FINANCE COMMITTEE

AGENDA

28th Meeting, 2005 (Session 2)

Tuesday 29 November 2005

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

1. **Scottish Commissioner for Human Rights Bill:** The Committee will take evidence on the Financial Memorandum from—

   Brian Peddie, Head of Human Rights and Law Reform Branch; Ed Thomson, Policy Officer, Human Rights and Law Reform Branch; and Ross Truslove, Policy Officer, Human Rights and Law Reform Branch, Civil Law Division, Scottish Executive.

2. **Cross-cutting Inquiry into Deprivation:** The Committee will consider its findings from its site visit on 14 November 2005.


4. **Cross-cutting Inquiry into Deprivation (in private):** The Committee will consider issues arising from evidence received for its cross-cutting inquiry into deprivation.

5. **Police, Public Order and Criminal Justice (Scotland) Bill (in private):** The Committee will consider its draft report on the Financial Memorandum of the Police, Public Order and Criminal Justice (Scotland) Bill.

Susan Duffy
Clerk to the Committee
Room T3.60
Extn 85215
The papers for this meeting are:

**Agenda Item 1**

Written submissions on the Scottish Commissioner for Human Rights Bill from:
- Scottish Parliamentary Corporate Body
- Scottish Public Service Ombudsman

Scottish Commissioner for Human Rights Bill and associated documents available online (circulated to members in hard copy only; electronic versions available via Parliament website)

PRIVATE PAPER

**Agenda Item 3**

PRIVATE PAPER

PRIVATE PAPER

**Agenda Item 4**

PRIVATE PAPER

**Agenda Item 5**

Written submissions on the Police, Public Order and Criminal Justice Bill from:
- Scottish Executive
- Scottish Public Service Ombudsman

PRIVATE PAPER
Finance Committee

28th Meeting 2005, 29 November 2005

Scottish Commissioner for Human Rights Bill

1. Members will take evidence today from Scottish Executive Officials in relation to the Scottish Commissioner for Human Rights Bill.

2. A request for written evidence in the form of the Committee’s standard questionnaire on financial memoranda was sent to the Scottish Parliamentary Corporate Body. The written response is attached.

3. Also attached is a copy of the Scottish Public Service Ombudsman’s (SPSO’s) submission to the lead committee for the Bill, forwarded to the Finance Committee by the SPSO on 21 November.

Susan Duffy
Clerk to the Committee
Thank you for your letter of 20 October enclosing a questionnaire on the Financial Memorandum produced to accompany the Scottish Commissioner for Human Rights Bill.

As you are probably aware, the Parliament has passed legislation establishing similar officeholders (e.g. the Scottish Information Commissioner) and the Scottish Parliamentary Corporate Body (SPCB) has been required under legislation to meet certain obligations with regard to these officeholders including setting the Officeholder’s terms and conditions of appointment, meeting the costs incurred by the Commissioners in the exercise of his/her functions; and scrutinising the Commissioner’s budgets prior to them being approved by the Finance Committee.

The SPCB is aware, and shares with the Committee, the view that value for money among such office holders is essential and continues to seek a proactive approach to the sharing of common services, where practically possible and which will not impact on the functional independence of the office holders. The SPCB therefore welcome the provisions in the legislation which require the SPCB to approve the office location and give consent to staff numbers for the Scottish Commissioner for Human Rights.

On location should it be possible to co-locate with an existing office holder this could provide a financial saving. Although, should this not be possible because of space limitations or the desirability of not having the office in Edinburgh, then it will impact on the financial provision made to accompany this Bill. There are therefore some costs included in the financial memorandum that might be under-estimated, particularly from year 2 onwards and the SPCB would therefore have responsibility for any shortfall in funding which would have to be considered against other competing demands.

We appreciate the Committee will examine the Memorandum in detail and would invite the Committee to consider the possible impact any shortfall in setting an initial budget based on the Financial Memorandum would have on the SPCB. We consider that based on our experience it is essential to get the initial budget as
accurate as possible thereby reducing the possibility of increases in future years, other than legitimate increases, for example staff salary cost of living increases.

Drawing on our experience, we offer the following comments on the Financial Memorandum on the attached questionnaire which I hope the Committee will find helpful.

Yours sincerely

GEORGE REID
SPCB Response

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?

Answer – The SPCB did not respond to the public consultation and only had sight of the detail of the financial memorandum on introduction of the Bill.

Questions 2 and 3 – 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.

Answer - the Financial Memorandum (FM) states that the costs of funding the Commissioner and his office will be publicly funded by the SPCB. The Scottish Executive will transfer funding of £1m per year from 2006-07 to meet the costs of the Commissioner. Any shortfall would therefore have to be met by the SPCB. We are not satisfied that all costs have been taken fully into account in the FM and although we consider that £1m will be sufficient for the first year, as the office will not be fully operational, we do not consider that the FM is as accurate as it could be for the Commissioner’s second year, unless we are successful in the sharing of some common services. In particular we would comment as follows:-

Paragraph 106-109, commissioner salaries – we note that the Commissioner’s salary is estimated between £70,000 and £75,000 and that the deputy’s salaries are estimated between £45,000 and £55,000. The SPCB has in the past determined that full-time Officeholder’s starting salaries should be set at £72,000 (increased in line with an independently recommended uprating mechanism on an annual basis). The current salaries of the Officeholders for which the SPCB has responsibility for with effect from 1 April 2005 are as follow:-

Scottish Public Services Ombudsman - £84,477 (not between £70-75K set out in the FM)
Deputy Ombudsmen (2.5 days per week) - £29,045
Scottish Information Commissioner - £77,722
Scottish Parliamentary Standards Commissioner (5-10 days per month) - £38,533.50
Commissioner for Children and Young People in Scotland - £74,520
Commissioner for Public Appointments in Scotland (3 days per week) - £43,470

The salary levels of the office holders has been reviewed by the independent Senior Salaries Review Board. It is not clear to us what basis the salary levels of the deputy Commissioner have been estimated.
Paragraphs 110-113, recruitment – previous experience suggests that the costs of undertaking a recruitment exercise for officeholders (the Commissioner and possibly two deputy Commissioners) will be in the region of at least £15,000 for a single office holder. Given that we would be advertising for more than one Commissioner we would expect that cost to be increased although not considerably. In line with good recruitment practice the selection panel would have an external independent assessor to ensure the selection and recruitment process is conducted fairly. This would add an additional sum of around £2,000 to the recruitment exercise.

Paragraph 114-119, staff salaries - we assume that there will be a differential between the deputy’s salary and that of the chief executive and again to draw suitable candidates for this post, we consider that the chief executive’s salary would have to at an appropriate level, possibly equivalent to an SPCB Grade 6 – minimum around £40,000, particularly if they are also to be the Accountable Officer for the organisation. Although, on this point we have submitted evidence to the Justice 1 Committee suggesting that the Commissioner should be the Accountable Officer. If we look at the staffing budget of the Children’s Commissioner for 15 staff in 2006-07 which is estimated at approximately £583,000 this would mean that the Human Rights Commissioner’s requirement could be in the region of £388,000 and not £350,000 as estimated. Although, as explained in the covering letter the SPCB will be actively looking to see if any support staff functions can be shared between the existing officeholders.

Paragraph 120, rental costs – the provision that the Commissioner must seek the approval of the SPCB in respect of his/her office location is very helpful. The SPCB will ensure that the Commissioner considers relevant location policies and considers the option of co-locating with other Officeholders to maximise any possible savings through shared rent and/or services.

Paragraphs 120 and 121, acquisition and conversion of office and the cost of office equipment etc – should it not be possible to co-locate with an existing Commissioner or the view is taken that the office should be outwith Edinburgh (where the majority of existing commissioners have established their offices), the cost of fitting out the Commissioner’s office is more likely to be in the region of £250,000 (including external advisor costs – to cover property location searches, lease handling, and to purchase furniture and IT systems) based on the experience of other office holders.

Paragraph 124-125, promotion and awareness-raising – given this is the Commissioner’s main role we consider £175,000 may be sufficient, when compared to the other Commissioners. The FM accompanying the Children’s Commissioner estimated this to be £200,000, but her latest budget is just under £160,000 for the 2006/07 financial year.

Paragraph 126, research – we would encourage the Human Rights Commissioner to collaborate with other Officeholder’s and in particular the Children’s Commissioner where possible to undertake joint research projects which will result in savings.
We do, however, note that there is not provision for the Commissioner undertaking inquiries nor for external consultants/advice (e.g. auditor’s fee, or legal advice).

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?

In future years the funding will be met out of the SPCB budget submission.

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?

N/A
Scottish Commissioner for Human Rights Bill
Submission by the Scottish Public Services Ombudsman
to the Justice (1) Committee

Background: the Scottish Public Services Ombudsman

The SPSO is an independent and impartial body, established in 2002, that investigates individual complaints that the administrative actions and service failures of public authorities in Scotland have resulted in hardship or injustice. Our work includes seeking solutions to unremedied acts of maladministration or service failure and contributing to the improvement of public administration.

Human rights are fundamental to the concept of good public administration. Although the legislation governing the SPSO’s remit makes no direct reference to human rights, some of the complaints we deal with are in fact issues of breaches of human rights (for example the right to peaceful enjoyment of property, or to suitable care for the elderly). Further, maladministration may involve more general inconsistencies with human rights concepts, for example when a public authority fails to give adequate information regarding rights of objection or appeal.

This direct link between human rights and the work of public sector ombudsmen is widely recognised outside the UK. In some European countries, for example in some of the new accession states, the title of the national ombudsman is ‘Commissioner for Human Rights’. Similarly, the SPSO sees itself as making a valuable contribution to promoting human rights in Scotland and we would expect to work closely with the new body.

The views that we contribute here can be divided into three sections:

1. Jurisdictional issues

We welcome the Bill to establish an independent Commissioner to promote awareness, understanding of and respect for human rights in Scotland. We urge the Committee to ensure that our work and that of the new body complement and support one another. We welcome the decision that the new body will not be charged with investigating individual cases. The SPSO will continue to deal with complaints about administrative and service failures which contain a human rights component. We acknowledge that complainants do have the right to take legal action in relation to human rights violations. However, the SPSO considers that it is not always reasonable to expect a complainant to resort to what can be costly and adversarial court proceedings to seek an appropriate remedy to administrative human rights breaches. Also, there may not always be an appropriate legal remedy for those whose human rights have been violated.

Secondly, our assumption is that the new Commissioner will be within SPSO jurisdiction under the same legislation that applies to, for example, the Scottish Information Commissioner.
Given the above and our human rights casework, it is our view that there are jurisdictional issues that need to be clarified and that the new legislation should clearly specify the respective spheres of activity of the two bodies. We would urge the Committee to make clear the difference between the SCHR’s ability to enquire, and the SPSO’s powers of investigation. We recognise the possibility of dislocation with bodies that have been set up since devolution and we believe that a Memorandum of Understanding at an early stage would avoid the possibility of confusion, duplication and gaps.

We also endorse the need that the Committee has highlighted to properly clarify areas of devolution, for example, the respective remits of the proposed Commission for Equality and Human Rights for Great Britain and that of the SCHR.

2. Disclosure of Information by the Ombudsman

The SPSO Act 2002 has exacting restrictions on the disclosure of information to other bodies. To assist effective working with the new body, we propose an amendment to Schedule 5 of the SPSO Act 2002 to include the SCHR, in line with requirements from, for example, the Information Commissioner.

3. Scope for co-operation and sharing of services

As noted above, we think it is important to ensure clarity about the boundaries of responsibility and potential interactions of the SPSO and the SCHR. Failure to do so effectively would confuse the public and risk duplication and inefficiency. Conversely, cooperation, which might also extend to a variety of support and other activities, could bring significant savings and efficiency gains.

We believe that practical opportunities exist to share services and reduce the overall cost of establishing and running the office of the SCHR. We would be pleased to provide details to the Committee on how this could be taken forward, and to give oral evidence on shared services and any other matter raised in our submission.

Professor Alice Brown
Scottish Public Services Ombudsman
17 November 2005
Finance Committee

28th Meeting 2005, 29 November 2005

Police, Public Order and Criminal Justice (Scotland) Bill

1. The Committee will consider its draft report on the above Bill at today’s meeting. On 22 November the Committee agreed to consider this agenda item in private.

2. When they gave oral evidence at the Committee meeting of 15 November, Executive Officials agreed to provide further clarification in response to questions in respect of the Bill. This clarification was provided on 22 November and is attached.

3. Also attached is a copy of the Scottish Public Service Ombudsman’s (SPSO’s) submission to the lead committee for the Bill, forwarded to the Finance Committee by the SPSO on 21 November.

Susan Duffy
Clerk to the Committee
Dear Mr McNulty

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) BILL

Thank you for your letter of 17 November 2005 regarding the oral evidence that I gave to the Finance Committee on 15 November 2005 as part of the examination of the Financial Memorandum for the above named Bill.

During the evidence session I agreed to provide some additional written evidence and this is now attached. The additional evidence covers the following issues raised by the Committee:

- The document “Review of Marches and Parades in Scotland - Guidance for Scottish Local Authorities” which is currently being prepared;
- Exemptions from the notification process for marches and parades;
- Our comments on the COSLA written evidence submission (reference FI/S2/05/26/4); and
- Potential legal challenges.

I hope this information is helpful.

Yours sincerely

David Bell
Police Division 1:2
POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) BILL:
WRITTEN EVIDENCE SUBMISSION

The following written evidence has been provided in addition to the oral evidence on marches and parades which was given to the Finance Committee on 15 November 2005:

1. Review of Marches and Parades in Scotland - Guidance for Scottish Local Authorities

1.1 Section 68(3) of the Police, Public Order and Criminal Justice Bill (“the Bill”) inserts new section 65A into the Civic Government (Scotland) Act 1982 (“the 1982 Act”). This section provides that the Scottish Ministers can issue guidance which local authorities shall have regard to when carrying out their functions in connection with public processions under Part V of 1982 Act.

1.2 At present, the Scottish Executive is preparing guidance which will be issued to local authorities under new section 65A of the 1982 Act, should this provision be enacted. One of the purposes of the Guidance is to support the local authorities’ functions as a consequence of the implementation of the recommendations of the Review of Marches and Parades in Scotland. It is being prepared by the Scottish Executive in conjunction with the Working Group on Marches and Parades (which includes membership from COSLA, SOLACE and SOLAR as well as police bodies). While the main input to the guidance is from the Working Group it will also take account of the discussions which are currently being held with key march organisers and other interested parties.

1.3 On current plans, the draft guidance will be spilt into two distinct parts to provide details on: (a) the functions which local authorities are required to carry out under Part V of the 1982 Act (as amended); and (b) how local authorities will be expected to meet the terms of the recommendations in Sir John Orr’s report which are not covered by Statute. The draft guidance is at an early stage and consultations with a wider audience are expected to be held in January. In the main, however, it is expected that the guidance will:

- set out in detail the new duties and powers provided to local authorities in the Bill;
- set out the steps which local authorities will be required to take when considering whether to prohibit or impose conditions on processions;
- provide a note of the key decisions which should be taken along the way towards reaching a decision within the 28-day notification period;
- outline options for community consultation and awareness raising; and
- clarify what local authorities will be asked to provided for the regular report which is to be produced for the Scottish Ministers to demonstrate that they are implementing the new procedures in a way appropriate to their local circumstances.

1.4 The draft guidance also provides local authorities with a steer on how they should provide information to the community about processions which will take place in their area, under sections 67(9) and (10) of the Bill.
2. Exemptions from the notification process for marches and parades

2.1 Section 66(8) of the Bill inserts new section 62(11B) into the 1982 Act which provides that a funeral which is organised by a funeral director and a procession which is specified in an order made by the Scottish Ministers, will be exempt from the notification process. The decision to insert this change in the Bill was made to ensure that communities and local authorities could have the full picture of the processions that may be taking place in their area and to plan around them, as necessary. This change is not considered to be overly burdensome as many organisations who are exempt from the notification requirements under the existing legislation already informally notify the local authority and the police of their intentions to hold a procession and, depending on the nature of the event, would be in contact with the local authority to ascertain if there is a need for a road closure or a temporary licence.

2.2 Local authority members of the aforementioned Working Group have already been invited to notify Scottish Ministers of any bodies which they would wish to exclude from the notification process. It is also our intention to canvass all remaining local authorities to ascertain what type of processions should be contained in any order which is made by the Scottish Ministers. It is intended that such an Order would be made when the provisions of the Bill on processions come into force. The Order can be amended by negative resolution should it become apparent at a later stage that other processions should be made exempt. The guidance will provide local authorities with more details on these aspects. We would expect that it would be acceptable and reasonable for bodies such as the Boys Brigade or Girl Guides to be included in such an order.

2.3 With the above points in mind, we believe that the impact of removing local authorities’ power to exempt organisations from the notification process will prove to be far less onerous than envisaged by COSLA.

3. COSLA written evidence submission (reference FI/S2/05/26/4)

3.1 We note that the above paper submitted to the Committee by COSLA is at variance with the estimate of additional costs submitted by the Executive. I would ask the Committee to note our observations of the COSLA costs, as follows:

- All costs for staffing/administration and consultation appear as additional in the table in the COSLA paper, and it would appear that no offsetting or efficiencies have been accounted for. For example, on staffing, some of this work is already covered by health and safety and/or event management staff. We understand that such staff members already risk assess and process applications for events and entertainment. We therefore think that it would not be unreasonable to expect efficiencies to arise by adding any additional work on parades into the existing functions.

- The assessment of full time equivalent (FTE) in the text at the end of the table is, in our respectful view, too simplistic and we believe it effectively presents an over-estimate on both officer time and consequent cost. COSLA’s formula appears to treat all marches identically and perhaps does not fully account for the fact that a number of notifications will be of a routine nature which will require little or no additional effort than before. In particular, COSLA’s formula appears to count all...
of the “feeder” parades for Orange Walks as individual marches. Such parades are commonly used to bring marchers from their individual Orange Lodge to the assembly point for the main parade. Dealing with each one as an individual parade is therefore not appropriate.

• We feel that it would be appropriate for a local assessment of the impact of frequency and potential for community disruption to be factored into the assessment of how much work might be needed to deal with marches in a local authority area. COSLA seem to make no allowances or provisions for possible integration of consultation on marches and parades into the existing community engagement activity which local authorities, in consultation with the police and other public agencies, might be undertaking throughout the year as part of Community Planning, under the Local Government in Scotland Act 2003. This approach would provide more reliable information on local views and identify those marches and parades which are the source of greatest concern.

• We stand by our argument that we would expect administrative, staffing and consultation costs to reduce over time as parades are prioritised and the processes become more efficient in subsequent years.

• Section 2 of the COSLA paper takes account of section 67(10) in the Bill which places a duty on councils to make sufficient arrangements to ensure that anyone is able to receive information about processions which may be held in their area, who requests this information. COSLA make the assumption that costs would need to include advertising in local newspapers at approximately £500 per advert. It is for local authorities to decide what arrangements should be made to provide information to the communities it serves and the Bill is silent on what those arrangements should be. However, if a council should decide to provide information on processions by means of a newspaper advert, we feel that it would be unnecessary to have individual adverts for each parade and that it would not be unreasonable to expect local authorities to submit an advert to a newspaper which carries information about all parades that are taking place in the area over a particular period. This is made easier for local authorities than before because the Bill requires organisations to give more than 28 days notice of a procession. However, we would expect that value for money should be a key consideration and there are less expensive alternatives which local authorities could consider using, for example:

  o disseminating lists of processions to local libraries;
  o publicising lists of processions in council offices;
  o publicising lists of processions in council publications;
  o circulating lists of processions to community representatives, interest groups etc in electronic format wherever possible; and
  o Placing the lists of processions on the local authority’s website.

4. Potential legal challenges

4.1 The Committee referred to section 66(8) of the Bill which inserts new section 62(11A) into the 1982 Act, and took the view that there may be the potential for legal challenge in relation to the way that local authorities will be required to notify their communities about
processions under this provision. New section 62(11A) imposes a duty on a local authority to publicise an order which it has made which exempts a person, who proposes to hold a procession, from having to give 28 days notice of this event. A local authority is given discretion as to how such an order is publicised.

4.2 This provision does not require a local authority to consult the community before deciding whether it should make an order which exempts a person from giving 28 days notification of a proposed procession because we recognise that there may not be sufficient time in each case for it to do so. Provided a local authority can demonstrate that such an order has been publicised, we do not see that a local authority would face a challenge about the manner in which such an order is publicised.
This submission is limited to comments on the proposal in the Bill to establish a Police Complaints Commissioner for Scotland.

Background: the Scottish Public Services Ombudsman

2. The Scottish Public Services Ombudsman (SPSO) was established in 2002 to investigate complaints against a wide range of providers of public services in Scotland. The SPSO’s jurisdiction is defined as including police boards\(^1\) but excluding action taken

   “By any police authority or any joint police board constituted by an amalgamation scheme made or approved under the Police (Scotland) Act 1967 (c.77),

   For the purpose of or in connection with the investigation or prevention of crime or the protection of the security of the State.”\(^2\)

3. In seeking comments on the proposal to create what is now the SPSO the Minister for Finance and Local Government said\(^3\) that the Scottish Executive was committed to establishing a complaints system which is open, accountable, easily understandable to all and has the trust of the Scottish public. He said that a key proposal in meeting that commitment was to establish a one-stop shop, replacing four previously separate Ombudsman offices, to provide a simpler and more effective means for members of the public to make complaints.

4. This one-stop shop philosophy chimes with wider objectives of efficient government; achieving a sound and effective regulatory environment; and the streamlining and sharing of services. It underlies the comments in the rest of this submission.

How will the proposed Police Complaints Commissioner fit into the Scottish complaints system?

5. The Scottish Executive’s Supporting Police, Protecting Communities: Proposals for Legislation noted that the Partnership Agreement included a pledge to set up an independent police complaints body in Scotland. It went on to say that the current arrangements for dealing with complaints against the police in many ways encourage a blame culture within the Police Service and a tendency towards defensiveness. The Scottish Executive wanted this to change and to ensure that

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1 Scottish Public Services Ombudsman Act 2002, Schedule 2, paragraph 14.
2 Scottish Public Services Ombudsman Act 2002, Schedule 4, paragraph 1.
Scotland has a modern police complaints system that encourages those who are dissatisfied to raise their concerns in a constructive manner. A new system should move away from simply apportioning blame and instead provide for continuous improvement with genuine mistakes being acknowledged without delay and steps being taken, so far as possible, to avoid any repetition.

6. Those aims are very much in line with the SPSO’s governing principles. Given the one-stop shop approach to complaints handling advocated by the Scottish Executive in 2001 it might be questioned why it is proposed to establish a Police Complaints Commissioner, headed by a Commissioner and Deputy Commissioner appointed by the Scottish Ministers, separate from the SPSO. However, what could be defined as “traditional” police activities – of the sort specifically excluded from the SPSO’s jurisdiction (see paragraph 2 above) - are significantly different from the types of activities usually considered by public service ombudsmen. That difference in many, but not all, jurisdictions has been seen as justifying establishing separate arrangements for dealing with complaints about the Police or at least those relating to their operational activities.

7. Which model should apply in Scotland is a policy decision. However, we suggest that whatever system is adopted needs to meet a number of key criteria, including:

- **Independence**
- **Simplicity**
- **Clarity**
- **Economy, efficiency and effectiveness**

With those criteria in mind we believe it is particularly important that careful consideration is given to how the jurisdiction of a Police Complaints Commissioner and the SPSO inter-relate and what scope there might be for co-operation and sharing of services between them.

**How can we ensure clarity over jurisdictional remits?**

8. As is noted in paragraph 2, the SPSO’s remit extends to the police service but specifically excludes matters to do with the investigation or prevention of crime. In our view, there is a need, either in the legislation or by other means (such as a Memorandum of Understanding), to specify the spheres of activity of the Commissioner and the SPSO, ensuring that they dovetail and avoiding the possibility of confusion, overlap and gaps. Three examples illustrate the sort of issues which arise in this context: complaints about Police Boards; about Community Planning; and about civilian staff in police forces.

- **Police Boards.** As is noted in paragraph 2, police boards are bodies within the SPSO’s jurisdiction. There will need to be clarity about where the boundary between this jurisdiction and the Commissioner’s lies.

- **Community Planning.** The Local Government in Scotland Act 2003 places duties on local authorities to initiate, facilitate and maintain a Community Planning process; and on core partners (NHS Boards, Enterprise Networks,
Police, Fire and Strathclyde Passenger Transport) to participate in Community Planning. Community Planning encourages a multi-agency approach to, for example, community safety and tackling disadvantage and promoting regeneration in deprived areas. If complaints arise about services delivered in a multi-agency way there needs to be clarity about how these are handled both locally and, ultimately, if complaints need to go to an ombudsman or complaints Commissioner. Most of the bodies involved in Community Planning fall within the SPSO’s remit. It will be particularly important to establish how the SPSO and the Commissioner can work together in considering complaints in this area.

- **Police civilian staff.** Scottish Police Forces employ civilians in a wide range of tasks. They form a crucial part of the police service but are employees, unlike Police Officers who are "office holders" and as such subject to specific disciplinary measures that do not apply to civilian staff. The status of police civilian staff and at least some of their functions equate more closely to those of staff in bodies within the SPSO’s remit than to those of Police Officers. Given this, we feel there is scope for consideration of how SPSO and the Commissioner might work together in dealing with complaints in this area.

Another issue in this context is whether complaints about the Police Complaints Commissioner would fall within the SPSO’s jurisdiction. The Bill does not include any specific provision in this respect. But the SPSO’s jurisdiction includes any member of the Scottish Executive and any other office-holder in the Scottish Administration\(^4\) and it seems likely that this would bring the Commissioner within the SPSO’s jurisdiction\(^5\). The SPSO could not, of course, act as an avenue for appeal against decisions made by the Commissioner on matters within his or her jurisdiction. But there would be logic in allowing recourse to the SPSO for members of the public who feel they have suffered hardship or injustice as a result of maladministration or service failure by the Commissioner. There is similar recourse in relation to, for example, the Standards Commission for Scotland and the Scottish Information Commissioner. If this is the intention it would be desirable to place the issue beyond doubt by including a specific provision in the Bill to place the Commissioner within the SPSO’s jurisdiction.

**What scope is there for co-operation and sharing of services?**

As noted above, we think it is important to ensure clarity about the boundaries of responsibility and potential interactions of the SPSO and the Commissioner in dealing with complaints. Failure to do so effectively would confuse the public and risk duplication and inefficiency. Conversely, cooperation, which might also extend to a variety of support and other activities, could bring significant savings and efficiency gains.

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\(^4\) Scottish Public Services Ombudsman Act 2002, Schedule 2, paragraphs 2 and 3.
\(^5\) The Scottish Prison Complaints Commissioner is an office holder broadly analogous to the proposed Police Complaints Commissioner, although his office is not established by statute. The Prison Complaints Commissioner is within the SPSO’s jurisdiction.
We believe that practical opportunities exist to share services and reduce the overall cost of establishing and running the office of the Commissioner. We would be pleased to provide details to the Committee on how this could be taken forward, and to give oral evidence on shared services and any other matter raised in our submission.

Professor Alice Brown
Scottish Public Services Ombudsman
8 November 2005