The Committee will meet at 10.00 am in Committee Room 6 to consider the following agenda items:

1. Management of Offenders etc. (Scotland) Bill: The Committee will take evidence on the Financial Memorandum from –

   Andrew Brown, Bill Team Leader, Reducing Reoffending Division, Scottish Executive;
   George Burgess, Head of Criminal Justice Group Projects Division, Scottish Executive;
   Paul Cackette, Head of Civil Justice Division, Scottish Executive; and
   Sharon Grant, Branch Head, Community Justice Services Division, Scottish Executive

2. Budget Process: The Committee will consider a proposal to update its previous Review of Budgetary Change.

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

**Agenda Item 1**

Written submissions on the Management Of Offenders Etc. (Scotland) Bill from:

- the Association of Chief Police Officers in Scotland
- COSLA
- the Criminal Injuries Compensation Authority
- the Scottish Prison Service; and
- Strathclyde Joint Police Board.

Management Of Offenders Etc. (Scotland) Bill and associated documents available online (previously circulated to members):

[Management Of Offenders Etc. (Scotland) Bill](FI/S2/05/10/1)

PRIVATE PAPER

**Agenda Item 2**

Review of Budgetary Change since 2000  
[Review of Budgetary Change since 2000](FI/S2/05/10/2)
Finance Committee

10th Meeting 2005 – 12 April 2005

Management of Offenders (Scotland) Bill: Written Evidence Submissions

Background
1. Members will take evidence today from the Bill Team responsible for the Management of Offenders (Scotland) Bill. Requests for written evidence in the form of the Committee’s standard questionnaire on financial memoranda were sent to the Association of Chief Police Officers in Scotland, COSLA, the Criminal Injuries Compensation Authority, the Scottish Prison Service and the Boards and Joint Boards of the Scottish Police forces.

2. Written responses were received from:
   - the Association of Chief Police Officers in Scotland
   - COSLA
   - the Criminal Injuries Compensation Authority
   - the Scottish Prison Service; and
   - Strathclyde Joint Police Board.

3. These responses are attached.

Recommendation
4. Members are invited to consider the responses received to inform their questioning of the Bill Team.

Judith Evans
Senior Assistant Clerk
MANAGEMENT OF OFFENDERS (SCOTLAND) BILL - FINANCIAL MEMORANDUM

I refer to your correspondence dated 15 March 2005, in relation to the above subject, which has been considered by members of the Finance and Best Value Business Area and can now offer the following by way of comment in respect of the questions posed.

Consultation

1. It is difficult to estimate the actual costs, which will be incurred by forces as a result of this Bill, as it will depend greatly on the amount of work flowing from the legislation. No additional sums have been included in the Police Grant Aided Expenditure settlements for 2005/2006 to 2007/2008 to address these costs. Consultation has not occurred to date due to time constraints, however work is proposed in early course.

2. This has not been represented in the Financial Memorandum.

3. Yes. Consultation has not occurred to date due to time constraints, however, work is proposed in early course.

Costs

4. As per 1 above.

5. A full cost evaluation of the impact of the Bill’s implications should be undertaken in the first year to try and determine if extra costs have been incurred or, alternatively, have savings been achieved in other areas to compensate.
6. Again, it is difficult to comment on the ability to pay until the costs become apparent. However, the Bill will be introduced and the costs will require to be met from existing police budgets.

Wider Issues

7. It would have been helpful if a full evaluation of the revenue costs had been undertaken, prior to the announcement of Spending review figures and then some cognizance of the additional costs could have been included in the settlement. Although the police service welcomes the financial input made to the capital costs of setting up the standardised database, there are obvious annual revenue costs arising from this, which have not been taken into account. Accordingly, they must be met from existing police budgets unless additional funding is allocated in the future.

8. Members agree, that there will be future costs associated with the Bill, which will need to be addressed. As stated above, it is impossible to quantify these costs at this time.

I trust that the foregoing is of assistance to you.

Yours sincerely

Chief Constable  
(Hon. Secretary)
REPLY FROM HOWARD WEBBER, CHIEF EXECUTIVE OF CRIMINAL INJURIES COMPENSATION AUTHORITY TO QUESTIONNAIRE

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?

   Reply: Yes.

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

   Reply: Yes.

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

   Reply: 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.

   Reply: Yes. I would emphasise that the Criminal Injuries Compensation Authority (CICA) would exercise this power only where there was no real reason to doubt that the action would be successful. This being so, on the basis that the costs of a successful action would be reimbursed to the CICA, the net cost would be zero or negligible.

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?

   Reply: Please see reply to question 4.

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?

   Reply: The figure is entirely and inherently uncertain. A few successful cases (given that the maximum award payable is £500,000) could result in recovery of a sum well above the estimate, while one could envisage years with no successful cases. In general, ‘best guess’ is probably a more accurate term than ‘estimate’, and as such we do not disagree with it.
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?

Reply: Not applicable to the CICA.

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?

Reply: Not applicable to the CICA.

Howard Webber
Chief Executive
Criminal Injuries Compensation Authority

6 April 2005
MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) BILL

EVIDENCE TO THE SCOTTISH PARLIAMENT FINANCE COMMITTEE

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?

There was no consultation on the draft Bill, hence COSLA did not comment on the financial assumptions made.

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

Not applicable, given response to question 1.

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

Not applicable.

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 has no direct financial implications for COSLA as an organisation. However, there are two issues for COSLA in relation to the Memorandum’s provisions in relation to Community Justice Authorities:

- We are not convinced that in the context of a very tight spending review settlement for justice, scarce resources should be directed to the establishment of CJAs. £200,000 multiplied by a yet to be determined number of CJAs represents a significant sum of money that could perhaps be more effectively directed elsewhere as part of the effort to reduce re-offending.
- We would welcome further detail on how the £200,000 breaks down into the component elements set out in the financial memorandum.

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?

As per above, the Bill has no direct financial implications for COSLA. However, in respect of local authorities, COSLA does not share the Scottish Executive’s
confidence that the Sex Offenders Assessment provisions will necessarily be cost neutral. We would invite the Executive to both justify that assertion in detail and also to retain some form of contingency to ensure that any additional costs that do arise are met from Executive funding.

COSLA would also wish clarification on whether the Executive has made any provision for recurring funding for the risk assessment training of police and social workers (i.e. £150,000), given that there will be recurring demand for training in this area. The Memorandum suggests that no such funding provision has been made.

Although we cannot be entirely certain of the annual costs to local authorities arising from the Home Detention Curfew scheme (i.e. £750,000 for assessment and £125,000 for supervision), we do accept that based on available information, these appear reasonable estimates.

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, although clearly COSLA would welcome an Executive commitment to provide additional funding should unforeseen costs arise in practice.

**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?**

**Prison Service**

We have no concerns in relation to the accuracy of the associated costs presented in the Memorandum. However, we would wish to take the opportunity to comment on the striking increase in SPS expenditure over a 3-year period from 2005-08. There is no indication in the Memorandum whether this increase is expected to continue beyond 2008 or not. It may be that this kind of analysis is presented elsewhere (e.g. in SPS management documents), but in a context where resources are scarce, it is valid to use the Bill process to ask whether this phenomenal increase in SPS expenditure represents the best approach to reduce re-offending. COSLA has always questioned whether proper consideration has been given to diverting these additional resources from the prison service into community sentences and initiatives that may be more effective in reducing re-offending.

COSLA shares Ministers’ hope that this legislation will contribute to a reduction in prison numbers over time, that will assist a re-direction of resources from the SPS to community alternatives. However, in previous cases where there has been a deliberate policy of transferring resources from institutions to community alternatives (e.g. community care), there has been an identified need to factor in bridging funding. COSLA would welcome some indication of whether Ministers have given this any consideration in relation to the reducing re-offending agenda.
National Advisory Body

COSLA has no substantive comment to make on the projected £50,000 administrative costs associated with this, which seem a reasonable estimate.

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?

There may be administrative costs associated with the transfer of assets from individual local authorities to a CJA if that occurs at some future point.
SUBMISSION FROM THE SCOTTISH PRISON SERVICE

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?

a) SPS provided a full response to the consultation exercise on “Reduce, Re:habilitate, Re:form - A consultation on Reducing Reoffending in Scotland” which preceded the publication of “Scotland’s Criminal Justice Plan: Supporting Safer, Stronger Communities” in December 2004.

b) SPS provided initial costing on the likely SPS costs of the Home Detention Curfew element of the Bill proposals. SPS was subsequently consulted on the financial implications. Views on the financial implications of some costs have been refined, as thinking on the implementation of the Bill has developed. This paper includes costs which reflect our current understanding of the implication of the Bill for the SPS.

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

Yes. See (4) and (5) below.

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.

a) Paragraph 114 reports that “The Scottish Prison Service will be expected to undertake these functions within its budget.” Scottish Ministers have not yet determined budgets, including for SPS, for the period 2007-08 onward.

b) SPS currently estimates that in addition to the £135,000 mentioned at paragraph 139, it will need to find approximately £2m will be needed to deliver the extra services and improvements expected as an outcome of the Bill’s implementation.

c) SPS estimates its full costs for the main elements of the Bill to be:
   - Community Justice Authorities, planning and liaison: c£0.25m
   - Improvements to service delivery, assessment of need, community link arrangements and administrative and management support, and training: £1.1m
   - Home Detention Curfew (based on 7,000 to 7,500 risk assessments and release decision-making of short term prisoners, and management of a small number of long-term prisoners): c£ 0.23m. This figure is greater than that previously
estimated at paragraph 139 as initial scoping work on the HDC decision-making process has highlighted the need to budget for management time involved.

- Sex Offenders (improved information sharing, liaison and services, assessments, programme development and training) c£0.5m.

- The above gives a total of recurring costs of c£2m a year.

- Additionally, SPS estimate one-off preparation and set-up costs of up to c£1m over the full two-year lead in period (April 2005 to March 2007). These costs include staff, planning and operational costs, capital expenditure on IT and its development, appointment of staff prior to April 2007 and staff training for new roles and relationships, and potential HR costs including trawling/advertising and costs of internal transfers.

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?

(a) Yes, so far as can be foreseen and subject to the point made at 4(a). However, SPS has for some time been set rigorous financial targets to improve value for money and drive down the cost base as other providers of prison services can deliver satisfactory prison outputs for significantly less. SPS has been reducing its cost base to become more competitive. Also, Government departments and agencies are being required to make efficiency savings to contribute to the Efficient Government Programme.

(b) SPS continues to make reductions in its running costs to contribute to reinvestment in the prison estate, to fund inflationary pressures of running costs such as utilities and staff pay, and to invest in improved services to offenders in order to support the Ministers policy to reduce reoffending. Some SPS resource re-allocation will be required eg for health issues (such as addictions and mental health) and for the implementation of this Bill and progress in re-aligning costs during 2005-06 and 2006-07 will help fund these priorities.

(c) SPS has just launched a major exercise, in partnership with the TUS, designed to alter our structure and staffing to assist in creating better value within the organisation. The results of this exercise will, we expect, make a further contribution to meeting the estimated additional demands.

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. The figures aim to take account of margins of uncertainty as far as these can reasonably be estimated and avoid optimism bias.
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?

Below are some aspects of ongoing policy issues which impact on financial/operational matters.

(a) The Management of Offenders Bill builds on a longer-term strategy in which SPS has been a key player within the SE JD CSD Tripartite Group (SPS, ADSW and SE JD). Significant funding has already been provided through the Tripartite Group to local authority Criminal Justice Social Work for improvements to throughcare, beginning with long term prisoners, and being extended to high risk offenders (i.e. sex offenders) and other special groups. SPS has met its obligations under the new arrangements from within its existing funds.

(b) Additionally, through the auspices of the Tripartite Group, but with the additional involvement of the Substance Misuse Division, SE Health, and local DATs and SATs, SPS is transferring its current ‘Transitional Care’ service for short-term sentenced drug abusers to a community based ‘Addictions Throughcare Service’. Local authorities will run this. In addition to further moneys being made available by SE JD CSD and Health, SPS will be transferring £0.4m of its funding to the community run service.

(c) The focus on improved management, assessment, treatment and supervision of Sexual Offenders continues. SPS has an important part to play and welcomes the work of ISSG (Solicitor General’s working group on Information Sharing) and the concept of ‘core partners’ with police and social work for information sharing in the management of Sexual Offenders. Integrated offender management is a key requirement and should ultimately lead to reductions in duplication of assessments through, for example, use of joint assessment tools, paperwork and other costs. These anticipated efficiencies are to be welcomed, not only for the savings to taxpayers which they should bring, but because an efficient service (which communicates well with each other, pools information and understands what each players role is) is more likely to contribute to public safety.

(d) Prison population numbers are projected to rise and new prisons are being planned both to cater for increased numbers to improve the standard of existing accommodation and replace old accommodation. One of the stated aims of the policy underpinning the Bill is to reduce prison numbers by keeping out of prison those who do not require to be expensively locked up. This may be achieved through:

- reducing the numbers on remand by an increase in use of bail;
- by sending fewer to prison through the increased use of alternative sentencing disposals or diversion from prosecution;
- by reducing the length of sentence of those committed to prison; and
- by providing options for earlier release of those assessed as not posing a risk to the public (such as through the proposals on Home Detention Curfew).
However, it is likely that, initially, such policies will result in only small reductions of numbers of prisoners in individual prisons, and any savings generated will be marginal (i.e. the cost of food, clothing, bedding). That is why the figure of £0.6m (paragraph 140) is given. This represents the marginal daily cost of 300 prisoners from the various prisons throughout Scotland who might be expected to be on HDC, once fully running.

Were a significant reduction in prisoners to come from a single large prison and say a whole accommodation unit for 300 be closed, with associated savings in staffing and so on, this might release savings of around £3m. The closure of a medium size prison holding a similar number, with associated savings on infrastructure services such as kitchens, industries, administration and security could release approximately £6m. These figures are a more realistic estimate of what could be realised should all offenders on HDC be released from one establishment and replace the crude estimate of £9.9m previously offered (paragraph 153). As releases on HDC will be spread throughout the SPS estate such savings are extremely unlikely and any savings from the measures in the Bill have to be set against the current projections which show a rising prison population.

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?

It is not possible to say without seeing such legislation or guidance.
Management of Offenders Etc (Scotland) Bill

Financial Memorandum

Response to Questionnaire on Financial Memorandum

Strathclyde Joint Police Board

The following observations are offered to the questions put in the questionnaire on the Financial Memorandum for the Management of Offenders Etc (Scotland) Bill.

Consultation

1. No.
2. Not applicable.
3. Not applicable.

Costs

4 & 5. These two questions will be taken together. It is very difficult to say whether the financial implications for the police service have been reflected accurately in the Financial Memorandum just as it is equally difficult to say that the Police Authority can meet the financial costs associated with the Bill. The reason for this is that the elasticity of demand for the new duties placed on the police service is almost impossible to determine on a theoretical basis in advance of the functions becoming live.

There are three particular issues which it is worth commenting on.

The first is not necessarily directly related to the Police Authority. Section 2 of the Bill provides for the creation of Community Justice Authorities and the cost element is referred to in paragraph 111 of the Financial Memorandum. It is suggested that £200,000 per annum is a sufficient resource to run such an authority. Given the logistical and operational requirements which may be generated by a Community Justice Authority it is thought that this financial provision may be on the light side and that in practice the actual cost could double. A lead authority arrangement might curtail costs.

Section 9 provides for the assessment and managing the risk posed by serious and sex offenders. The Chief Constable is one of three parties required to contribute to this process. The costs to the police service of
meeting obligations imposed here are discussed at paragraphs 124 and 125 of the Financial Memorandum. It is suggested that the only financial implication here is funding required to provide training to police officers and social workers and that a budget of £150,000 is considered appropriate.

However this now picks up on the earlier remarks here. This is a new duty and to do it properly will require resources. It is unrealistic to suggest that this new burden can be met satisfactorily at the same time as the current level of service can be maintained. Management of the risk posed by serious and sex offenders is an issue subject to proper heightened media and public scrutiny. There is considerable expectation on all authorities involved here. It will in all probability be unrealistic to expect this new service to be provided to a satisfactory degree without also anticipating either that it will have an impact on current service provision or that it will require greater resourcing to maintain both levels of service provision.

Section 11 addresses further powers to release prisoners on licence or release prisoners under home curfew arrangements. The Financial Memorandum does not address the, perhaps unquantifiable, costs of re-arresting persons released early under the new arrangements on licence, if that proved to be necessary. The Memorandum concentrates on the new proposed home curfew arrangements. The costs to the police service is identified as being the need to re-arrest those in breach of the conditions of home curfew, which is estimated at 300 offenders each year, a cost which the memo says at paragraph 146 is simply absorbable by the police service. The same argument must be considered as set out above. A new obligation is being created and it is unrealistic to expect that a new burden can be carried out to a satisfactory degree without in some way impinging on the current level of service in other areas. If 300 becomes a gross under estimation then the financial inequity of suggesting that the cost can be absorbed into the police service becomes even more untenable.

Overall there has to be a full evaluation of the impact of the Bill’s implications over the first year of operation and to determine to what extent additional costs have been incurred or, if it can be identified, what other area of service has been reduced to compensate. Appropriate adjustments in the police Grant Aided Expenditure settlements for future years would require to be made.

Notwithstanding the generality of review considered appropriate it is probably essential that in relation to the assessment and managing of the risk posed by serious and sex offenders that a more interim review is undertaken to ensure that the expectations delivered on the passing of the Bill are in fact created and delivered.

6. The Financial Memorandum leaves very little margin of uncertainty. The Financial Memorandum is in fact fairly prescriptive as to the expenditure which it considers will arise. It is felt that in the nature of the activities covered by
the Bill the margins of uncertainty in financial terms are much wider than the Financial Memorandum contemplates.

**Wider Issues**

7 & 8. These two questions are taken together. At the expense of becoming a little repetitious it is considered that because of the linkage which the Bill's proposals make into the criminal justice system and because of the uncertain nature of the demand from the new burdens and duties created in the legislation it is very likely that costs unforeseen at the moment will emerge in future years as the arrangements in the Bill become live.
Finance Committee

10th meeting 2005, Tuesday 12 April 2005

Review of Budgetary Change since 2000

1. In September 2000, the Finance Committee commissioned a research report which assessed the scope for change within the Scottish budget. The remit was to “appraise the extent to which the parliament can suggest changes to programme expenditure,” by distinguishing those “elements of the budget which are non-discretionary from those which are discretionary.”

2. The resultant research report (Midwinter and Stevens 2001) concluded that some 20% of the Scottish Budget is committed through ring-fencing; contractual agreement; or demand led programmes whose expenditure is determined mainly by uptake of entitlements. This left some 80% of the budget for which expenditure is discretionary, but for which the main constraint is the incremental nature of budgetary change through inherited commitments. The report also showed that a high proportion of the budget is in staffing costs, nearly 50% overall, but nearer 70% in discretionary programmes, which can only be adjusted slowly in practice (because of employment contracts).

3. Interestingly, the report also cautioned against making recommendations on the basis of undemonstrated efficiency gains or reductions in bureaucracy. “In our experience, efficiency savings in budgets which are assumed rather than demonstrated seldom occur.” Therefore, “only identifiable efficiency gains should be accepted” (p39).

4. The report also showed that the spending plans post-2000 presented a radically different picture from the 1990s, with significant real increases planned, which greatly widens the margins of choice. These growth monies permitted the development of programmes such as free personal care for the elderly; educational maintenance allowances; concessionary travel etc, whose original estimates were based on assumptions which can only be verified post-implementation.

5. This paper suggests that now is a good time to update this report, to quantify the extent to which the discretionary/non-discretionary programme split has altered in the years of growth; to identify the cost of new policy developments within the period; to identify any programmes which have been downgraded or discontinued in this period; and to assess whether any redistribution within the base budget – as opposed to allocating the growth monies – has taken place.

6. Our view is that this work would greatly enhance the committee’s capacity to influence SR 2006; and to monitor and scrutinise the efficient government programme. It would also allow the Committee to publish another major research report in what will be a light “budget”
round for 2006-07. We would undertake the background analysis from now to late summer, with a view to having a draft paper ready for the Committee’s away day in August, (as was done last year with the review of performance information).

7. The Committee’s views on this paper are invited.

Professor Arthur Midwinter
Budget Adviser

Ross Burnside
SPICe