all Council departments there was insufficient time for corporate consideration. Thereafter, departments’ views on the Bill were required to be reported to elected members in line with the Council committee cycle and agreement on the response obtained. There was little time for the Council to consult with all stakeholders. Such an important Bill for the future of Gaelic requires more time to be devoted to it.

Costs
4. The financial implications for local authorities, and for Glasgow, have been accurately reflected in the Financial Memorandum;

5. The anticipated cost of £10,000 to prepare a Gaelic Language Plan is insufficient for a council the size of Glasgow City Council. This would be insufficient to cover the costs of consultation alone which would involve the cost of duplication of materials, translation into Gaelic, officer time, public consultation meetings and subsequent publication. In addition, no timescale has been provided as to continued financial support during the implementation of the plan. Clear financial planning timescales and guaranteed support from the Scottish Executive via Specific Grant or GAE is required;

6. No. Further detailed planning is required.

Wider Issues
7. The wider policy initiative is unclear other than the setting up of Bord na Gaidhlig. It is therefore difficult to comment on the associated costs other than concern that the Bord may have insufficient funds to allocate;

8. As the legislation develops it is entirely conceivable that there will be further associated costs. Support for future financial implications require to be built in to any further legislation.
SUBMISSION FROM ORKNEY ISLANDS COUNCIL

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

Orkney Islands Council on 12 January 2004 faxed its response to the consultation paper issued in October 2003 by the Scottish Executive. The consultation paper did not indicate what financial assumptions had been made by the Scottish Executive. The Council’s response pointed out that the deployment of resources on this matter, in an area with no Gaelic tradition, would be regarded neither as a priority nor as representing Best Value and efficient use of scarce resources.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

No

3. Did you have sufficient time to contribute to the consultation exercise?

The consultation paper was received by the Islands Council on 15 October 2003, and responses were requested by 9 January 2004. The timetable for Council committee meetings, and the closure of the Council Offices to business between Thursday 25 December 2003 and 5 January 2004, provided only one cycle of meetings in which Councillors could consider the consultation paper.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

If the Bill in its present form is enacted, and the Council is compelled to produce a Gaelic language plan, there will be significant financial implications for the Council. As stated in the attached response to the consultation paper, Orkney has no Gaelic heritage and Islands Councillors are strongly of the opinion that Gaelic is of little relevance to Orkney. Because there is no infrastructure on which to build, the Council would find itself in the position of trying to identify external sources of assistance to produce and implement such a plan (assuming such assistance is actually available). Council officials believe that the Financial Memorandum does not reflect accurately the financial implications for most public authorities outwith Gaelic-speaking areas. In this connection, it has been noted that the papers accompanying Mr Shevlin’s letter dated 28 September 2004 state that "it is entirely possible that some public authorities will never be required to produce a Gaelic language plan". From this Council’s perspective, it would be desirable if this was expressly stated in the Bill.

As an indication of Scottish Executive support for the Gaelic language, Finance Circular No 2/2004 issued on 23 February 2004 shows that Comhairle nan Eilean Sìar received a specific grant for Gaelic of £820,000 and Highland Council received £690,000, out of a total for Scotland for 2004/05 of £3,034,000. Orkney and
Shetland Islands Councils, in common with a number of other areas without a Gaelic tradition, received no specific grant allocation for Gaelic.

The Financial Memorandum indicates that it would cost approximately £10,000 for a public authority to develop a Gaelic language plan "[including] staff time to cover drafting a consultation document containing a draft plan, making it publicly available, translating it into Gaelic and analysing responses to the consultation". Given that there are few Gaelic speakers in Orkney, and there is understood to be a shortage of Gaelic teachers throughout Scotland, it is anticipated that the development of such a plan in Orkney may well cost significantly more than £10,000.

Implementation costs of the plan are indicated in the Financial Memorandum at £155,000. While all costs will be eligible for assistance from a Gaelic Language Development Fund managed by Bòrd na Gàidhlig, there is no indication as to whether this means that 100% funding is available. If 100% funding is not available, it is considered unreasonable that public bodies in Orkney will be required to meet the costs of Gaelic language plans which have very little relevance to them.

5 Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

The Council’s view is that all costs associated with Gaelic language plans should be met by the Scottish Executive. However, as stated previously, the Council considered this to be neither a priority nor as representing Best Value and efficient use of scarce resources.

6 Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

It is suggested that the uncertainties regarding the estimates and timescales should be more clearly expressed.

Wider Issues

7 If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The Financial Memorandum is considered to be too vague in relation to the costs associated with the Bill and any wider policy initiative.

8 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

The Bill refers to further regulation [section 3(7)], guidance given by the Scottish Ministers or Bòrd na Gàidhlig, and to consultation. It is considered that the Financial Memorandum should at least refer to potential costs inevitably associated with such requirements, even if it is not possible to quantify these costs accurately.
SUBMISSION FROM BÒRD NA GÀIDHLIG

Consultation
1  Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

As the newly established NDPB with specific responsibility for Gaelic language revitalisation and development, Bòrd na Gàidhlig made a very detailed submission to the consultation on the draft Bill, and the Bòrd was also active in encouraging other organisations and members of the community to contribute to the consultation. However the Bòrd was careful NOT to lead opinion on the consultation, but to facilitate it. There were no specific financial assumptions made in the consultation draft Bill, so the Bòrd did not comment on funding specifically, but it did stress the importance of resources equal to the task.

2  Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes

3  Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs
4  If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum?

As the lead body responsible for their implementation, the Bill’s recommendations will certainly have implications for the Bòrd’s operating costs. Bòrd na Gàidhlig has discussed these projected implications with the Department and it is satisfied that the best estimate of costs have been reflected in the financial memorandum.

5  Are you content that your organisation can meet the financial costs associated with the Bill?

The most recent SR budget announcement made provision for an increase in the Bòrd’s budget in 2006/7 and 2007/8 to allow for the cost implications to the Bòrd of implementing the Bill.

6  Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The costs of implementation, which will affect the Bòrd will be triggered by the enactment of the Bill and the process of public sector Gaelic language plans. This process is reasonably predictable and thus the cash flow requirements of the Bòrd in this regard can be fairly accurately projected.
Wider Issues

7 If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The Executive’s aspiration is to secure the position of Gaelic as a valuable part of Scotland’s national heritage, and to encourage its use and revive inter-generational transference. It is impossible to accurately quantify what costs might be associated with this evolving development in the future, but the over-riding intention is that public sector costs associated with services delivered through Gaelic should be progressively mainstreamed.

8 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance?

It is not possible to predict at this stage.
Finance Committee

28th Meeting 2004 – Tuesday 9 November 2004

Gaelic Language (Scotland) Bill - Financial Memorandum
Further Written Submissions

1. In advance of its consideration of the Financial Memorandum associated with the Gaelic Language (Scotland) Bill, the Finance Committee has received further submissions from the following bodies:

   South Lanarkshire Council
   Scottish Natural Heritage
   The Highland Council
   Stirling Council

2. The Committee is invited to consider these submissions.

Terry Shevlin
November 2004
SUBMISSION FROM SOUTH LANARKSHIRE COUNCIL

Consultation
1. A response to the consultation exercise for the Bill was submitted and comment was made on the significant resource issues associated with the implementation of the Gaelic Language Bill.

2. The response submitted was made on behalf of Education Resources and this was clearly stated in the response. Our concern was focused on the implications for staffing, and teacher training. The financial memorandum clearly refers to issues beyond the immediate province of Education.

3. The time afforded for consultation was not unreasonable.

Costs
4. The Bill clearly has financial implications for the local authority. It is difficult to estimate the extent of these as there is insufficient detail on the extent and nature of language plans. It is suggested that the development of a plan could lead to cost in the region of £10,000 and there is no reason to doubt that costs could be of this order.

It is confirmed in explanatory notes to the Bill that it will be for individual local authorities to determine in conjunction with Bord na Gaidhlig what is appropriate in their given circumstances.

However, at present, there is an absence of comprehensive guidance from Bord na Gaidhlig on setting out areas of service delivery which public authorities should consider when developing their plans.

The main costs, however, lie with the implementation of the plan and notional figures are suggested in the memorandum. It is difficult to estimate how accurate these are as we have not been able to carry out a full analysis of need nor estimate in any detail the likely costs of each core function.

5. At present the proposals go beyond current budgetary provision and therefore we are not at this stage in a position to meet these costs. Support for local authorities would be required to ensure the demands of the implementation were met.

6. As indicated in the response to 4 and 5 above, there is considerable uncertainty about the estimates and timescales over which such costs would be expected to arise.

Wider Issues
7 & 8 It is difficult to determine, as indicated above, whether estimated costs are likely to reflect the real costs of implementation. Our concern would be that excessive demands are placed on local authorities by Bord na Gaidhlig, and that these could increase with subsequent additions to provision.
SUBMISSION FROM SCOTTISH NATURAL HERITAGE

Consultation
1. Scottish Natural Heritage did take part in the consultation exercise for the Bill (with our submission dated 6th January 2004). In our response we welcomed the principles set out in the Bill and expressed our support.

2. We did not comment on the financial assumptions.

3. We did have sufficient time to contribute to the consultation exercise.

Costs
4. In recent years, we have made renewed efforts to develop the organisation’s use of Gaelic, with a stated Gaelic Policy. This has included the appointment of a Gaelic officer, with a remit to promote our work in the Gaelic media and to help our development of Gaelic publications (including Gaelic sections on our website). We anticipate that these efforts will make a significant contribution towards meeting the requirements of a formal Gaelic Language Plan. As we have been doing this within our existing available resources, any increase in the financial burden on SNH associated with the implementation of the Bill is likely to be relatively modest and has been adequately reflected in the Financial Memorandum.

5. We are content that, with the support of Bòrd na Gàidhlig and where appropriate, the Gaelic Development Fund, we will be able to meet the financial costs associated with the Bill as they fall on SNH.

6. We are not in a position to comment in any detail on the margins of uncertainty associated with the estimates, nor the timescales over which such costs would be expected to arise. We do however think that the figures given in the Financial Memorandum appear reasonable.

Wider Issues
7. We are not in a position to comment on wider policy issues.

8. We do not feel well placed to comment on cost implications, beyond those which directly fall to SNH as referred to above.
SUBMISSION FROM THE HIGHLAND COUNCIL

CONSULTATION
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?
   YES

2. Do you believe your comments on the financial assumptions have been accurately reflected in the financial Memorandum?
   YES.

   The Council noted that in order to implement a Gaelic Language Plan, as envisaged by the draft Bill, additional resources would have to be made available.

3. Did you have sufficient time to contribute to the consultation exercise?
   YES

COSTS
4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

   While the Highland Council already commits substantial resources towards developing the Gaelic language and Culture it has recognised there is a need to do more, as there is a demand to progress and accelerate Gaelic and cultural development across all sectors in Highland. The Council’s recently produced Draft Gaelic Language Scheme identifies a number of projects the Council wishes to implement. It is important that the Council is able to access new and additional resources – and that these are not simply retained for public agencies which to date have not shown any commitment to Gaelic.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

   The Council would require additional funding for staff costs, specialist translation services and for developing new activities and initiatives across all sectors within the Councils remit as contained in its Gaelic Language Scheme. Without extra funding many desirable proposals and aspirations will not be either developed or fulfilled resulting in the Council’s commitment to Gaelic being stifled and frustrated.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise
Yes, generally, but within the overall estimated costs the proportions may vary between different Authorities. The Council also believes that public agencies in Membership of Community Planning Partnerships, such as the Highland Well-Being Alliance should be encouraged to work closely together in implementing the provisions of the Bill.

**WIDER ISSUES**

7 If the Bill is part of a wider policy imitative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

No, as Gaelic Education is a priority regarding the survival of the language. Gaelic Education will require specific additional funding, which should include the costs of teacher training, especially the further development and promotion of ICT teacher training based in Highland, the subsidising of tuition fees for part-time teacher training students, the training and development of Gaelic subject teaching at secondary level, and the training of auxiliary school staff such as classroom assistants, playgroup leaders, special needs, etc.

The wider policy imitative would also include the areas such as interpretation, bilingual road signs, bilingual street signs, village/town and City welcome signs, Highlands’s role in the implementation of a geographic information strategy which contains place name data.

8 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

Without knowing what burdens new legislation may bring it is not possible to precisely quantify the associated costs, but given Highland Councils leading role and commitment to Gaelic and cultural development it estimates that there may well be.
STIRLING COUNCIL
RESPONSE TO THE GAELIC LANGUAGE (SCOTLAND) BILL
FINANCIAL MEMORANDUM

Stirling Council has made the following draft response to the Scottish Executive in relation to the points raised in the questionnaire on the Financial Memorandum for the Gaelic Language (Scotland) Bill.

Consultation

1 Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

Yes, we did participate in the consultation exercise. The consultation document did not provide the opportunity to detail any financial implications of the Bill.

However it was pointed out that Gaelic Medium education would still be required to be supported by the allocation of the Gaelic Specific Grant. It is commendable that this has been recognised and the Specific grant will continue.

2 Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes, in that the Specific grant has been mentioned. If the consultation document had made direct reference to the financial implications, the response submitted would have highlighted the costs to be incurred by public bodies more fully.

3 Did you have sufficient time to contribute to the consultation exercise?

There was adequate time to contribute to the consultation exercise. But in considering the resulting Bill and the areas, which have come to light, it is apparent that the consultation document was not sufficiently robust.

Costs

4 If the bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The Bill will have financial implications for all public bodies. As far as the costs stated in the Financial Memorandum are identified it is difficult to say at this time if they are an accurate reflection.
There is an assumption from the costs identified in the memorandum that these will only be incurred when such a body is requested, by Bord na Gaidhlig for a language plan. It could be argued that costs would be incurred from the financial year 2005/6, irrespective of whether a language plan has been requested, as the organisation would wish to be ready to respond speedily to any such request.

In order to prepare a language plan, the public body would require to consult with all stakeholders and service providers, and tie preparation of the plan into the organisation’s overarching strategic planning framework. This consultation exercise is time consuming and costly. It would be essential that the public body employs an extra member of staff e.g. a “Gaelic Development Officer” with the responsibility of conducting and completing the preparation work for the drafting of a plan and submitting such a draft for approval to the appropriate personnel.

5 Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

It will be difficult for any organisation to meet the financial costs associated with the Bill at the present time. Because of the response to question 4 the preparation for the production of, and implementation of, an action plan will not begin when the plan is requested but rather in the financial years preceding that event.

In the example of Stirling the development of Gaelic has not been included in the projected budget costs. This is a very important point as Stirling is a rapidly growing community and school rolls have risen over the last six years.

Perhaps consideration should be given to the provision of a Gaelic language development fund for each authority. The cost of a development officer would then be available to all public bodies.

Or perhaps alternatively the employment of national Gaelic development officers, under the auspices of Bord na Gaidhlig would reduce the overall cost.

6 Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum accurately reflects the main costs in terms of the areas, which can be identified at the present time. There is a good range of costs in terms of upper and lower limits estimates of expenditure, but what is difficult to reflect are areas which have not yet been identified and will not be until planning the development of an action plan is being undertaken.

It would be appropriate at this time to provide for such extra costs through a global contingency element.
Wider Issues

7 If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The associated costs refer to time limited activities, but the implementation of the Bill at a local level will incur ongoing costs, which are not reflected. The updating of communication for example will require on going funding if this is to be sustainable.

As more public bodies are requested to provide Gaelic language plans, there will be the need for the ongoing employment of development officers to monitor and quality assure the implementation of the Bill.

As the numbers of Gaelic speakers in the community continue to increase, we anticipate an ever-increasing demand for publications in Gaelic.

A further consideration is the fluidity and continuing development of Gaelic as a language particularly in the areas of reading and writing and the consequent need for further new publications.

There are other factors, which have previously been mentioned in the response to question 7, which require to be taken into consideration.

8 Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

The promotion of Gaelic culture and language throughout Scotland is in its infancy. As the Bill becomes firmly embedded it will induce a need for amendments and alterations to cater for circumstances which can not be identified at the present time. The costs will continue to remain steady, or even increase, for the foreseeable future.
Finance Committee

28th Meeting 2004 – Tuesday 9 November 2004

Scrutiny of Financial Memorandum – Prohibition of Female Genital Mutilation (Scotland) Bill

Background

1. The Prohibition of Female Genital Mutilation (Scotland) Bill ('the Bill') was introduced into the Scottish Parliament on 29 October 2004 and the Equal Opportunities Committee has been designated the lead committee for the Bill at Stage 1. The Equal Opportunities Committee is expected to take evidence from the Minister in mid January 2005.

2. This paper seeks the Committee’s view on the level of scrutiny to be applied to the Financial Memorandum for the Bill.

The Bill

3. The Policy Memorandum states that the policy objective of the Bill is to strengthen the existing legal protection against female genital mutilation (FGM).

4. Although FGM is illegal in Scotland under the Prohibition of Female Circumcision Act 1985, the Bill extends this legal protection by creating an offence to send a female abroad to have FGM carried out (equivalent provision is made for the rest of the UK through the Female Genital Mutilation Act 2003) and raising the penalty on conviction on indictment from 5 to 14 years.

5. The Financial Memorandum anticipates that few, if any, investigations and prosecutions will result from this Bill and states that there have been no prosecutions relating to FGM in Scotland or the rest of the UK under the Prohibition of Female Circumcision Act 1985.

6. For the purposes of the Financial Memorandum, however, approximate costs have been provided on the basis of one case per year. The average costs anticipated are:
   - summary court case (including prosecution costs) - £1,260
   - indictment cost - £9,650
   - legal aid costs for summary case - £675
   - legal aid costs for solemn case - £4,000
   - annual prison cost per prisoner per year - £33,244
   - total costs per year - £48,829

7. The Financial Memorandum does not anticipate any prosecutions under the Bill, however, it states that any costs that do arise will be able to be met from within existing budgets. On this basis, the Presiding Officer has determined that a Financial Resolution shall not be required.

Decision

8. In conclusion, it seems clear that if there are any additional costs, these will be minimal and can be met from existing budgets.
9. Members are asked, therefore, to agree that the Committee should adopt level one scrutiny for the Bill, i.e. that it should take no oral evidence on the Financial Memorandum, but should instead seek written comments from relevant organisations through its agreed questionnaire, and then pass these comments to the lead committee.

Emma Berry
November 2004
Finance Committee

28th Meeting 2004 – Tuesday 16 November 2004

Scrutiny of Financial Memoranda – Protection of Children and Prevention of Sexual Offences (Scotland) Bill

Background

1. The Protection of Children and Prevention of Sexual Offences (Scotland) Bill (‘the Bill’) was introduced into the Scottish Parliament on 29 October 2004 and the Justice 1 Committee has been designated the lead committee for the Bill at Stage 1. The Justice 1 Committee is expected to take evidence from the Minister in mid January 2005.

2. This paper seeks the Committee’s view on the level of scrutiny to be applied to the Financial Memorandum for the Bill.

The Bill

3. The Policy Memorandum states that the policy objective of the Bill is to better protect children from sex offenders.

4. The Bill seeks to do this by strengthening the law relating to the ‘grooming’ of children; introducing a new order, the risk of sexual harm order (RSHO), to restrict the activities of those adults who display inappropriate sexual behaviour towards children; and extends the use of sexual offence prevention orders (SOPO) to be applied to convicted offenders at the point of sentence rather than following inappropriate behaviour.

5. The Financial Memorandum anticipates that the grooming offence is not likely to produce a significant net increase in the number of prosecutions and suggests there will be less than 50 prosecutions per annum. It anticipates between 10 and 20 applications for RSHOs and SOPOs will be made per annum.

6. The Financial Memorandum sets out approximate costs and these are summarised below. It should be noted that these measures will be applied to investigations which are on-going under the current legal framework and thus some costs are already being met.

   Grooming Offence
   • average summary court case (including prosecution costs and legal aid) - £1,935
   • average indictment cost - £13,650
   • total summary case costs (based on 40 prosecutions and excluding prison costs) - £87,400
   • total indictment (based on 10 prosecutions and excluding prison costs) - £139,000
   • total per annum (excluding prison costs) - £226,400
   • Social Enquiry Reports (may be required) - £250 each
   • annual prison cost per prisoner per year - £33,244
**RSHOs**
- average summary application case cost - £3,300
- Social Enquiry Reports (may be required) - £250 each
- total per case - £3,550 (between £35,500 and £71,000 for between 10 and 20 cases per annum)

**SOPOs**
- Not anticipated to incur additional costs as these are expected to be imposed at time of sentence when cases have already been investigated and heard.

7. It is anticipated that any additional costs will fall on the Scottish Administration and that costs should not fall on local authorities.

**Decision**
8. In conclusion, it does not seem likely that the Bill will give rise to many additional cases but will enhance the capability of the police and COPFS to deal with sex offenders.

9. **The Committee is invited to agree that it should adopt level two scrutiny for this FM. This would involve seeking written evidence from relevant bodies, taking oral evidence from Scottish Executive officials and then preparing a report for the Justice 1 Committee.**

Emma Berry
November 2004
Dear Susan

FINANCE COMMITTEE MEETING, 9TH NOVEMBER

1. At Tuesday’s meeting, Mr McCabe promised that officials would provide the Committee with further detail on a number of points, which are addressed on the attached sheets.

2. We would of course be happy to provide further explanation if the Committee would find that helpful.

DR RICHARD DENNIS
Finance Co-ordination Team
Validation of Concessionary Travel claims

The Executive provides significant funding to local transport authorities for concessionary travel both through Grant Aided Expenditure allocation arrangements and additional Section 70 grant for any demonstrated shortfall. As you would expect, we are extremely concerned to hear of any potential abuse of the system and take these issues very seriously.

Concessionary travel schemes are run by local authorities either individually or in groups of authorities. The operational and reimbursement arrangements covering the 16 local concessionary schemes throughout Scotland are covered by contractual arrangements between the local scheme managers and the transport operators concerned. Such contracts are of course covered by normal public accountability and value for money procedures. The responsibilities of the Traffic Commissioner for the Scottish Traffic Area do not extend to concessionary travel or the contractual arrangements covering the schemes.

It is imperative that concessionary travel claims are properly scrutinised and validated and we have made it clear in our guidance on 2004-05 concessionary funding arrangements that authorities must carry out rigorous audit and validation of all operators’ claims. We consider that these procedures should include the audit of bus operator claims and systems; the detailed examination of electronic ticket information; the monitoring of trends in scheme usage to identify anomalies and irregularities; and on-bus surveys to provide additional validation of claims. Furthermore, all instances of irregularity should be fully investigated with the operator concerned.

Local transport authorities wishing to claim Executive grant for concessionary fares in addition to their allocation under the local government settlement are required to provide the Executive with full details of their audit and validation procedures. In addition, we have also now made it a requirement for those authorities to introduce mystery passenger schemes. The mystery passengers should travel as ordinary concessionary passengers and report back on whether the tickets with which they are issued show the correct journey length. They should also travel as non-concessionary passengers and report back on whether they have been issued incorrectly with a concessionary ticket. Again, any irregularities should be investigated and claims adjusted.

As we move forward to implement our Partnership Agreement commitments for national concessionary travel schemes, we will continue to work closely with local authorities and representatives of the bus industry to consider what more can be done to ensure that the reimbursement process is sufficiently robust. As part of the Scottish Citizen’s Account initiative, we intend that Smartcards will be used for the national schemes. In the Transport Bill currently before the Parliament, we are taking powers to enable Transport Scotland to run the national schemes direct if we decide that is the right way forward.

UK Spending Review Publication

I can confirm that the wording in paragraph 2.19 of the Treasury’s UK SR2004 publication queried by Ms Alexander was indeed cleared by both the Scottish Executive and Welsh Assembly before publication.
Budget Reductions

The Committee sought an explanation for the apparent reduction shown in the Draft Budget for three specified level 3 programmes. Of course, the SR2004 process required that all portfolios reviewed existing budgets and realigned resources to improve frontline delivery, and as a consequence, various budgets were reduced across the office.

The specific reductions were made for the following reasons:-

**Office of the Chief Statistician** - The Neighbourhood Statistics budget has underspent its allocated budget in the past, partly due to the initial uncertainty of the likely costs (the initial budget was based on 10% of the UK Government’s planned spend), the difficulty in progressing some areas of work, but also agreement with the UK Government over some cost sharing proposals.

**Improvement Service** - As the Improvement Service develops its capacity over time and credibility among local authorities and their partners, it is anticipated that it will begin to attract financial support from other sources across the public sector and potentially generate income through some of its activities in due course. This will lead to less of a reliance on the Executive as a single funder and a reduced resource requirement.

**Scottish Executive Training Budget** - The plans for the Scottish Executive training budget for 2005-06, 2006-07 and 2007 reflect the 2005-06 budget plans set out in the Annual Evaluation Report rolled forward for 2006-07 and 2007-08. The budget for 2004-05 reflects a one-off increase in planned expenditure, mainly relating to training costs associated with Changing to Deliver – a change programme within the Executive. As noted in footnote 1 to the table given in the Draft Budget, the breakdown of spending plans for 2005-06 onwards within the Administration Budget is subject to change.