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

1. **Inquiry into Cost of Local Authority Single Status Agreement**: The Committee will take evidence from –
   
   Ian Drummond, Solicitor to the Council, Glasgow City Council; Brian Lawrie, Head of Finance and Asset Management, Fife Council; and Gavin Whitefield, Chief Executive, North Lanarkshire Council

   and then from –

   Councillor Pat Watters, President; and Rory Mair, Chief Executive, COSLA.

2. **The Public Contracts (Scotland) Regulations 2006 and The Utilities Contracts (Scotland) Regulations 2006**: The Committee will take evidence on the regulations from –

   Stephen Boyd, STUC; Tim Page, TUC; Dave Watson, UNISON

   and then from -

   Iain Moore, Head of Policy Unit; Paul McNulty, Head of Procurement Policy and Best Practice Branch; and Josephine Mitchell, Senior Procurement Officer, Best Practice Unit, Scottish Executive.

3. **Planning etc. (Scotland) Bill**: The Committee will consider its approach to the scrutiny of the Financial Memorandum of the Planning etc. (Scotland) Bill.

4. **Local Electoral Administration and Registration Services (Scotland) Bill**: The Committee will consider its approach to the scrutiny of the Financial Memorandum of the Local Electoral Administration and Registration Services (Scotland) Bill.

5. **Items in private**: The Committee will decide whether to consider papers on future inquiries in private at its next meeting.
Susan Duffy
Clerk to the Committee
Room T3.60
Extn 85215
The papers for this meeting are:

**Agenda Item 1**

Submissions from:
- Angus Council;
- Argyll and Bute Council;
- Comhairle Nan Eilean Siar;
- COSLA
- East Renfrewshire Council;
- Glasgow City Council;
- North Lanarkshire Council and
- Submission from Aberdeen Council

**PRIVATE PAPER**

**Agenda Item 2**

Paper from the Clerk

Submission from STUC

The Public Contracts (Scotland) Regulations 2006 (circulated to members in hard copy only; electronic versions available via HMSO website)

The Utilities Contracts (Scotland) Regulations 2006 (circulated to members in hard copy only; electronic versions available via HMSO website)

Letter from the Equal Opportunities Committee

**Agenda Item 3**

Planning etc. (Scotland) Bill and associated documents available online (circulated to members in hard copy only; electronic versions available via Parliament website)

Paper from the Clerk

**Agenda Item 4**

Local Electoral Administration and Registration Services (Scotland) Bill and associated documents available online (circulated to members in hard copy only; electronic versions available via Parliament website)

Paper from the Clerk
Finance Committee

2\textsuperscript{nd} meeting 2006, Tuesday 24 January 2006

The Financial Implications of the Single Status Agreement

1. At its meeting on 13 December 2005, the Committee agreed that it would like to conduct a short inquiry into the financial implications of the equal pay aspect of the Single Status Agreement between local authorities and the relevant trade unions.

2. The Committee is aware that there other issues contained within the Agreement which could impact on the cost of individual settlements. However, it is primarily concerned with the potential total cost of rectifying pay inequalities.

3. The Committee agreed that it would seek written evidence from all 32 local authorities, from COSLA and from the relevant trade unions and take oral evidence from a small selection of local authorities, from the trade unions and from the Minister.

4. Today, the Committee is taking evidence from three councils – Fife, Glasgow and North Lanarkshire and also from COSLA. At its meeting on 31 January, it will take evidence from the 3 relevant trade unions – Unison, GMB and the T&G. Finally, it will take evidence from the Minister for Finance and Public Service Reform on 7 February.

5. The following submissions have been received so far and these are attached:

Angus Council
Argyll & Bute Council
Comhairle Nan Eilean Siar
COSLA
East Renfrewshire Council
Glasgow City Council
North Lanarkshire Council

Susan Duffy
Clerk to the Committee
Dear Mr McNulty

**Single Status Agreement – Equal Pay**

I refer to your letter of 21 December 2005 and welcome the opportunity to provide a written submission to the Finance Committee’s inquiry into the financial implications of the equal pay aspects of the Single Status Agreement.

Like all councils in Scotland, under the Single Status Agreement, Angus Council has been working towards the introduction of a harmonised and fair pay and grading structure which is free of gender bias and in keeping with a modern day reward system.

The council has always recognised that there will be significant ongoing costs associated with the implementation of a new pay and grading structure and over recent years has been making special provision for this through the budgetary process.

However this has been progressed against a background of limited financial resources and competing priorities and the provision set aside is unlikely to equal the eventual financial commitment.

Integral to maintaining costs within this determined cost envelope is the understanding that the introduction of the new pay and grading structure will be linked to the introduction of more modern and efficient working practices and conditions of service, essential components of the Single Status Agreement.

The council looks forward to getting trade union and employee co-operation and agreement to changes which will lead to more efficient and cost effective working arrangements. Failure to achieve this integral part of the single status agenda will increase the costs of implementation and inevitably put pressure on staffing levels, services and council tax.

While the introduction of a new pay and grading structure under the Single Status Agreement will protect the council from equal pay claims from the date of implementation it does not however address the retrospective aspect of equal pay. In Scotland claims for back pay can be made for up to five years. It is clear that the costs associated with such claims are potentially significant.

There are two aspects to these costs, both of which were not fully appreciated when the Single Status Agreement was reached, and have since arisen from evolving employment case law.

Firstly, it now appears that there is a possibility that once the results of the new pay and grading structure are known it may result in equal pay claims, backdated for five years, from women who were previously paid less than
men but within the new structure are paid the same. At this stage in our implementation process we are not in a position to quantify the extent of such claims or indeed the view which Employment Tribunals would take on the merits of such claims and therefore cannot reliably identify potential broad costs.

Secondly, is the potential liability arising out of inequalities whereby predominantly male orientated jobs and predominantly female orientated jobs are currently graded the same grade but the males receive a higher level of pay because their jobs attract bonus payments whereas the ‘female’ jobs do not.

It is this particular issue that has been the subject of recent media coverage and activity by ‘no win no fee’ solicitors with numerous equal pay claims lodged with Employment Tribunals.

As the Committee will be aware there have been attempts, through COSLA, to reach an agreement with the trade unions at a national level on a recommended level of settlement framework for such outstanding equal pay liabilities. For councils, settlement offers the advantage of potentially lower costs than that which could be awarded by a tribunal.

Unfortunately however it has not been possible to reach agreement and it is now left to individual councils to deal with the issue.

There are significant potential cost implications for Angus in respect of this particular aspect of equal pay. Without admitting liability, and it may well be that it will be for Employment Tribunals to determine on this, from a risk management perspective estimated costings have been determined were the council to either admit liability or lose tribunal claims.

We have to the best of our abilities estimated the potential costs to the council based on firstly a framework similar to that proposed at a national level and secondly on the basis of tribunal claims. These costs have informed the estimated cost for all councils of between £310m to £560m as outlined in COSLA’s submission to this Committee.

The cost to Angus is significant and arguably unavoidable. If no additional funding is forthcoming to meet this cost then given the extremely tight budgets within which the council is working, meeting the cost will have a major impact upon the council’s ability to continue to deliver existing services within the existing level of staffing and at the same time ensure there is no substantial impact upon council tax.

The council is of the view that this retrospective liability represents an unforeseen burden on councils which should preferably be met by additional one-off funding from the Scottish Executive albeit that the council would not wish such monies to be allocated at the expense of funding for other spending pressures.
If no such additional monies are to be made available then the council would ask that maximum financial flexibility be given to the council to help meet this cost eg using capital receipts to help fund settlements.

Finally, this submission is written in support of, and to complement the COSLA submission to this Committee. As the COSLA submission covers the background to equal pay and the general affordability issues facing all councils these issues are not covered within this submission.

The council would hope that the Committee recognises the significant additional funding pressure on the council and will give its support to the points raised both in this and COSLA’s submission when deciding on its recommendations from this inquiry.

Yours sincerely

David S Sawers
Chief Executive
SUBMISSION FROM ARGYLL AND BUTE COUNCIL

Dear Ms Duffy

Single Status Agreement – Equal Pay


Equal Pay Costs

The Council has estimated the cost of settling equal pay claims to be in the region of £4.3m. This is unbudgeted expenditure for the Council in 2005/2006 financial year. These costs are one of in nature.

The estimated cost of £4.3m will use up all of the Council’s free General Fund Reserve of £3.9m. On the basis this could have been applied to the Council’s budget over a three year period the £3.9m would have allowed £1.3m per annum to be used either to reduce Council Tax or reduce budgets/service cuts. £1.3m is equivalent to £32 of Council Tax at band D which equates to a 2.8% of Council Tax at band D.

Single Status/Job Evaluation

At this stage the Council has provided £2m equivalent to 3% of its pay bill for non-teaching employees within its 2006-07 budget. £2m equates to £50 of Council Tax at band D. This is equivalent to 4.5% of Council Tax at band D. If this central provision had not been required for Single Status/Job Evaluation then the Council could consider a Council Tax increase of .42% rather than the 4.92% currently under consideration. Alternatively the £2m could have been used to alleviate some of the budget/service cuts currently proposed.

James McLellan
CHIEF EXECUTIVE
SUBMISSION FROM COMHAIRLE NAN EILEAN SIAR

SINGLE STATUS AGREEMENT - EQUAL PAY

Thank you for your letter of 21 December 2005 inviting us to make a submission to the Finance Committee’s enquiry into the financial implications of the equal pay aspect of Single Status.

Context of the Single Status Agreement

Any consideration of what impact that equal pay might have on Comhairle services, staff or Council Tax must start by examining the overall financial position of the Authority.

The current Local Government Settlement, with its assumed efficiency savings and specific priorities, is a challenging one even without Single Status. Pressures arising from new legislation (such as Freedom of Information), placement costs in Social Work and fuel prices have only added to this and savings of around £3.5m (5% of controllable budgets) are required to balance the budget by the end of 2007/08.

The Comhairle has already identified around £2m of savings that can be made without significantly impacting services. This includes a proposed increase in Council Tax of 5% for 2006/07 (which only raises an additional £215K). This leaves £1.5m still to be found.

Potential Costs of Equal Pay

The impact of Equal Pay in this context is therefore significant. Whilst the figures are understandably difficult to determine, our current estimate of the potential liability arising from Equal Pay is £2m per year. The stability of our workforce means that average length of service exceeds 5 years and the potential backdated claim could therefore approach £10m.

These costs are based on full settlement and whilst we would hope to settle below this figure you will no doubt be aware of the difficulties that COSLA faced when trying to reach a framework agreement with the Joint Secretaries.

At the end of 2004/05 the Comhairle held just £3.5m of uncommitted balances, with a view to smoothing the savings required in 2006/07 and 2007/08, and it is therefore clear that there would be significant difficulty in meeting both the ongoing and initial liability that could arise from equal pay claims.

Single Status Costs
Equal Pay cannot be properly addressed without resolving the implementation of the full Single Status agreement. This element of the agreement will be subject to negotiation with Trade Unions on all aspects of pay and conditions. Recent press coverage has highlighted the significant difficulties in reaching a settlement that is acceptable to both sides, with no council yet striking the balance between affordability and services.

Our best estimate at present is that reaching a settlement could add a further £2m to the Comhairle’s wage bill (over and above the cost of Equal Pay). This compares with a provision of £1.8m that has been made in the Comhairle’s budget, though, as indicated above, savings have still to be made to achieve this.

Conclusions

The overall impact of both aspects of Single Status on the Comhairle is estimated to be up to £2.2m over the current budget (£2m for Equal Pay plus £2m for Single Status less the £1.8m budgetary provision). With the current budget showing a deficit of £1.5m, total savings of £3.7m would be required to balance the budget.

This is without the need to meet one-off liabilities that may arise from backdated claims for Equal Pay that could total £10m, set against uncommitted balances of £3.5m.

Achieving savings of this order will inevitably impact in some way on services. In considering this it is important to recognise the role that the Comhairle plays in sustaining the local economy and that indirect employment is as crucial in this as the direct employment of staff.

If you would like any further information on any of the above issues please do not hesitate to contact me.

Yours sincerely

Robert Emmott

Director of Finance
Submission from COSLA

Introduction
The Convention of Scottish Local Authorities (COSLA) represents 31 of Scotland’s 32 local authorities on political and policy matters. In addition COSLA acts on behalf of all 32 authorities as employers, and provides the secretariat function to collective bargaining structures in Scotland. We are grateful for the opportunity to respond to the Committee’s inquiry, and thank it for allowing flexibility over the date of submission.

COSLA understands that the Committee is focusing on the cost to councils on rectifying pay inequalities and the impact that this will have on council services, staffing and council tax. In order to fully understand the effects of this, it is essential that the costs of equal pay and single status are not considered in isolation but are considered in the context of the overall burdens faced by councils. This submission will estimate the costs associated with equal pay retrospection but we have not quantified the costs associated with single status. While Councils are still in the process of conducting job evaluation and pay modelling it is not possible to provide a national figure on this. However we do know at this stage that these costs are significant and ongoing, and will substantially add to the pay bill of local government.

Estimated cost of equal pay
Councils are currently looking at ways in which settlements can be offered to employees in order to minimise the financial risk associated with equal pay retrospection. There is however a number of influencing factors that will impact on the overall liability. These include:

- Settlement options - councils may be able to settle locally and avoid going to tribunal and indeed some councils are close to achieving this.
- Employers’ on-costs – For example on tax and national insurance we have been in discussion with Her Majesty’s Customs and Revenue (HMRC) who have indicated that a reduced national composite tax rate could be used where local agreements are made. We are continuing to pursue this option with HMRC.

COSLA has undertaken significant work to estimate the liability to local government for all these scenarios and therefore at this stage, and until some of these variables are ‘ironed out’, we can only provide the Committee with a range of what we expect the liability to be. We must stress that we have based our estimates on high risk groups only and therefore the figures provided could significantly increase should all risk groups be included. The lower and upper limits of this range are detailed below along with the respective assumptions used in the calculation:

1. The lower range liability that local government can expect would arise from the scenario where all councils agree on a local settlement. We have based this on a framework similar to that of the national framework we developed. Under this arrangement the composite
national tax rate has been applied along with the assumption that pension contributions will have to be paid. For this scenario the national liability is estimated to be £310 million.

2. The estimated upper range has been calculated on the basis that all councils (except those that have already settled) are taken to tribunal. Under this arrangement full tax rates would be incurred and pension contributions paid. This liability is estimated to be £560 million.

The estimates also exclude any legal costs. We are aware that some local authorities in England have experienced substantial legal costs and it would not be prudent to ignore such costs. Should councils go to tribunal legal costs would be significantly more compared to a settlement arrangement, but settlements too would incur legal costs.

The scenario of litigation is clearly time consuming, costly, and stressful for all parties involved. Councils are therefore keen to avoid having tribunal claims taken out against them, and are seeking to reach settlements with groups of employees who present an equal pay risk, in exchange for agreement not to take equal pay claims against their council. By reaching settlements at a reduced cost to that of tribunals, there is less risk to the long-term security of jobs and services.

As outlined above, under the Equal Pay Act councils face an equal pay liability, and will continue to do so until a new pay and grading system which is free of gender bias is introduced. Councils will have to find funds to address the retrospective liability of equal pay, however looking forward they will also have to implement the new pay and grading structures contained within the Single Status Agreement. This process carries its own significant costs which unlike retrospection are annually recurring. The affordability and impact of this in the existing financial climate cannot be ignored.

Affordability
The real impact of equal pay cannot be considered in isolation. Councils are already operating on extremely tight budgets and, due to a number of factors, a substantial funding gap to local government already exists. Therefore local government is not in a strong position to be able to deal with the extra costs associated with equal pay without any repercussions and this is despite the considerable efforts councils have taken to alleviate the financial burdens enforced on them. The current level of funding is failing local government and this provides for a complex and untenable environment under which councils are required to operate. The key factors that have attributed to this environment are summarised below.

1. The 2004 spending review left years two and three of the review severely underfunded and highlighted that local government is losing its share of the public sector block. The settlement left a number of pressures on councils’ budgets through underfunding of services and did not adequately account for the real inflationary increases that councils are experiencing. Continued ring fencing and short term
funding schemes have exacerbated the problem. COSLA has raised this with the Minister and issued a report to the Minister in November 2005 on existing spending pressures. Please find this report attached to our submission as it highlights in detail the true extent of local government’s position.

2. Local government was the only part of the public sector to have efficiency savings deducted at source (£168 million) and even taking this into account local government has embraced efficient government as a programme. Local government is making every endeavour to minimise the impact of funding pressures by working efficiently but it must be recognised that this does not address the scale of the problem; efficiencies can only ever make a partial contribution to addressing financial pressures. Efficient government sets out targets of £325 million cash-releasing saving and our contribution to the expected £300 million in time releasing savings. £168 million has already been removed as an overall cut in the 2004 Spending Review and COSLA has recently reported that councils made £122 million of efficiency gains in 2005/06. The ethos of efficient government is not however to address a funding gap created by central government but to reallocate resources from back room services to the front line services.

3. Following the public statement from the First Minister that no council should have to increase their council tax by more than 2.5% as a result of the financial settlement that they have been awarded, councils have become increasingly concerned about the public expectation on council tax increases. Many councils feel under pressure to deliver an increase of 2.5% or less and with this additional pressure, decisions on affordability of services is even more crucial.

4. Looking forward, local government is facing significant recurring costs with the implementation of single status. This adds to the existing spending pressures highlighted above. Councils cannot delay implementing single status in order to fund the retrospective costs associated with equal pay.

The above factors create a very complex situation for councils and leave little room for manoeuvre in financial terms. Councils have been working extremely hard to contain and absorb these pressures but there is a point of saturation. Therefore the additional costs associated with equal pay and the recurring costs of single status moving forward are likely to impact on council services, staffing and council tax if the current funding pressures are not addressed. Local government actively wants to avoid and minimise the impact of funding shortfalls on its communities and services but there are limitations when budgets are so tightly squeezed coupled with the expectation to minimise council tax increases.

**Funding options**

Clearly the costs associated with equal pay are significant and funding such settlements will be a challenge. Under the current financial climate, as
outlined above, councils cannot afford to fund the cost of settlements from revenue without any impact on front line services, staffing or council tax. Due to the continuing downward pressure imposed on council tax increases the later is not a viable option. Councils cannot afford to delay or reprioritise payments as this will only result in an increase in the number of claims going to employment tribunal, ultimately pushing up the rate at which settlement can be achieved with other employees.

The Executive often refers to reserves as a funding option for councils to alleviate spending pressures. Whilst this could be an option for some councils, not all councils have sufficient reserves available which are not already earmarked for other initiatives. The level of reserves that the Minister quotes is often the total reserves that councils have and this does not equate to the general reserves that are not earmarked.

There are a number of technical financial issues which could be introduced to provide flexibility to council budgets. For example if councils were allowed to offset equal pay costs against capital receipts this would reduce the strain on councils’ already pressurised revenue budgets. We are aware that this methodology has been adopted by some English local authorities with the approval of the Office of the Deputy Prime Minister. This spending of capital receipts on revenue items would require permission from Ministers and we would welcome the Committee’s support for this. Other options would include funding equal pay costs through external borrowing and again we would seek support from the Committee for this. These options are not solutions to the problem but would provide councils with the flexibility to consider alternative funding options.

A large part of the one-off equal pay costs and the ongoing annual costs will go directly to the Treasury. As a minimum therefore 30% to 45% of this could be self funding if the Treasury acknowledge that as additional revenue arises from higher contributions from Councils this money should be returned to Councils.

Funding for the Single Status Agreement would not be without precedent. The NHS has been undergoing a similar process of modernisation under Agenda for Change. This process has been funded by central government within the general allocation to the NHS, with Audit Scotland’s December 2005 report ‘Overview of the performance of the NHS in Scotland’ stating that Agenda for Change cost and estimated £155m in 2004/05 and £190m in 2005/06. Councils have already been working hard to minimise the cost of modernisation, but Single Status will add to the pay bill.

Conclusion
The cost of funding equal pay retrospection and single status cannot be considered in isolation. Local government is already experiencing a significant funding gap which results in a limited climate for dealing with these additional cost pressures without any impact on front line services. The 2004 spending review resulted in a settlement which left a number of pressures on councils’ budgets through underfunding of services. Whilst councils are on
target to meet efficient government targets this cannot address the scale of the funding gap. The problem is then further exacerbated by the requirement to minimise council tax rises.

The cost of equal pay is unavoidable, and councils will have to pay out significant sums of money, either as a result of litigation or by way of settlements. We have estimated the costs to be in the range of £310 million to £560 million (exclusive of any legal costs). Whilst equal pay is a one-off cost, the costs of implementing single status are ongoing. We would be seeking the finance committee’s support in recognising this as a significant recurring funding pressure.

We hope that the Committee will see that councils are working hard to make the best of a very difficult and sensitive situation, and that it will consider the points above when deciding on its recommendations from the inquiry.
Appendix A

Background Briefing on Equal Pay

Introduction
It is important to stress that there are two separate but related costs being faced by councils: the cost of equal pay retrospection, and the cost of implementation of Single Status. We believe that it is important that the Committee understands this distinction, so each element is explained below.

Equal Pay Retrospection
Equal pay retrospection is money that claimants at employment tribunal can claim under the terms of the Equal Pay Act. In Scotland successful claimants can be awarded up to 5 years of back pay. If an employee were to win at tribunal, the award would be calculated on the basis of the difference in pay between them and their chosen comparator for every hour that they worked in the previous 5 years. Any such payment would be treated exactly as if it were pay, and would be subject to tax, NI and any pension deductions. On top of this payment, the employer would also have to pay employer’s on costs of NI and pension, and the legal costs of fighting the case. It is worth noting that even where a claim is unsuccessful, the employer will still have to pay their own legal costs.

The above scenario of litigation is clearly time consuming, costly, and stressful for all parties involved. Councils are therefore keen to avoid having tribunal claims taken out against them, and are seeking to reach settlements with groups of employees who present an equal pay risk, in exchange for agreement not to take equal pay claims against their council.

For employers, settlement offers have the advantage of potentially being lower than that which could be awarded by a tribunal, and do not carry the same legal costs as that of fighting tribunal claims. For employees, there is the advantage of settlement offers being a certainty which is obtainable in the present, whereas as with any tribunal claim there is a risk that, even after a lengthy legal process, it will not be successful. In addition, by reaching settlements at a reduced cost to that of tribunals, there is less risk to the long term security of jobs and services. It is in neither employers’ nor employees’ interests for some employees to be awarded payments at tribunal, only for the funding of such payments to then result in job losses.

As outlined above, under the Equal Pay Act councils face an equal pay liability, and will continue to do so until a new pay and grading system which is free of gender bias is introduced. Councils will have to find funds to address the retrospective liability of equal pay. However, in order to avoid a repeat of the current situation, they will also have to implement the new pay and grading structures contained within the Single Status Agreement, settlements do not in themselves establish pay equity. This process carries its own costs.
Single Status

The Single Status Agreement introduces new terms and conditions for employees under the jurisdiction of the Scottish Joint Council, who are known as Local Government Employees. Groups outside this Agreement include Teachers, Chief Officers, and Craft Employees. The Single Status Agreement (SSA) was created to remove the differentials between APT&C and Manual Worker employees, to introduce fair and non-discriminatory pay, and to allow changes to certain terms and conditions such as travel and subsistence allowances.

As a result of the SSA, councils are putting existing job roles through a rigorous process of job evaluation. This assigns scores to roles on the basis of the competencies the roles require. Having evaluated the roles, the result is a rank order of jobs, which are then assimilated to a pay spine, giving the salary for that role. Having carried out job evaluation, all jobs with the same job evaluation score should be paid the same rate.

In this process, it is inevitable that some jobs will be scored more highly than they have in the past. This is because historically the evaluation and application of bonus has favoured male dominated jobs. In addition, jobs are currently graded under two separate schemes, with different valuations given to different skills. Bringing the schemes together should rectify any anomalies between these valuations.

Going into the future then, two employees with the same job evaluation score will need to be paid the same rate for the job, however getting from the two currently different rates to a new single rate is difficult. To simply pay both jobs at the rate of the highest paid role (to ‘level up’ pay) is prohibitively expensive. Instead, the pay for one role must stay the same or increase slightly, while the pay of the other must come down to meet it.

For the employee whose pay is to come down, their pay is protected (or ‘red circled’) under the SSA for 3 years. During this time they will continue to be paid at their previous salary, however at the end of 3 years their pay will drop to the rate assigned by job evaluation. Clearly for any employee this is not an attractive prospect, and councils have been working hard to limit the number of employees who will be in this position, firstly through the design of their pay and grading structure, and in some instances through other measures such as job redesign and retraining. However, even with such measures in place the Trade Unions have resisted new pay structures put to them, in some instances calling industrial action to oppose proposals. In these circumstances it is almost impossible for councils to reach agreement with the Trade Unions on a new pay structure which is not prohibitively expensive.

The cost of implementing a new pay and grading structure is therefore increased in the first 3 years after implementation, when some employees will continue to be paid the old rate for the job at the same time as other employees have had their pay increased as a result of job evaluation. After 3 years the cost of the pay bill will reduce slightly, though is likely to remain
more than the current paybill, as the protected employees drop to the new rate for the job.

However, the SSA is also about introducing modernised working practices, which will help realise cost savings for councils. Conditions such as car allowances in some instances go beyond simply reimbursing individuals for the costs they have laid out, and as such councils are keen to negotiate changes to them in order to make savings and modernise working practices. However, any such changes need to be negotiated away through the trade unions at a local level, and the trade unions have consistently refused to engage in constructive discussions on these issues, meaning that councils are struggling to take advantage of the positive modernisation aspects of the Single Status Agreement.
Appendix B

Funding Pressures
2006/07 and 2007/08

Introduction
1. This report is being presented from COSLA to identify examples of the financial pressures which local authorities are working under in 2006/07 and 2007/08. The report follows up on a discussion which took place at a joint COSLA / Executive meeting following the spending review 2004 announcement. At that meeting, the Minister listened to COSLA representatives’ concerns about the financial pressures in 2007/08 and advised that he would consider evidence concerning those pressures. This was also on the back of the First Minister’s public announcement on the expectations that council tax did not need to be increased by more than 2.5% in each year.

2. The Minister agreed to consider a report from COSLA which identified the financial pressures in 2007/08. Following that meeting, it became evident that councils were under significant financial pressure in 2006/07 as well and it was agreed within COSLA that information would also be collated and presented in relation to 2006/07.

Process
3. COSLA has been working with its member councils for several months to identify the financial pressures which councils are facing. This work has been undertaken in a rigorous manner and has been subject to scrutiny at both a senior officer and political level.

4. Given the processes which have been undertaken, the identification of pressures has been streamlined as much as possible and as a result, the pressures identified within this report by no means represent the full list. However, councils are realistic and this report has aimed to identify those pressures which can enable an open discussion and dialogue with the Executive to pursue and secure additional resources for local government, not as a way of addressing every funding gap in councils.

Context
5. This report identifies a number of financial pressures which have been grouped into themes. Although these specific areas have been identified, this report needs to be considered against the financial context within which councils are operating.

Pay Awards
6. Councils acknowledge that they are responsible for the negotiation and settlement of pay awards for its employees. In recent years, the Executive has made some recognition for pay awards within the settlement,
however it does not cover the total costs. Councils recognise that with the responsibility for negotiating and settling comes the responsibility for meeting any funding gaps which may arise. This needs to be recognised in the overall pressures which councils have. Any funding gap arises out of what has been a negotiated increase in pay at a reasonable and realistic level and is not as a result of an over inflated negotiation. Given the diversity of services which councils provide and the labour intensive nature of providing a number of these, staff costs are a significant item of expenditure for councils and any resulting pay awards are a real financial pressure on councils. Whilst COSLA is not directly seeking additional resources for pay awards, it is asking the Executive to recognise the financial pressure which the impact of pay awards create.

Inflation

7. At every spending review and settlement announcement, the Executive indicate that they have included an inflationary uplift. However, there are two problems with the inflationary uplift that is included: 1) it is only included for the GAE lines and not those allocations outwith AEF eg. supporting people; and 2) it is a standard inflation increase that does not reflect the actual inflation increases which councils are incurring.

8. With inflation only being applied to GAE lines and not on those items outwith AEF, this immediately puts a financial pressure on councils as they need to find the funding for the inflation element of all those items of expenditure outwith AEF. Allocations outwith AEF also tend to be large sums of money eg supporting people which therefore means significant implications for inflation.

9. The standard inflationary increase awarded by the Executive does not reflect the actual inflationary increases incurred by councils. Examples of this include:
   - IT industry contracts – inflation at 7%
   - Building Maintenance – inflation at 10.5%
   - Roads contracts – inflation at 9.5%
This is significantly more than the inflation which the Executive included of 2% for both 2006-07 and 2007-08. This gap in funding impacts overall on the financial pressures which councils face.

Ring Fencing

10. Another funding pressure on councils is the ring fencing of resources and the lack of flexibility in funding. Whilst COSLA has been successful in presenting arguments against ring fencing and arguing for increased flexibility in funding, the Executive has gone some way to recognise these arguments. However, it still remains an issue in a number of areas.

Short Term Funding

11. One of the major issues for councils is the way in which funding is often provided by the Executive. Short term one off funding is regularly announced for specific initiatives. With these announcements of funds comes an expectation that certain services will be set up and delivered. These are often resource intensive for councils. However, when the funding ceases, the expectations of the electorate are not for the services to be removed at that point in time too. More often, councils have to find ways of supporting these services, even
through a transitional period to minimise or remove the service. This creates additional financial pressure on councils. Examples of this include Supporting People and Quality of Life where funding has been reduced. COSLA has continued to argue that short term funding for specific initiatives is not the best way to deliver the outcomes that they wish to achieve and that more dialogue and engagement is needed at the beginning of the process to agree the best way to take forward an initiative.

**Efficient Government**

12. While we have identified key areas that represent spending pressures for local authorities, it is clear that we are making every endeavour to minimise the impact of such pressures by working efficiently. COSLA is working to evidence the activities that we have undertaken in attempting to meet the Efficient Government targets set out for local government. These are £325 million cash-releasing savings and our contribution to the expected £300 million in time releasing savings. However, £168m of this has already been removed as a cut as part of the overall SR04 settlement. This cut has always been a concern for COSLA’s Finance Executive Group, especially when this is considered alongside the council tax expectations of no more than a 2.5% increase. Whilst we recognise that the £168m is included within the £325m, there is nevertheless a direct impact on service provision due to the reduction in resources from the outset and the fact these monies cannot be reinvested within councils, which is the ethos which embodies local government.

13. Councils are working in ways that achieve best value and setting up systems to monitor the efficiencies made and the redirection of these savings into other council priorities. But, the outcomes of this work take time to manifest themselves in terms of evidence for the Executive.

14. COSLA has always recognised that in order to demonstrate councils’ focus on generating efficiency savings, a robust framework for Efficient Government monitoring is required which should dovetail with the existing monitoring and reporting systems of councils in order to minimise bureaucracy. In order to test out the practicalities of developing such a model, COSLA agreed that the Improvement Service (IS) utilising independent consultants should undertake a research project to estimate the scale of efficiency savings and gains in Scottish councils for 2005/06 and develop a classification of services that can provide a standard framework for future monitoring. This work is due to be reported in November 2005 and COSLA will be maintaining an overview of this project.

15. The Minister should be assured that we will be taking steps to robustly evidence evidencing our attempts to mitigate pressures by being efficient. However, it is equally clear from COSLA’s work on the financial pressures facing local government that given the scale of the problem, efficiencies could only ever make a partial contribution to addressing financial pressures.

**Financial Pressures**

16. The specific details of the financial pressures have been included within the Annex to this report and are summarised in the table below.
Table 1: Financial Pressures

<table>
<thead>
<tr>
<th>Spending pressure</th>
<th>2006-07 (£’000)</th>
<th>2007-08 (£’000)</th>
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</thead>
<tbody>
<tr>
<td>Corporate</td>
<td>58,000</td>
<td>79,000</td>
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<tr>
<td>Environment</td>
<td>15,000</td>
<td>30,000</td>
</tr>
<tr>
<td>Children’s services</td>
<td>64,000</td>
<td>76,000</td>
</tr>
<tr>
<td>Elderly services</td>
<td>84,000</td>
<td>102,000</td>
</tr>
<tr>
<td><strong>Total revenue pressures</strong></td>
<td><strong>221,000</strong></td>
<td><strong>287,000</strong></td>
</tr>
<tr>
<td>Capital pressures</td>
<td>100,000</td>
<td>200,000</td>
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</table>

17. For each specific pressure identified, there is supporting evidence identifying the policy implications within each area.

18. Each area has been carefully worked through and it is clear that councils are striving to deliver quality services using the existing funding that has been made available from the SR2004 settlement. However, it is clear from our work with a range of key council officials and members that this cannot continue and that either the consequences of insufficient funding will be seen in these key pressure areas or there will be pressure on Council tax. The policy information therefore aims to outline the context and reasons for the pressures and problems and the consequences for services and our communities if these pressures cannot be met.

19. COSLA is seeking to engage in further dialogue on these specific areas together with the overall financial context.

**Conclusion**

20. We do not see this report as a stand-alone submission or “bid” but rather a mechanism to enter into dialogue about the real pressures that councils are facing in effectively and efficiently managing services to our communities.

21. COSLA believes it to be in both the interests of central and local government to enter into discussions concerning this at this point to take this forward and identify solutions.
Corporation spending pressures

Annex

Corporate spending pressures

<table>
<thead>
<tr>
<th>Key priority and policy evidence</th>
<th>Scotland figures</th>
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<tbody>
<tr>
<td></td>
<td>2006-07</td>
</tr>
<tr>
<td>1. Fuel and utility costs</td>
<td>£’000</td>
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<td>27,000</td>
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</table>

Local authorities consume energy for heating, transport, and electrical power. All local authority staff and departments use energy. Generally heat and transport are the largest consumers of energy, with electricity making up a smaller proportion of total energy consumption.

Rising energy costs affect all sectors of the economy, so it is likely that price rises will be passed on to customers. As a result local authorities can expect to pay more for goods and services. Costs are also likely to be higher in remote rural areas, not only because of the local cost of fuel, but because goods have to be transported further.

At the time of the 2004SR, local government was aware that fuel costs were rising more than standard inflation. However, with the spending review only providing an increase based on standard inflation, a gap in funding was immediate.

Fuel and utility costs continue to rise, and recent global events such as Hurricane Katrina, have led to sharp spikes in the world oil price. Although disasters lead to short, sharp increases, longer-term pressures such as demand for petroleum in China and India push up the cost year on year.

The price of gas also continues to rise as the UK moves to become a net importer of natural gas. It is therefore inevitable that the cost of generating electricity will also rise, and this cost will be passed on to the customer.

Fuel and utility costs are market dependent, and although savings can be achieved by purchasing through bodies such as the Authorities Buying Consortium, rising fuel costs are largely independent of a local authority’s control.
Since fuel and utility costs are out of the direct control of local authorities, the only way of limiting costs is to cut demand for energy. This means implementing energy conservation and efficiency measures, which COSLA and local authorities are trying to promote. However, although energy conservation and efficiency cut demand, the market driven price rises in electricity and fuel mean that local authority utility bills will continue to rise. Conservation and efficiency measures only limit the size of this increase.

Energy conservation measures do have the additional benefits of being part of a council’s contribution to sustainable development (under best value), and are essential to reducing green house gas emissions and other atmospheric pollutants.

**Outcomes:**
There are 2 ways in which funding could be directed to reduce fuel and utility costs and ease pressure on councils.

Additional resources would undoubtedly assist councils in covering the costs of increased prices in the short term. However, in order to address this issue in the longer term, additional resources would need to be provided within the base budget, as it is likely that fuel and utility costs will continue to rise.

The other option is to provide resources for energy conservation and efficiency measures. If the funding was invested in conservation and efficiency measures then bills could be reduced and green house gas emissions lowered. There are also additional benefits to a local authority in delivering on environmentally friendly policies. Some of these measures can be addressed by spend to save schemes.

It should be noted that although local authorities can work to reduce their own demand for energy, as customers they will still be affected by rising costs of suppliers and contractors.

A combination of the two would allow councils to address immediate pressures, and ensure more efficient energy use in future.

If no extra funding were received then there would be
increased pressure on budgets that are already tight, across all services. This would be particularly acute in those services that are sensitive to rises in the cost of fuel for heat and transport e.g. Public transport; council fleet management; heating in schools, care homes and other buildings. It is likely councils in remote rural areas, especially those in colder parts of Scotland, will be hardest hit.
2. Superannuation contributions

The Local Government Pension Scheme is a statutory scheme where employee contribution rates are fixed, but employer contribution rates vary to ensure that the Pension Funds aim for a 100% funded position over the period of the independent actuarial valuation.

The recent poor stock market returns, combined with increased life expectancy, has resulted in the actuaries predicting significant increases in employers pension fund contribution rates.

The statutory nature of the Local Government Pension Scheme means that the projected increase in employer contribution rates should be regarded as statutory staff cost increases.

Outcomes:
Given the statutory nature of the pension scheme, local authorities have no choice in paying the contributions to support the pension scheme. Given the staff resource used within local authorities, the financial pressure is significant. In order to fund these increases – which are likely to continue due to increased life expectancy – local authorities are faced with funding decisions on staff budgets against the delivery of services.

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<tr>
<th>Key priority and policy evidence</th>
<th>Scotland figures</th>
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<td>2006-07</td>
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<tr>
<td>2. Superannuation contributions</td>
<td>£’000</td>
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<td>31,000</td>
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Environmental Spending Pressures

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<th>Key priority and policy evidence</th>
<th>Scotland figures</th>
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<td>2006-07 £'000</td>
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<tr>
<td>3. <strong>Strategic waste fund</strong></td>
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| Waste levels are increasing year on year, while the first target - Scotland should have reduced the amount of Biodegradable Municipal Waste to 75% of the 1995 arising - set out in Article 5 of the EC Landfill Directive, must be met by 2010. The Strategic Waste Fund (SWF) is a specific grant scheme established by the Scottish Executive to assist local authorities meet this and future targets up to 2020.

To date, most allocations from SWF to local authorities have been targeted at new kerbside collection systems for source-separated material suitable for recycling or composting. This is to assist the Scottish Executive in meeting its 25% recycling and composting target set for 2006. The money has been spent on a range of specialized collection vehicles, additional collection staff, a range of household containers and improvements to civic amenity and bring sites (including bottle banks and plastic container banks etc).

Future spending will concentrate more on longer-term targets flowing from the EU Landfill Directive that will involve procurement of processing facilities. These facilities, which may be provided in-house or by external arrangements, will include composting, waste separation, and energy recovery technologies. These will be massively costly and complex projects which will take years to complete and, in most cases, will require joint working by groups of local authorities. If Scotland is to meet its targets, and individual local authorities are to avoid huge landfill allowance penalties, then as many of these projects as possible must be started now. Evidence suggests that if they are not, then there is no possibility of Scotland meeting its 2010 targets.

A further issue arises in terms of the procurement and consultancy costs faced by groups of local authorities seeking to progress these large-scale projects. The funding available through SWF is paid on the basis of certain criteria and can only pay for certain parts of the overall bid. For example, it only covers up to 80% of external consultancy costs for preparing and developing a project. Councils are expected to pick up the remaining 20%. Further, internal costs cannot be included. Given the size of capital projects involved, these costs are substantial.

The implementation of these new waste management systems links directly with the National Planning Framework, delivering on the National Waste Strategy and Area Waste Plans, and national and European environmental and sustainability policies, including community planning and air quality strategies. Also, the new systems will be integrated with a number of environmental education and awareness programmes covering schools and the general population.

**Outcomes:**
Delays or insufficient funding will result in:
- Local authorities being forced to shelve projects and
Scotland’s waste management programme grinding to a halt; and

- non-compliance with EU and national legislation, and failure to meet EU and national targets, with substantial implications for Scotland as a whole and local authorities, including:

  o Significant and increasing penalties under the Landfill Allowance Scheme;
  o A share of EU penalties imposed on the UK for failure to meet targets within Article 5 of the EC Landfill Directive;
  o Increased landfill tax burden;
  o Less money being available for other front-line council services, and a lack of money to fund the very waste management solutions required to avoid future penalties; and
  o Potential loss of waste management services within councils.
CHILDREN’S SERVICES

Key priority and policy evidence | Scotland figures
---|---
**4. Residential school placements**

Residential school care is very expensive, particularly the majority of provision which is delivered by the independent sector. The cost of places in independent special schools increases year on year in excess of inflation and are set completely out with the control of councils, with no transparency. There is consequently a substantial, disproportionate impact on children’s services budgets. Councils have no option but to purchase the places for children with severe behavioural difficulties or disabilities, and in many cases places these are only available a long-distance from the child’s home. In addition to fees, therefore, there are disproportionate travel and support costs too. These schools meet the extremely complex needs of children that cannot be met within the mainstream sector, and the number of children with complex needs is increasing. More children with severe disabilities are living longer and requiring support, and more children are living in families affected by substance misuse that is impacting on behaviour, and residential school placements are increasingly recommended by Children’s Hearings as a solution.

The Scottish Executive has increased the secure estate by 30%, and each place costs £3,500 per week. There is an expectation that all the places will be taken up, but no additional funding has been provided.

Outcomes

The needs of the children placed in residential special schools cannot be met elsewhere. If additional funding is not forthcoming, councils will not be able to maintain the current levels of service, let alone utilise the additional secure places or meet increasing demand without increasing impact on other services. Councils already have to divert funding from other services into children’s social work services and this situation is unsustainable. Currently councils divert money from community care social work into children’s services (e.g. £3m in one council alone) and this is very much to the detriment of other essential services. The issue of...
The underfunding of children’s social work services is being pursued as a generality, but this is an example that illustrates the issue in high relief.
### Key priority and policy evidence

<table>
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<th>5. Specialised foster placements</th>
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<td>Scotland figures</td>
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<td><strong>2006-07</strong></td>
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BAAF and The Fostering Network have produced a costing model that evidences a significant under-funding of foster care. The costs include increased allowances, fees / payments, training, respite care, and management and support. Specialist foster care is developing to meet the increasingly complex needs of children. The training and support required is significantly more than traditional foster carers, and the service is essential to meeting the needs of some of the most vulnerable children in our society and ensuring that they do not end up in residential childcare. It is increasingly difficult to recruit and retain foster carers and investment in allowances, support and training would greatly improve this situation.

This agenda is shared with the Scottish Executive. The development of foster care is essential to provide better outcomes for children and to reduce spending on residential care. Continued under-funding of existing fostering arrangements is placing a drain on local authority budgets, and fostering families are moving over to independent fostering agencies who pay considerably higher rates, and that cost is consequently passed on to councils who have to buy in their services.

**Outcomes**

Outcomes for children who are placed in good foster care are recognised as being significantly improved (e.g. the recent report into allegations of child abuse in the Western Isles). If the funding is not forthcoming, the current fostering service will be diminished and the additional specialist services will not be available to children. Alternatively, other services will have to be cut to fund fostering, and an opportunity to decrease spending in the future on residential care will be lost. The potential long-term impact in reducing the use of residential childcare is significant because residential childcare is extremely expensive and in general does not demonstrate the same improvement in outcomes for children as high quality foster care.
6. Child protection & looked after children

The implementation of the final stages of the Child Protection Reform Programme in 2006/07 will include significant levels of training for large numbers of staff within local authorities and other agencies. It is anticipated that the revised arrangements for Child Protection Committees will also require additional training and administrative/development support. There is a proposal to introduce a 24-hour helpline which we would expect to be fully funded by the Scottish Executive. Any additional costs to local authorities must be met. Considerable work has been done within councils, and indeed across agencies to improve child protection arrangements, and this must be carried through properly to achieve the outcomes we have all signed up to.

The implications of Getting it Right for Every Child, and the integrated children’s services agenda may well have significant costs in the short-term, while leading to efficiency savings in the longer term. For example the implementation of the Integrated Assessment Framework will require infrastructure investment such as information technology and systems development and training. The potential implications from the recommendations of the Bichard Inquiry will require investment in systems to support the new arrangements, the cost of vetting will increase and implementing safer recruitment procedures across all childcare and education positions will also be disproportionately expensive.

In terms of looked after children, there is a political commitment to improve outcomes for looked after children, particularly in relation to educational attainment, however the under funding of children’s social work services is a recurrent theme and the increasing number of looked after children, mainly arising from increasing substance misuse problems within families, must be recognised financially by the Executive.

Outcomes:

If the funding is not in place, it will be difficult for councils to fully implement the Child Protection

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<tr>
<th>Key priority and policy evidence</th>
<th>Scotland figures</th>
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<tr>
<td>6. Child protection &amp; looked after children</td>
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Reform Programme, particularly in achieving the buy-in of a wide range of staff from social workers to nursery nurses and teachers. If the Programme is to be successful, then it is essential that staff are equipped to deal with it in terms of skills and knowledge as well as systems.

Services to looked after children need to be significantly improved and additional resources are essential to delivering them.

### Key priority and policy evidence

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<tr>
<th>Scotland figures</th>
<th>2006-07</th>
<th>2007-08</th>
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<tbody>
<tr>
<td>7. Care of children with special needs/learning difficulties</td>
<td>£'000</td>
<td>£'000</td>
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<td>18,000</td>
<td>25,000</td>
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The proportion of children with severe disabilities is increasing due to medical advances enabling more people to live, and to live longer. Services to children with disabilities are significantly under-funded, but resources are particularly scare to support the transition into adult services when a child leaves the education system. There are particular issues around young people moving on into education, training or employment and the associated support that they require. However, there are also intensive services required to support young people who are unable to take up education, training or employment but require support to live within the community.

Councils are currently striving to support these children, and need to find the funding from other services to do so, but this position is unsustainable in the longer term.

**Outcomes**

If additional funding is not received, services to young people with severe disabilities will be reduced, and the increased demand will not be met. If services are to be maintained, other services will have to be cut.
ELDERLY SERVICES

Key priority and policy evidence

| Scotland figures |
|------------------|------------------|
| **2006-07** | **2007-08** |
| £’000 | £’000 |
| 28,000 | 37,000 |

8. Home care – demand growth in excess of demographic

This area covers the demographic, service and registration and regulation pressures being generated in Scotland. Our elderly and very elderly population is predicted to grow whilst the population as a whole is projected to decrease by 2% by 2019 clearly indicates the scale of the problem confronting us. The population aged 16-64 is also projected to decrease over the period, by 5%. As a comparison, the population aged 65+ is projected to increase by 26% by 2019, with the largest relative increase being for males aged 85+.

Councils are experiencing pressures in relation to a changing demographic profile with an ageing population and the fact that increasing life expectancy has not been matched by increasing health expectancy – meaning that very frail older people with more complex needs are being supported at home.

The problems centre on increasing demand for home care, not only by an increase in client numbers but because packages of care have grown including out of hours services, weekend provision and more hours being provided per average package. The driver to minimise bed blocking by providing speedy home care provision exacerbates the position. The operation of waiting lists (for example those waiting for one month or more almost doubled between June and September 2005 locally), and managing the conflicting priorities of providing ‘low level’ preventative home care together with a more intensive service. Providing for high-end needs will require a tightening of eligibility or prioritisation to maintain performance against the Building a Better Scotland 30% target and this will militate against the preventative function of home care provision. Additional investment is required for service expansion to continue the preventative function while progressing towards the national target. Overall every authority will be able to identify additional resource requirements on current home care
commitments above demographic drivers.

**Outcomes:**
If further funding is not made available to councils so that these issues can be tackled then local authorities will have decreased ability to meet investment needs in home care. This will have the knock on effect of people requiring institutional care and hospital care therefore increasing the time spent in hospital, impacting on delayed discharges and hospital waiting lists.

If home care pressures are not met, the system as it stands will simply not be able to cope with the weight of numbers and people’s expectations of service.
Key priority and policy evidence

Scotland figures

<p>| 2006-07 | 2007-08 |</p>
<table>
<thead>
<tr>
<th>£’000</th>
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9. Elderly care homes – national care standards

This pressure represents an ongoing commitment by local government to operate in partnership with care providers to ensure there is an continued commitment to the provision of high quality residential and nursing care facilities in Scotland. As of 31/03/05 there were a total of 1,523 registered care homes providing 43,700 places to 38,295 residents. Any fall in the number of care home places would not only deprive elderly citizens of the ability to receive adequate care but it would also put pressure on community based services and NHS services. The trend within these national figures is for local authorities to divest themselves of care homes and thus LA provision is decreasing (now only 245 homes 6,475 bed spaces and decreasing). This means that there is less and less scope for authorities to be the provider of last resort, meaning authorities are becoming increasingly reliant on the private sector.

Care Homes in Scotland provide a valuable service by ensuring that there is specialist provision for those clients who are too frail or whose needs are too complex to be met in their homes.

The pressures centre on the increasing number of people with dementia in the community requiring care home placements and the specific staff training required to deliver care. Councils are experiencing problems on focusing on the delivery of high quality care to an increasingly frail group of older people and ensuring that staff are equipped with the necessary competencies, training and skills.

It must also be pointed out that if care homes were not able to operate by meeting care commission and SSSC codes, local authorities would have significantly more high cost care at home packages to provide and there would a corresponding rise in the numbers of delayed discharge figures and a rise in pressures on the NHS.

There is a strong argument to be made for positive impacts on the NHS, especially if new models of care provision are developed to allow people to leave
hospital more quickly reducing bed blocking and the risk of hospital acquired infection.

Outcomes:
Further resources should be made available for this pressure area so that the result will be high quality care homes, provided in all parts of Scotland, with efficient procurement, clear and transparent contracts, with no top up fees and a long-term partnering relationship with the sector that will see new models of provision developed. Any investment would be linked to a clear demonstration of delivery and also of increased quality through the delivery of the OFT report.
### Key priority and policy evidence

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<th>Scotland figures</th>
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<tr>
<td><strong>2006-07</strong></td>
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#### 10. Residential care purchase from the independent sector

This area of funding aims to ensure that local government has sufficient resources to purchase the required levels of residential and nursing care from the independent sector. Local government purchases approximately 20,000 bed spaces for the independent sector annually (this is expected to continue for the next 5 years at least, but may increase as the elderly population increases). Costs of this provision rise annually in line with inflation, wages increases and also in line with the needs of the care commission and the Scottish Social Services Council. The fee level is therefore a constantly shifting entity.

Funding pressures exist as there is a need to purchase existing care provision to the required standard both in terms of the physical quality of the care homes and also in relation to the competence of those providing the care and current funding levels do not allow for this to occur.

COSLA is currently working with the Local Government Improvement Service to develop models of alternative care procurement in line with the principles of efficient government. Essentially this work requires a partnership between local government and those it commissions care from. This approach will focus heavily on risk management and also on future development of modern care facilities.

This will have to be linked to taking a strategic approach to understanding the macro and micro markets and translating this into a capacity planning programme that seeks to influence where new investment is targeted including using capital and revenue to assist entry into market. This will be tied to the development of a sectorial uplift model that will guarantee an annual uplift to reflect real costs rather than the notional (and unrealistic) base inflation model that has been applied for the past 3 – 5 years.

These spending pressure follows on from the Cost of Care Bid placed within the COSLA 2004SR.
submission. Any additional resources that could be made available to councils will be used to purchase care from providers who meet basic quality standards. Any additional monies secured, as well as meeting annual cost pressures will also be used to support the replacement of older, inefficient and unsuitable care home provision.

We need to ensure that we are providing high quality care and reducing pressure on stretched home care budgets through the provision of cost effective and appropriate care in residential care settings. Additional funding would allow this happen in the pressured years of the 2004SR settlement as the initial work related to better care home place procurement as part of the efficient government programme is progressed. There are obvious arguments that can be made for positive impacts on the NHS, especially if new models of care provision are developed to allow people to leave hospital more quickly reducing bed blocking and the risk of hospital acquired infection.

Councils are currently experiencing cost pressures associated with current commitment, further pressures with projected growth to meet demand, and additional pressures around meeting delayed discharge targets by placing clients in independent sector care homes.

There are problems around the management of choice of care home with high occupancy rates in the local care home market constraining the availability of places with patient choice being a major factor in a high proportion of delayed discharge cases.

**Outcomes:**

If additional funding is made available then local authorities will have the ability to ensure that fee levels keep pace with the real cost of care, that care homes are able to employ high quality staff and that this will have a positive impact on the quality of care provision in all parts of Scotland. Importantly, additional funding will also, for the first time, allow for efficient procurement, clear and transparent contracts, no top up fees and a long-term partnering relationship with the sector that will see new models of provision developed. Any investment would be linked to a clear demonstration of delivery.
### Key priority and policy evidence

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<th>Scotland figures</th>
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#### 11. External provider above inflation price rises

Local Government current outsources approximately 48% of its social work budgets to private, independent or voluntary sector agencies. These bodies fall under the same requirements as local government to meet regulatory standards in terms of the services they provide and the qualifications and competence of the staff they employ. In doing so these organisations incur additional costs that up until now have not been budgeted for.

To tackle this issue local government needs to take a strategic approach. Leaders considered and agreed the issue of full cost recovery in August 2005 and this remains COSLA’s position. To secure long term stability in the contractual relationship with external providers and therefore long-term sustainability in the services provided to vulnerable clients, there is a need to link this work to the overall work on sectoral uplift and determine if we can tie the voluntary sector in to the same model that we are looking to develop with the care home sector. At present there is no agreed formula on how to do this. Achieving this may cost additional revenue in the short term but it would bring stability to the sector and lead to a longer-term contracting model where the issue of best value could be addressed.

Councils are experiencing pressures associated with meeting the additional costs that independent sector providers have in achieving care standards, in monitoring performance, and in meeting increasing demand, expectations and preferences. The variable effect of the revised Supporting People distribution formula is creating further pressures at a local level in many Councils and this will become more intense over the following two financial years as the reduction continues.

Although Councils meet regularly with providers and work through budgets in a detailed way there remain problems as there is a lack of an established formula for meeting these costs and this does not assist in providing longer-term security required by providers, particularly smaller and more specialist agencies.
**Outcomes:**
Taking this strategic approach would ultimately generate better value for money, increased transparency on what is purchased, how and where, increased quality of services and a more stable relationship with the voluntary sector. Given that this area involves social work services and supporting people the long-term positive impacts are significant.
### Key priority and policy evidence

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<thead>
<tr>
<th>12. Free Personal Care</th>
<th>Scotland figures</th>
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<tr>
<td><strong>2006-07</strong> £’000</td>
<td><strong>2007-08</strong> £’000</td>
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Although resources were allocated as part of the 2004SR settlement these are becoming exhausted and there is a real need to secure further funding due to the fact that there are more people needing services (legitimately) than councils have resources to pay for. The costs we have been able to cover have stood still since the start of the policy and now need uplifted to reflect inflationary pressures and then indexed, unless of course the policy is to be re-worked. Critically more resources need to be put into this system or else it will begin to crumble.

The pressures councils are experiencing relate to the increasing number of people eligible for receiving FPNC payments (around 30 per cent nationally) combined with inflationary pressures from care homes. Councils have problems in terms of the considerable budgetary pressures, potentially leading to requirement to operate a waiting list in FPNC which is likely to have negative consequences for other areas subject to national targets such as delayed discharge.

As an example, one council’s funding gap identified locally is around £341,000 (covering additional costs at current levels of commitment and an allowance for anticipated growth). This is a council who are effectively managing this policy but COSLA is aware that every council is facing the same pressures.

**Outcomes:**

If the budget is not increased, waiting lists will grow and the free personal care policy will fail quite publicly and quite spectacularly. Authorities will be under so much pressure that the current practice of managing waiting lists will be impossible. If the weekly rate is not increased, service levels of numbers to whom services are provided will need to be reduced, thus impacting negatively on waiting lists.
### Key priority and policy evidence

<table>
<thead>
<tr>
<th>Scotland figures</th>
<th>£’000</th>
<th>£’000</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>13. Disability Discrimination Act</strong></td>
<td>50,000</td>
<td>150,000</td>
</tr>
</tbody>
</table>

The capital pressures faced by councils in terms of DDA compliance are immense. At no time since the inception of the Act in 1995 has any capital monies been available to Local Authorities specifically to enable them to meet the requirements of the Act. This has placed Local Authorities under great financial pressure. Councils have a great many number of buildings (excluding schools estates) that require capital expenditure to bring their buildings up to the minimum accessible standard in line with the requirements of part 3 of the DDA.

That said Councils have made some in roads to begin to allocate monies for this work over a period of time but this funding is severely lacking. Additional capital funding for DDA compliance would enable Councils to accelerate and complete their DDA programmes. This would fit with the original Scottish Exec Social Inclusion Strategy of 1999 which said "Our vision is of a Scotland in which ...everyone is enabled and encouraged to participate to the maximum of their potential. To achieve this vision it will be necessary, in particular ... to eliminate discrimination and inequality on the grounds of gender, race or disability." More Council buildings and services would be made accessible resulting in a more inclusive Scottish society and additional job opportunities would be created for those previously excluded. Additional funding would also lessen the chance of a Local Authority facing legal challenge under part 3 of the DDA. Such action would have an adverse effect with regards to public relations at both local and national level. By providing additional funding the Scottish Executive would be demonstrating that there is a clear commitment to making Scotland more inclusive.

**Outcomes:**

If additional funding was not made available for DDA capital programmes then the programme will take a significant period of time to complete; disabled people will continue to face barriers to services and participation; and Council services will need to make
special arrangements for alternative service delivery for a longer period of time which conflicts with the drive for efficient government. In addition, Councils could face the prospect of legal challenge. The Disability Rights Commission in Scotland are actively seeking cases to be brought under part 3 of the DDA in order to build case law.
**Key priority and policy evidence**

<table>
<thead>
<tr>
<th>Scotland figures</th>
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</thead>
<tbody>
<tr>
<td><strong>2006-07</strong></td>
</tr>
<tr>
<td>£’000</td>
</tr>
<tr>
<td>50,000</td>
</tr>
</tbody>
</table>

14. **Street lighting**

There is a significant and increasing backlog in Scotland, and indeed the whole UK, of street lighting which requires renewal, due to the structural failure of the lighting columns.

However monies for their replacement have been severely cut back by the recent 35-40% increase in the price of electricity for street lighting, and a further erosion in budgets as a result of the 40% increase in steel prices, due to Chinese demand, and finally the implementation of the WEEE Regulations requiring the recycling of old lamps.

The problem is further exacerbated by the need to install additional columns in any old installation which is being renewed, to meet European CEN standards for street lighting.

Health and Safety is one issue and councils also have a duty under the Electricity Safety, Quality and Continuity Regulations 2003 to provide safe street lighting installations. Councils are required to test installations every 6 years and make good any defects.

Improved street lighting will result in safer streets at night, and crime and the fear of crime and night time accidents will be reduced and our night time environment improved.

**Outcomes:**

Council’s require additional funding to ensure that a full replacement programme can be rolled out without unnecessary delay. If additional funding is not provided Councils cannot implement such an extensive programme within the current resource capacity. The backlog will increase, and there are concerns that columns may become structurally unsafe leading to health and safety implications. In England, litigation has already resulted in claims for many millions of pounds. Due to the restricted budget situation councils are repairing street lights that should be replaced, this is leading is a false investment, particularly as these old lights are not energy efficient either. In areas where the street lighting is poor and inadequate the fear of crime
increases, along with night time accidents. In contrast the sort of image we want to project in our communities is one of good and well light areas conducive to attracting business and generating a feeling of community well being and safety.
Dear Mr McNulty

Single Status Agreement – Equal Pay

I refer to your letter of 21st December 2005 inviting comment on the potential impact of the Equal Pay Settlement on council services, staffing and council tax.

The Council recognises that a number of staff could make equal pay claims and is of the view that equal pay issues require to be resolved as a matter of priority and on a fair basis. The Council is therefore, currently considering the basis of the offer it intends to make to relevant employees. The costs of this offer are significant and equate to the equivalent of approximately 8 to 9% on the council tax. I would emphasise, however, that that cost represents our best estimate but is subject to a number of variables which are beyond our control, such as the number of individuals choosing to accept the offer rather than proceed to an Employment Tribunal.

The Council is already facing significant difficulties in accommodating spending pressures which will be faced in 2006/07 and coping with the impact of an inadequate grant settlement. East Renfrewshire is a demonstrably efficient Council and will continue to seek efficiency savings as a part of the budget process and on an ongoing basis. However, very difficult decisions require to be taken if the Council is to deliver on its previous pledge of a 5% council tax increase for 2006/07. These will result in cuts in the level of service provision currently made available. In addition, to assist in managing its extremely difficult financial position, the Council has recently undertaken a trawl for voluntary redundancies.

I trust this response is of assistance in your Committee’s inquiry.

Yours sincerely

Norie Williamson
Director of Finance
SUBMISSION FROM GLASGOW CITY COUNCIL

Chief Executive
George Black
CIPFA FCCA

Chief Executive Department
Glasgow City Council
City Chambers
George Square
Glasgow G2 1DU
Telephone: 0141 287 4739
Fax No: 0141 287 3627

6 January 2006

Des McNulty MSP
Room T3.60
The Scottish Parliament
EDINBURGH
EH9 1SP

Dear Mr McNulty

SINGLE STATUS AGREEMENT – EQUAL PAY

I enclose a copy of the report on Equal Pay issues which was considered and approved by the Policy & Resources Committee on 25 October 2005.

I can advise you that of the 11766 offers of compensation made to staff, 10334 were accepted prior to 20 December 2005. This represents an acceptance rate of 88% and amounts to a total expenditure of £38.7m approximately.

The Council is currently progressing the introduction of a pay and grading structure with the Trade Unions

Yours sincerely

[Signature]

GEORGE BLACK
CHIEF EXECUTIVE

Glasgow City Council is an equal opportunities employer
Glasgow City Council
Policy and Resources Committee
Report by the Solicitor to the Council
Contact: Ian Drummond Ext: 74521

Item 4
26th October 2005

Equal Pay Issues

Purpose of Report: To consider the introduction of a pay/grading structure which addresses equal pay issues within the Council and to modernise and deliver high quality services provided by a well trained, highly motivated and appropriately paid workforce.

Recommendations: The Chief Executive be given authority to utilise the available sums identified by the Director of Finance to meet the costs of effecting compensation agreements with identified staff prior to the end of December 2005.

Ward No(s): 
Citywide: 
Local member(s) advised: Yes □ No □ consulted: Yes □ No □
EQUAL PAY ISSUES

Background

The Chief Executive in consultation with the Trade Unions is currently conducting a review of workforce pay and benefits, addressing areas of equal pay and retrospection with a view to reach agreement on the approach to retrospection by December 2005, and to develop an overall package capable of implementation on a phased basis over three years from 1st April 2006. The key principle is to ensure the introduction of a pay/grading structure which addresses equal pay issues within the Council and to modernise and deliver high quality services provided by a well trained, highly motivated and appropriately paid workforce. This will be jointly managed in partnership with the Trade Unions.

Equal Pay Compensation

The issue of immediate concern is agreeing a formula for the settlement of potential equal pay claims, and agreeing a settlement package which will apply to those groups of workers determined as being in the initial "high risk" areas. The equal pay legislation gives women and men the right to equal pay for equal work. There are a considerable number of employees within the Council who are potentially in a position to make claims in respect of this legislation. This situation is not unique to Glasgow City Council but affects all local authorities.

Current Position

The Chief Executive in consultation with the Trade Unions has made considerable progress towards identifying those employees who may be eligible for compensation and the appropriate level of compensation payments. In order to resolve the issues of retrospection prior to the end of December 2005, the Chief Executive will require authority to commit the Council to substantial expenditure. In the event that the Council does not reach settlements on a voluntary basis employees can pursue equal pay claims with the assistance of solicitors or their Trade Unions and this will certainly result in the Council facing compensation payments at prohibitive levels.

Financial Implications

There are a number of financial implications that arise from such action. A total sum of £40m can be secured this financial year to allow a cash payment to proceed through a combination of utilising all available revenue balances and generating a current year underspend on non essential expenditure. Allowing for sums already committed the Council has £33m available in revenue balances comprising £13m in General Revenue, £16m in Repairs and Renewals and £4m from the Culture & Recreation Fund. In addition all services will be required to generate an underspend in this year’s budget of 2%, equivalent to a total saving of £18m across the Council. A recommendation to reduce each department’s net budget by 2% will be submitted to the Financial Services Sub Committee on Monitoring and Review. Savings generated now will reduce the burden upon next year’s budget.
The compensation payment will deplete all available revenue balances, which will have to be replaced progressively over the medium term. As a consequence, taking account of this and increased pay costs, the Council will also require to seek additional savings and efficiencies of 2%, equivalent to £18m, in each of the next two budget cycles.

The compensation payment and future increased pay costs will have a significant effect upon the Facilities Services (Cleaning and Catering) and Care and Community Services trading accounts. A deficit will be incurred in the current year and the commercial competitiveness could be affected in future years.

The Council's Capital Programme will also require to be managed carefully with less capacity to initiate the new starts programme. Consequently, consideration of any new projects other than the next phase of Pre-12 strategy may require to be deferred until Autumn 2006. The Housing Development programme is excluded from this proposal as it is funded separately.

Conclusions

The issue of equal pay and retrospection has to be addressed in a pro-active manner. The opportunity is currently available to agree jointly with the Trade Unions a way forward to modernise employment practices and ensure that the workforce are paid on an equal basis.

Recommendations

The Chief Executive seeks authority to utilise the available sums identified by the Director of Finance to meet the costs of effecting compensation agreements with identified staff prior to the end of December 2005.
Dear Mr McNulty

**Single Status Agreement – Equal Pay**

I refer to your letter of 21 December regarding the above matter.

Although I note your primary concern is the cost of rectifying past pay inequalities, it is clear that the only way to prevent pay inequalities in the future, will be to introduce a sustainable job evaluation scheme.

Within North Lanarkshire Council, a scheme has been developed and will shortly be considered for committee approval and consultation with the workforce. I attach a copy of the report for your information.

The estimated cost of the scheme will be £9.4m in 2006/07 with further additional costs incurred to 2012/13 of £20.3m, resulting in an annual recurring cost of £29.7m by 2012/13. No resources have been provided by the Scottish Executive to specifically meet these costs.

With regard to past pay inequalities, work is being undertaken to assess the risk faced by the Council and how best to mitigate this. Although work is currently ongoing to complete this assessment, it is clear that the costs will be significant and fall to be paid in 2006/07 as non recurring expenditure.

As an illustration, based on the three categories which were proposed as mandatory under the potential Cosla matrix (and assuming compromise settlements being negotiated at the discounted rates outlined in that Cosla proposal), the Council's costs were estimated at £23.5m gross, before accounting for employers' National Insurance and Superannuation. If it becomes necessary to settle claims either at a higher level or extending to other ranges of employee groups, those estimated costs could rise very considerably.

The Council is considering a range of short term measures to meet its potential financial obligations including:-

- expenditure restrictions during 2005/06
- expenditure restrictions during 2006/07
- reviewing charges for a range of services
- foregoing planned growth in services

In addition to the immediate steps outlined, the scale of the costs involved will require the Council to undertake a strategic review of services in the future. In summary, the costs involved in modernising the workforce will represent a significant challenge to the Council.
I trust these comments are of assistance to the Committee consideration on this matter.

Yours sincerely

Director of Finance
1. Summary

1.1 The purpose of this report is to update the Sub-Committee on the progress of work within the Job Evaluation Project, the development of proposed harmonised terms and conditions for Local Government Employees affected by the Job Evaluation Scheme and to seek endorsement of the package for formal consultation to take place with the trade unions representing the workforce.

2. Background Information

2.1 As the Sub-Committee will be aware from previous reports, the “Red Book” Scottish Agreement in 1999 required each council to undertake a Job Evaluation Exercise for all employees who had been on the former APT & C and Manual Workers conditions of service. As an integral part of the Job Evaluation exercise, when results are being implemented, there is also a requirement to harmonise conditions of service between the groups to ensure that all employees move to a common set of conditions of service.

2.2 The Council decided to implement the Job Evaluation Scheme which had been agreed at a Scottish level between the employers and the trade unions. A project team was established to undertake the evaluations and develop the proposed pay models for consideration. With over 15000 employees affected by the Job Evaluation Scheme, this has been an enormous task for the Council to undertake. However, this extensive work is now nearing completion and a preferred pay model has been identified which would be applied to the Job Evaluation points rank order for implementation.

2.3 Alongside the work within the Job Evaluation Project, the Corporate HR Working Group has been in discussions with the local trade union representatives for some time now to develop a harmonised core
conditions of service package to apply to all the relevant employee groups. Elements of the proposed conditions of service package could not be finalised until decisions were taken on the preferred pay model. Having identified a preferred pay model at management level, work has been undertaken to complete the proposals in relation to harmonised conditions of service.

2.4 An overall package, covering both the preferred pay model for Job Evaluation and the conditions of service has been finalised in discussion with senior trade union officers and forms the basis of a package which it is intended to consult the workforce through the recognised trade unions. The details of the consultation package are appended to this report.

3. Considerations

3.1 When developing the pay model options for consideration, it should be noted that over 70 pay models were developed by the Job Evaluation Steering Group which included both trade union and management representatives. A number of the pay model options which were considered would have delivered an equal pay structure for the Council and could have been delivered within the parameters of available budgetary provision. However, options which could have been funded within the financial provisions for Job Evaluation would have resulted in around 33% of employees becoming “Red Circles” i.e where the rate of pay for their post would be less than is currently paid. The implications for the workforce and the substantial numbers who would have been adversely affected have resulted in such pay models not being recommended for implementation.

3.2 The preferred pay model (known as NLC 5C) requires substantial investment by the Council and is by no means a cheap option in terms of affordability. However, the impact on the workforce is such that over 44% of employees are “Green Circles” i.e. their grades will increase in the new pay model; over 44% of employees are “White Circles” i.e. their existing pay rates are maintained within the new grading structure; and under 12% of employees are “Red Circles” i.e. the new rate of pay is less than is currently being received. Against a background where it was always recognised in the 1999 “Red Book” Scottish Agreement that some jobs would be downgraded at the end of the Job Evaluation exercise, the Council has done everything possible to minimise the number of employees who would be affected in this way. In addition, the Scottish Agreement provided for 3 years cash conservation for those employees who would be downgraded at the end of the Job Evaluation exercise.

3.3 Having considered the impact on the “Red Circles” and projected this impact across a period of 3 and 5 years, it is being recommended that the national arrangement in respect of cash conservation be extended locally to 5 years. By doing so, it is anticipated that, at the end of the 5 years cash conservation period, less than 1% of employees would remain “Red Circles” who would then receive the rate of pay for the post held. Alongside this, the Council has given a full commitment to
reconfiguring jobs, wherever practicable and as soon as possible, to try and remove the "Red Circle" effect on individuals.

3.4 A spreadsheet is attached which shows the breakdown of the workforce across all of the grades in the proposed pay model. This also details the numbers falling in to green, white and red circles within each grade.

3.5 The three groups of employees covered by the “Red Book” agreement i.e. APT & C staff, Manual Workers and Residential Workers have three different sets of conditions of service and payment arrangements relating to when hours are worked. As well as needing to have a pay model which treats all of these groups in the same way when the Job Evaluation results are being implemented, it is necessary for the Council to have one set of payment arrangements that applies across all groups in relation to working arrangements. A harmonised package of core conditions of service has been developed for consultation, the summary text of which is attached as an Appendix to this report. The proposals cover the following items:-

- Hours of work
- Other non standard payment arrangements
- Overtime
- Standby
- Recall to work
- Higher Duties payment
- Annual leave entitlement
- Annual leave year
- General annual leave conditions
- Public Holidays
- Retirement age
- Notice by employee
- Service
- Previous Service
- Reckonable Service
- Mileage Payments
- Grievance Procedure
- Disciplinary Procedure

The effect of the proposals is to harmonise the current core conditions of service across APT & C, Residential, Manual Workers and Craft Operatives.
within the Council, except where Craft Operatives currently retain separate national conditions of service provisions.

3.6 In developing the pay model and conditions of service, additional investment is recommended which enables the Council to maintain the earnings levels of APT & C employees currently working a 35 hour week alongside the retention of 37 hours for service delivery in current manual worker services. This is possible by adopting a 35 hour calculator within the pay model but paying the full time 37 hours per week for those jobs working beyond 35 hours. This represents a further commitment and investment across the workforce overall.

3.7 Other key items within the conditions of service proposals relate to a new framework for core/non-core hours replacing all the current shift allowances, unsocial hours payments, irregular hours and split duty payments with cash conservation applying for 3 years to existing employees in receipt of higher payment arrangements than would be eligible under the new core/non-core hours framework. The proposed core/non-core hours framework is recommended on an interim basis for the period until 31 March, 2009. This recommendation has the endorsement of the trade unions in recognition that further discussion will take place on the core/non-core hours band width to be applied from 1 April, 2009 and these discussions will take place ahead of that date.

3.8 The conditions of service proposals include provision for a new mileage framework based on Inland Revenue rates alongside a proposed two year banded compensation payment arrangement for existing essential and casual users. Rationalised pay cycles, although not part of the core conditions, are also proposed as part of the package. Resources freed up from the revised mileage framework and the adjustment to pay cycles are proposed for reinvestment in the workforce by improving annual leave entitlements for existing Manual and Craft employees as well as an improved service recognition framework which will apply across the board.

3.9 The terms of the proposed package have been discussed with senior trade union officials. It is possible that some items may require additional clarification. The Sub-Committee is asked to authorise the senior officers involved to make any final adjustments to the package required before the formal consultations commence with the workforce.

3.10 It is anticipated that notifications will be issued to every employee affected by the proposals by the end of January 2006 with the trade unions then undertaking formal consultation and ballots of their members. The outcome of the ballots is expected to be known around 13 March. Consequently, a further report is intended to be submitted to the Sub-Committee when it meets on 22 March, 2006 ahead of the proposed effective date for implementation i.e. 1 April, 2006.
4. **Financial Implications**

4.1 The financial implications of implementing the proposed pay model NLC 5C, applying the 35 hour calculator when determining hourly rates and adopting 5 years cash conservation (3 years for core/non-core allowances) are summarised as follows:-

- 2006/2007 Implementation costs including employers overheads. £9.4 million
- 2007/2008 - No incremental progression to assist full implementation for 1 April 2006
- 2008/2009 - 50% increment applied where applicable. Estimated cost £2.8 million
- 2009/2010 - 50% increment applied where applicable plus cost of core/non-core hours framework. £4 million
- 2010/2011; 2012/2013 - Full increments applied where applicable. Estimated cost each year £4.5 million

4.2 From the above, it can be seen that the additional recurring investment in the workforce as a result of implementing the Job Evaluation Scheme is estimated at £29.7m by 2012/13. This means that the Council will have to provide additional resources averaging circa £4.25m per annum over the next seven years. The additional resources required over the remaining period of the Council’s Financial Plan (2006/07 and 2007/08) is estimated at £9.4m.

4.3 A funding framework is set out below.

<table>
<thead>
<tr>
<th>Job Evaluation Funding</th>
<th>2006/07 £</th>
<th>2007/08 £</th>
<th>Total £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff charged directly to HRA</td>
<td>0.4</td>
<td>-</td>
<td>0.4</td>
</tr>
<tr>
<td>Costs related to vacant posts</td>
<td>0.5</td>
<td>0.3</td>
<td>0.8</td>
</tr>
<tr>
<td>Provisional allocation made for job evaluation and staff increments</td>
<td>1.4</td>
<td>1.4</td>
<td>2.8</td>
</tr>
<tr>
<td>Increased resources in settlement</td>
<td>1.0</td>
<td>1.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Reduce provisional allocation for growth</td>
<td>1.3</td>
<td>1.1</td>
<td>2.4</td>
</tr>
<tr>
<td>Further efficiency reviews</td>
<td>0.5</td>
<td>0.5</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>5.1</td>
<td>4.3</td>
<td>9.4</td>
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4.4 As the funding is provided over two financial years it will be necessary to meet the imbalance between years by one off measures. It may also be necessary to fine tune the funding proposal once any possible financial obligation arising from any past pay inequality is known.
5. Recommendations

5.1 It is recommended that the Sub-Committee:-

(i) endorses the proposed package, as appended, as the basis for formal consultations with the workforce through the recognised trade unions

(ii) authorises the senior officers to make any final adjustments to the package in relation to any additional clarification required prior to the formal consultation

(iii) notes the arrangements and intended timescale for the formal consultation and ballot process

(iv) notes the proposed funding framework which will require to be taken account of in future budget consideration

(v) notes that a further report will be submitted to the Sub-Committee on 22 March, 2006

Director of Administration

Encs

For further information on the content of this report please contact Iris Wylie, Head of Personnel Services on (01698) 302236.
Finance Committee

2nd Meeting 2006, Tuesday 24 January 2006

Subordinate Legislation – Negative Instruments

Introduction

1. The Finance Committee has been referred the following instruments of subordinate legislation:
   - The Public Contracts (Scotland) Regulations 2006 (SSI 2006/1); and
   - The Utilities Contracts (Scotland) Regulations 2006 (SSI 2006/2).

Purpose of instruments

The Public Contracts (Scotland) Regulations 2006 (SSI 2006/1)

2. These Regulations implement Directive 2004/18/EC of the European Parliament and Council. The Regulations specify the procedures to be followed in relation to the award of public works contracts, public supply contracts and public services contracts by public bodies called contracting authorities.

The Utilities Contracts (Scotland) Regulations 2006 (SSI 2006/2)

3. These Regulations implement Directive 2004/17/EC of the European Parliament and Council. The Regulations specify the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial thresholds for procurements in the utilities sector.

4. An explanatory note and an executive note providing further information are attached to each of the instruments. In addition, copies of the relevant directives are available from the clerks upon request.

Evidence

5. In advance of its formal consideration of the instruments on 31 January, the Committee will receive oral evidence from STUC representatives followed by Scottish Executive officials at today’s meeting. This session will give members the opportunity to receive a detailed explanation of the instruments prior to formal consideration. The STUC have raised concerns relating to the instruments which are detailed in their submission (Paper FC/S2/06/2/3).

Procedure

6. These instruments are subject to negative procedure. Unlike affirmative instruments, negative instruments cannot be voted on by committees unless a member (any member of parliament) lodges a motion to annul the instrument i.e a motion proposing that nothing further be done under the instrument.
Subordinate Legislation Committee consideration

7. The Subordinate Legislation Committee has raised points with the Scottish Executive on both of these instruments. The SLC will publish its comments on the instruments in advance of this Committee’s formal consideration on 31st January. Copies of the relevant extract of the SLC’s report will be provided to members for this meeting.

Roz Wheeler
Senior Assistant Clerk
Finance Committee
Finance Committee

2nd Meeting 2006, Tuesday 24 January 2006

Subordinate Legislation – Negative Instruments

SUBMISSION FROM THE STUC

21 December 2005

Dear Des

PUBLIC SECTOR AND UTILITIES PROCUREMENT DIRECTIVES

You may be aware that the Scottish Executive recently conducted a consultation exercise on the draft regulations for implementing the EU Public Sector and Utilities Procurement Directives in Scotland. I have enclosed the STUC’s response to this important consultation for your information.

The latest indications suggest the draft regulations will be laid before Parliament on 9 January 2006 and that the Finance Committee will scrutinise. Therefore, I’m very keen that you are made aware of our main concerns:

- **Process**: the STUC is frustrated by the Scottish Executive’s unwillingness to use its devolved powers to implement the Directives on a separate and distinct basis from the Treasury’s Office of Government Commerce; and,

- **Content**: the STUC does not believe that the draft regulations give full force to the new Directives. The Scottish Executive’s consultation (which, incidentally, was almost identical to the OGC’s) states that, “The new Public Sector Directive clarifies the scope to include environmental and social issues in the public procurement process”. As trade unions have repeatedly pointed out, the Directive does not clarify the scope, it extends it.

In transposing these new Directives, the STUC believes that the Scottish Executive has a real opportunity to create a new procurement regime that benefits Scotland’s workers, businesses, communities and environment. We are anxious that this opportunity is not lost and would be grateful if you and your Committee could bear the issues raised in our consultation response in mind when scrutinising the draft regulations.

Have a happy Christmas and very best wishes for 2006.

Yours sincerely

Stephen Boyd
Assistant Secretary
Enc
STUC Response to the Scottish Executive’s Consultation on the draft regulations implementing the Public Sector and Utilities Procurement Directives

Executive Summary

- The STUC welcomes the new EU Public Sector and Utilities Procurement directives, which introduce additional scope to undertake public procurement in such a way that achieves value for money and meets vital social, employment and environmental challenges.

- Procurement is a devolved issue. In transposing these important new Directives, the Scottish Executive has a real opportunity to create a new procurement regime that benefits Scotland’s workers, businesses, communities and environment.

- However, we are frustrated by the Scottish Executive’s unwillingness to use its devolved powers to implement the directives on a separate and distinct basis from the Treasury’s Office of Government Commerce (OGC).

- The STUC does not believe that the implementation process allows sufficient time for officials to redraft the draft regulations in light of consultation responses. The process has simply not been managed in a way that allows the Scottish Executive’s Procurement Directorate true flexibility to implement the Directives in the best interests of Scotland.

- The STUC does not believe that the draft regulations give full force to the new Directives. The Scottish Executive’s consultation states that “The new Public Sector Directive clarifies the scope to include environmental and social issues in the public procurement process”. As trade unions have repeatedly pointed out, the Directive does not clarify the scope, it extends it.

- Many provisions of the new Directives (sub-contracting, obligations relating to taxes etc) that could have been implemented as mandatory have been implemented as optional, presumably in response to spurious arguments about ‘burdens on business’.

- The OGC is clearly driving the process across the UK but the STUC is clear that the legal obligation on the Scottish Executive is to reflect the directives, not the views of the OGC. Crucially, the current approach could actually undermine much of the good practice developed since devolution such as the STUC/Scottish Executive PPP Protocol.

- Our most pressing demand is to see proper recognition of the new social, employment and environmental clauses implemented as Scotland transposes the Directives. Even at this late stage, we seek such recognition in both the texts of the regulations and the accompanying guidance.
Introduction

1.1 The STUC represents some six hundred and thirty thousand workers across Scotland, the members of our affiliated trade unions.

1.2 We speak for trade union members in and out of work, in the community and in the workplace. Our affiliates have interests in all sectors of the economy.

1.3 Therefore, the STUC is able to provide a unique perspective on the performance of the economy, the challenges it faces, and the effectiveness of public agencies in responding to those challenges.

1.4 The STUC welcomes this consultation on the draft regulations implementing the new Public Sector and Utilities Procurement Directives, which we believe introduce important new opportunities to assist Scotland’s workers, communities and industry.

1.5 The STUC would like to offer our sincere thanks to Paul McNulty and Ian Moore from the Scottish Executive’s Procurement Directorate for participating in our consultation seminar held on 7 November 2005.

1.6 Recognising that most issues are common to both Directives, we have focused our response on the Public Sector Procurement Directive. We do not intend to respond separately on the Utilities Directive but would ask the Scottish Executive to recognise that our comments are applicable to the corresponding regulations in the Utilities Directive text.

Public Procurement

2.1 Public procurement suddenly became a high profile issue following this year’s Business in the Parliament Conference where a number of business people criticised the Scottish Executive for failing to do more to assist Scottish businesses win public contracts.

2.2 Procurement has long been a major issue for trade unions but it has often been difficult to promote it as such given that it is often clouded in highly technical language and obscure legal terminology.

2.3 The STUC has two main aspirations for procurement policy:

- For procurement to play a pivotal role in securing the future of Scottish manufacturing. Trade unions recognise that public authorities must operate within tight EU competition rules but so far other countries have been far better at giving their manufacturers a slice of the public procurement cake; and,

- For procurement to be used to drive up standards across the economy. Contracts drawn up with suppliers and service providers can incorporate clauses on better employment standards, training provision, health and safety and environmental sustainability. There is great potential for procurement to help make Scotland a better place in which to live and work.
2.4 This is why the STUC welcomes the two new directives, which introduce additional scope to meet the aspirations outlined above. Unfortunately, the Scottish Executive, following the lead set by the Office of Government Commerce (OGC), appears intent on taking a minimalist approach to the transposition of these directives into Scottish law.

2.5 There is now a clear divergence between positive procurement agenda promoted by trade unions, progressive employers and some public sector bodies and local authorities which seeks to promote high standards and inclusiveness. The OGC, and by association the Scottish Executive, appears to be backing the discredited low-cost, low value agenda; an agenda that does not sit well with the Smart, Successful Scotland enterprise strategy.

2.6 Moreover, it is the positive agenda, that seeks to promote high skills and high value among procurers and suppliers and end discrimination that is the truly efficient one. Public sector bodies that do not promote skills, or do not take steps to fully utilise the contribution of women, disabled or black and ethnic minority employees, on the spurious basis that developing their talents is a short term ‘cost’, are taking the inefficient approach.

2.7 As part of a new positive approach to procurement, the Scottish Executive should actively look at how policy can be used to provoke better performance and drive up employer involvement in training, for example, by requiring employers engaged in government contracts to have a high quality apprenticeship system in place.

2.8 The STUC and our affiliated trade unions are seriously concerned about the lack of such a policy at Scottish level. Cost remains the fundamental determinant of success with other factors given cursory consideration if indeed they are considered at all. Over the past few years, Scottish workers have suffered from a number of poor procurement decisions ranging from the strategically inept (Ferguson’s shipyard losing crucial orders to a Polish shipyard) to the grotesque ('Make it in Scotland' sweatshirts manufactured in China).

2.9 The Scottish Executive must recognise the full scope of the Directives and develop a new positive procurement policy. In this context, the STUC notes and supports the GMB’s call for a Sustainable Procurement Task Force for Scotland.

Consultation and Implementation Process

3.1 Perhaps the most frustrating aspect of this consultation process has been the unwillingness of the Scottish Executive to use its devolved powers to implement on a separate and distinct basis from the Treasury’s Office of Government Commerce (OGC). Procurement is a devolved issue. In transposing these important new Directives, the Scottish Executive has an real opportunity to create a new procurement regime that benefits Scotland’s workers, businesses, communities and environment. There is no persuasive reason for following the OGC’s lead.

3.2 The Scottish Executive decided to implement separately from England but on the basis that the Scottish regulations would ‘mirror’ the OGC’s. The only discernible rationale for this curious process are the spurious references to ‘burdens’ possibly arising from businesses having to deal with two sets of regulations. Businesses tender for contracts, not regulations.
3.3 Also, the timescales are challenging to say the least. The consultation finishes on 17 November and the Directives must be transposed to Scottish law by 31 January 2006. Therefore, the assumption is that draft regulations will be laid with the Parliament in early December. The STUC does not believe that this process allows sufficient time for officials to redraft the regulations in light of consultation responses. The process has simply not been managed in a way that allows the Scottish Executive’s Procurement Directorate true flexibility to implement the Directives in the best interests of Scotland. Time constraints will ensure that the OGC regulations are essentially replicated in Scotland.

3.4 The OGC is clearly driving the process across the UK but the STUC is clear that the legal obligation on the Scottish Executive is to reflect the directives, not the views of the OGC. Crucially, the current approach could actually undermine much of the good practice developed since devolution such as the STUC/Scottish Executive PPP Protocol.

The Draft Regulations

Regulation 7 implementing Article 19 (Reserved contracts)

4.1 The STUC acknowledges some improvements in the draft regulations relating to the handling of reserved contracts, though the terminology of sheltered workshop and programmes remains unacceptable.

4.2 The use of reserved contracts and supported employment programmes is an important social issue and there is a serious shortage of good quality work going into supported employment factories. Article 19 states:

“Member states may reserve the right to participate in public contracts awards procedures to sheltered workshops or provide for such contracts to be executed in the context of sheltered employment programmes where most of the employees concerned are handicapped persons, who, by reason of the nature or the seriousness of their disabilities cannot carry out occupations under normal circumstances”.

4.3 The STUC does not consider the use of the terms “sheltered workshop” and “sheltered employment programmes” to be correct or acceptable. The GMB’s response to the earlier consultation was very clear on this point and it is disappointing that their comments have yet to be taken on board.

4.4 However, the STUC does welcome the recognition that this is a very important provision and we look forward to the Executive providing clear, positive and constructive guidance on how purchasers can make best use of this provision.

4.5 The STUC is also concerned that the increased use of framework agreements, dynamic purchasing systems, central purchasing bodies and competitive dialogue could limit the scope for supported employment programmes to be involved in seeking public contracts.
Regulation 45 implementing Article 25 (information on sub-contracting)

5.1 The STUC deeply regrets that this Article has been implemented as optional and not mandatory. Trade unions have repeatedly expressed concerns that sub-contracting is often used in cost cutting, usually by driving down workers’ terms and conditions. We repeat our call for a mandatory requirement for contracting authorities to require tenderers to indicate the share of the contract they intend to sub-contract to third parties, as well as to indicate if a sub-contractor is likely to sub-contract further aspects of the work. It will be particularly important for the public authorities to have any knowledge of any sub-contracting in order to ensure compliance with the PPP Protocol and any future guidance on two tier workforce matters.

5.2 The STUC is seriously concerned at the rationale for adopting this article as optional – ‘to allow contracting authorities as much flexibility as possible’. The consultation document states that this ‘squares with the devolved responsibility for procurement decisions’. Unfortunately, it does not square with Scottish Executive policy on the two-tier workforce.

5.3 The regulations should further require sub-contractors and sub-sub contractors to comply with the social, employment and environmental provisions of the legislation.

Regulation 38 implementing Article 27 (Obligations relating to taxes, environmental protection etc.)

6.1 The STUC deeply regrets that Article 27 has not been implemented as mandatory. An obligation on the part of public contractors to state the body or bodies from which tenderers can obtain appropriate information relating to taxes, employment protection provisions, working conditions and environmental protection would strengthen the statutory guidance legislation already in place such as the PPP Protocol. It would also support any future legislation designed to tackle the two-tier workforce.

6.2 The wording relating to employment protection differs from that of the EU Directive Article 27 and we would prefer the original wording to be used:

“A contracting authority which supplies the information referred to in paragraph 1 shall request the tenderers or candidates in the contract award procedure to indicate that they have taken into account, when drawing up their tender, of the obligations relating to employment protection provisions and the working conditions which are in force in the place where the works are to be carried out or the service is to be provided”.

6.3 The STUC also rejects any suggestion that such an obligation would add unnecessary burdens or bureaucracy. On the contrary, we believe that failing to comply with required taxes, environmental protection, employment protection provisions and working conditions, as a result of not receiving appropriate information regarding requirements, would entail a much higher burden in the long run.
Regulation 18 implementing Article 29 (Competitive Dialogue)

7.1 The consultation document states: “the final text for this Article was achieved after lengthy negotiation and lobbying, with the UK’s aim being that the procedure should fit as much as possible with UK best practice on the award of PFI and PPP contracts”.

7.2 The STUC rejects claims that PFI offers either value for money, or in many instances, quality employment conditions and protections. PFI is not a ‘best practice’ development in public contracting across Europe and should not be portrayed as such.

7.3 Again, we have to raise a serious question over process. The Scottish Executive and STUC, through the PPP Protocol, have taken a very different approach to PPP contracting. This section of the consultation is a direct lift from the OGC consultation paper and therefore it is unclear whether the Protocol is regarded as ‘best practice’ in this context.

Regulation 19 implementing Article 32 (Framework Agreements)

8.1 The STUC are concerned about a potential lack of transparency within framework agreements which allow call off contracts without the need to go out to tender or to advertise in the Official Journal of the European Union. Such framework agreements often leave employees in an unenviable position, not knowing whether their service will be contracted out or if their employment will be transferred to a service provider. It also raises difficulties about compliance with TUPE legislation, the Best Value Code of Practice and Scottish protocol provisions.

8.2 In our view the Directive should require contracting authorities to ensure that trade unions are consulted at the earliest convenience, before each contract is entered into under framework agreements.

Regulation 23 implementing Article 45 (personal situation of the candidate or tenderer)

9.1 The STUC welcomes Article 45 and the opportunity to use exclusion from public procurement as a means to sanction and deter corruption. We regret, however, the transposition of the derogation into Scottish law and ask that conditions under which the derogation can be applied are included in the regulations.

9.2 The STUC considers that exclusion from public procurement provides a potentially powerful deterrent, but that its effectiveness depends on the existence of an information system at EU level whereby public authorities within the UK and across the EU can access information on the corruption convictions of companies. We request that tendering authorities be required to be proactive and take steps to ensure that companies tendering for contracts do not have corruption convictions including:

i) Checking existing databases and debarment lists; and,

ii) Requesting that all tenderers confirm that neither the economic operator nor its directors nor any other person who has powers of representation, decision or control of the economic operator has been convicted of any of the offences covered in Regulation 23(1) or the grounds covered in regulation 23 (4).
Regulation 21 implementing Article 54 (Electronic Auctions)

10.1 The STUC acknowledges that it can be efficient to purchase some goods and services by means of electronic auctions (e-auctions). However, it must be clear in both the regulations and the accompanying guidance that the use of e-auctions is not appropriate for contracts involving the transfer of staff. Such behaviour would be likely to force down wage rates and other terms and conditions of employment and may contravene the Acquired Rights directive 2001 and the TUPE regulations.

10.2 The STUC notes that the National e-Procurement project has included labour-intensive services, including cleaning, grounds maintenance and staffing and temporary recruitment, in a list of viable categories for e-auction. The STUC believes that e-auctions should not be used for purchasing services that are labour intensive for the same reason i.e. that this would risk pushing down wage rates and other terms and conditions of employment.

Regulation 30(6) implementing Article 55 – Abnormally Low Tenders

11.1 The STUC believes that Regulation 30(6) on abnormally low tenders does not reflect the prominence given to this in the Directive, where it is covered as a separate Article (Article 55) in its own right (for instance, the Directive text states that the contracting authority may seek further details in relation to ‘the economics of the construction method, the manufacturing process or the services provided’). This is a significant change from the text of the Directive. The STUC further believes that Article 55 should be transposed in full as a separate regulation point. The regulation should provide clear focus and prominence to be given to compliance with employment protection and working conditions, as is the case in the Directive (‘compliance with the provisions relating to employment protection and working conditions in force at the place where the work, service or supply is to be performed’).

11.2 The social issues guidance accompanying the regulations should also properly reflect the significance of this point.

Use of term “Contract Documents”

12.1 The consultation document states: “The term ‘contract documents’ is defined in regulation 2(1) as: ‘the invitation to tender for or to negotiate the contract, the descriptive document (if any), the proposed conditions of contract, the specifications or description of the services, goods, work or works required by the contracting authority and of the materials nor goods to be used in or for such work or works, and all documents supplementary thereto’.”

12.2 The STUC calls for the maximising of information requirements relating to specifications of social, employment and environmental considerations in the contract documents.

Clarification of social and environmental criteria

13.1 This section begins: “The new Public Sector Directive clarifies the scope to include environmental and social issues in the public procurement process”. The STUC deeply regrets this interpretation. The Directive does not ‘clarify’ the scope, it extends the scope.
Even, at this late stage, we wish this to be taken into account in the UK regulations.

13.2 Moreover, we recognise that Regulation 39 states:

(1) A contracting Authority may stipulate conditions relating to the performance of a public contract, provided that those conditions are compatible with Community Law and are indicated in:

- The contract notice; or,
- The specification of the contract documents

(2) The conditions referred to in paragraph (1) may include social and environmental considerations.

13.3 We believe, however, that this is totally inadequate in terms of giving full force to the new provisions contained in the new Directives. The fact that this regulation appears as a ‘miscellaneous’ provision on page 54 of a document (excluding appendices) that is 60 pages long, rather at the front of the regulations, is a telling sign of the priority given to the new provisions by the OGC. It is doubly disappointing that the Scottish Executive has saw fit to replicate the OGC’s draft regulations when it does not have to do so.

13.4 We welcome Regulation 30(1) which states that a “contracting authority shall award a public contract on the basis of the offer which (a) is the most economically advantageous from the point of view of the contracting authority; or (b) offers the lowest price”.

13.5 The correct wording i.e. ‘from the point of view of the contracting authority’ has been inserted following trade union lobbying.

13.6 However, Regulation 30(2) lists criteria to determine this point of view as “including quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales service, technical assistance, delivery date and delivery period and period of completion”.

13.7 The STUC believes that more enlightened public authorities will consider other issues to be economically advantageous, including basic skills delivered to workers providing the good or service, employment and training opportunities, equality, thereby using talents of all the workforce and addressing pockets of long-term unemployment. We believe the fact that such social and employment issues can be included in the list of criteria defining what might be “economically advantageous” should be stated clearly under Regulation 30(2).

Guidance

14.1 The STUC appreciates that the Scottish Procurement Directorate intends to publish guidance to accompany these regulations. It is disappointing that draft guidance could not have been published with this consultation – again, timescales will simply not allow for a further consultation in time for the transposition of the Directives.
14.2 It is our hope that the guidance will be published in the spirit of the Directive rather than the narrow interpretation suggested by the draft regulations. However, we fear that, once again, the SPD will be forced through time constraints to replicate the guidance currently being drafted by the OGC. This is unacceptable. We expect the SPD to take full advantage of the powers available to them and produce comprehensive guidance that recognises the full scope of the directives.

Conclusion

15.1 Throughout the consultation process trade unions have highlighted in written submissions the fact that the new Directives give additional scope for contracting authorities to include social, employment and environmental criteria in public contracts.

15.2 For example, Recital 33 of the new Public Sector Directive states:

“Contract performance conditions are compatible with this Directive provided that they are not directly or indirectly discriminatory and are indicated in the contract notice or in the contract documents. They may, in particular, be intended to favour on-site vocational training, the employment of people experiencing particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made, amongst other things, of the requirements – applicable during performance of the contract – to recruit long-term job-seekers or to implement training measures for the unemployed or young persons, to comply in substance with the provisions of the basic International Labour Organisation (ILO) Conventions, assuming that such provisions have not been implemented in national law, and to recruit more handicapped persons than are required under national legislation”.

15.3 The new Directives also define “the most economically advantageous tender” on which a contract award may be based as being “from the point of view of the contracting authority”. This is a significant new development. It is given force in Regulation 30(1) but is not acknowledged in any OGC or Scottish Executive document as being either new or significant.

15.4 Neither the OGC or Scottish Executive has, at any stage, acknowledged that new rights to consider employment, social and environmental issues, beyond those that existed previously, are contained in the new Directives. The STUC has no wish to change the Directives, our desire is simply to see them implemented as adopted at European level. By denying proper recognition of the new social, employment and environmental opportunities, it is the OGC and Scottish Executive that, by default, seek to change the Directives.

15.5 Therefore, our key demand is to see, even at this late stage, proper recognition of the new social, employment and environmental clauses implemented as Scotland transposes the Directives. We seek such recognition in the texts of the Scottish regulations and the accompanying guidance. Our campaign on this issue will continue.

STUC
November 2005
## SSI DESIGNATION FORM

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### Lead Committee
- Finance
- Other Committee

### Purpose of Instrument
These Regulations implement Directive 2004/18/EC of the European Parliament and Council. The Regulations specify the procedures to be followed in relation to the award of public works contracts, public supply contracts and public services contracts by public bodies called contracting authorities.

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### Additional Information
**SSI DESIGNATION FORM**

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Finance Committee

2nd Meeting 2006, Tuesday 24 January 2006

Subordinate Legislation – Negative Instruments

LETTER FROM THE EQUAL OPPORTUNITIES COMMITTEE

11 January 2006

Dear Susan

The Public Contracts (Scotland) Regulations 2006 (SSI 2006/1)
The Utilities Contracts (Scotland) Regulations 2006 (SSI 2006/2)

At its meeting on 10 January 2006, the Committee heard evidence regarding the above regulations which I believe the Finance Committee will be considering.

The Committee agreed that I forward you, as Clerk to the Finance Committee, the Official Report of the meeting and the STUC consultation response to assist the Finance Committee in its consideration of the draft regulations.

The extract of the Official Report can be found as an Annex to this letter and I have also enclosed the STUC’s response to the Scottish Executive consultation.

I look forward to hearing the outcome of the Finance Committee’s consideration of the regulations.

Yours sincerely

Steve Farrell
Clerk to the Equal Opportunities Committee
Equal Opportunities Committee Meeting 10 January 2006

Col 1308

Stephen Boyd: I am more than happy to pick up on procurement. I will try to be brief. As coincidence would have it, the draft regulations for implementing the new public sector and utilities procurement directives will today be laid in the Parliament. I understand that the Finance Committee will be the lead committee for the scrutiny of those regulations. We have two main concerns about them, one of which is to do with the process. Procurement is a devolved issue. At the moment, the Executive is simply replicating the Office of Government Commerce regulations, which we do not believe give full force to the additional scope included in the new directives, not only to achieve value for money but to assist in meeting important environmental, social and economic objectives. We have been doing a fair bit of work on that. A number of the important provisions in the new directives on subcontracting, information about taxation and so on have been implemented in Scotland—as in the United Kingdom—on an optional basis. We believe that implementation should be mandatory.

Our main complaint, however, is that the directives are being promoted in the UK very much on the basis that they clarify the ability of contracting authorities to introduce social and environmental objectives into public procurement. It is not simply a clarification process; the directives introduce additional scope. The draft regulations run to some 60 pages; I think that page 55 says something like "You can consider social and environmental criteria when you are introducing public procurement contracts." That is not good enough. As they currently read, the draft regulations do not give full force to the additional scope included in the new directives. That is important when we are considering disability. It is important for issues throughout the economy, but we would argue that it introduces additional scope for, for example, the employment of disabled people to be taken into account in the contracting process.

Elaine Smith: The committee has raised this issue in the past—for example, I raised it in relation to the women's agenda. Although we are in the middle of the inquiry, I suggest that we take a keen interest in the matter, given that it is happening at the moment.

Stephen Boyd: Perhaps I should have said that the directives have to be introduced and transposed into Scottish law by the end of January.

One of the main issues for the STUC is the very tight timescale for implementation. We have always believed that it does not allow sufficient time for consultation on and amendment of the regulations in the light of consultation responses. If the regulations are to be amended, the timetable for doing so is extremely tight.

We have been approached by the Scottish Executive’s Scottish procurement directorate, which is more than happy to work with us on the guidance that accompanies the regulations. In an ideal world, the regulations should give full force to the directives. At the moment, they do not do that.

The Deputy Convener: We could take that up with the Finance Committee. We have an interest in the issue. Do you want to come in on the point, Sandra?
Ms Sandra White (Glasgow) (SNP): Yes. I have two points that I would like to pick up on, if Elaine Smith does not mind. The first is health and safety being used as a means of preventing disabled people from working and from using leisure facilities. That issue has been raised frequently at committee. The second issue is procurement. I believe that other European countries are using the directives for the benefit of disabled people and others. There is no reason why they could not be used in the same way in this country.

As Stephen Boyd said, the cut-off point for implementation is January. The committee will do anything it can to help the Executive to better implement the directives. There is no reason why the Executive cannot implement them in full. Perhaps the STUC can give us more information on its position on the matter.

Stephen Boyd: I am more than happy to circulate to the committee our lengthy consultation response. It may not be the most interesting document, but the committee is more than welcome to have it.

The Deputy Convener: Thank you; that would be helpful. It would inform the way in which we take forward the issue within our remit.
Finance Committee

2nd Meeting 2006, Tuesday 24 January 2006

Scrutiny of Financial Memorandum – Approach to the Planning etc (Scotland) Bill

Background

1. The Planning Etc (Scotland) Bill (“the Bill”) was introduced to the Parliament on 19 December 2005. The Communities Committee has been designated the lead committee for the Bill at Stage 1.

2. This paper has been prepared to assist the Committee to determine its approach to considering the Financial Memorandum for the Bill.

The Bill

3. The Bill seeks to modernise the planning system by making it more efficient and more inclusive. It will:

   - introduce a clearer sense of priority in planning and enable different types of planning to be addressed in different ways;
   - improve efficiency by establishing new requirements for the production of development plans;
   - promote inclusive planning by enabling people to be more involved in decision making; and
   - promote development in the most sustainable locations.

4. The Bill’s key provisions are as follows:

5. Part 1 will enhance the role and status of the National Planning Framework as the vehicle for national policy and programmes.

6. Part 2 replaces existing provisions for development planning to ensure that development plans are more relevant, up to date and inclusive of local people. It provides for a simplified process of examination and approval, with plans focused on delivery and outcomes.

7. Part 3 seeks to improve the development control process (renamed development management) to ensure that planning decisions are not unduly delayed.

8. Part 4 makes provision for planning control to enable better enforcement in relation to unauthorised development.

9. Parts 5 to 10 deal with the protection of trees, the correction of errors in decisions, auditing and performance of planning authorities, collective investment by local businesses, and miscellaneous and general provisions.
10. The Financial Memorandum (FM) sets out the anticipated costs arising from the Bill, dividing the costs between the Scottish Executive, local authorities and business as follows:

11. **Scottish Executive** – Overall additional costs have been estimated at £1.214 million per annum from 2008-09. These are divided between the Scottish Executive Development Department’s Planning and Building Standards Group, responsible for the legislative framework, policy guidance and some major planning applications and appeals and the Scottish Executive Inquiry Reporters Unit (SEIRU), which deals with planning and related appeals.

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<td>Reduction of time limit for appeals from 6 to 3 months</td>
<td>0</td>
<td>£392,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£530,000</strong></td>
<td><strong>£684,000</strong></td>
</tr>
</tbody>
</table>

12. Further costs on the Scottish Administration of £500,000 over 3 years from 2005-06 have been estimated for pilot projects associated with the Bill’s provision for Business Improvement Districts.

13. **Local authorities** – The preliminary estimate of additional costs is £8.9 million per annum for ongoing costs, and £10.7 million per annum including transitional costs. These are to arise from the Bill’s provisions in respect of development planning, development management, enforcement and tree preservation orders. More detailed and informed costings have recently been published by the Scottish Executive Development Department on the basis of research commissioned from Arup consultants. A more detailed estimate of the administrative, compliance and other costs and savings will be reported in the Regulatory Impact Assessment to accompany secondary legislation.

<table>
<thead>
<tr>
<th>Estimate of additional costs to local authorities per year in FM</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Planning</td>
<td>£3.4 million</td>
</tr>
<tr>
<td>Development Management</td>
<td>347,000</td>
</tr>
<tr>
<td>Enforcement</td>
<td>£2.5 million</td>
</tr>
<tr>
<td>Trees</td>
<td>£2.7 million</td>
</tr>
<tr>
<td><strong>Total ongoing costs</strong></td>
<td><strong>£8.9 million</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£10.7 million</strong></td>
</tr>
</tbody>
</table>

14. **Business** – The FM estimates that the overall effect of reforms will be ‘broadly neutral’, but notes that there will be extra direct costs in relation to major developments. Extra costs will arise in respect of consultations and application fees; these are expected to be partly offset by savings arising from more
efficient decision making processes. The net additional cost per major
development has been estimated at £15,000.

<table>
<thead>
<tr>
<th>Estimate of costs on business per major development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development planning additional costs</td>
</tr>
<tr>
<td>Development Management – increased fees, up to</td>
</tr>
<tr>
<td>Inclusion Measures – pre-application consultation and hearings, around</td>
</tr>
<tr>
<td>Typical saving from earlier determination, up to</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

15. No significant costs for other bodies and individuals are identified in the FM.

16. The Bill identifies a role for “key agencies” in relation to development plans, but it is not clear from the Bill or its accompanying documents who these agencies are, what their precise responsibilities in relation to Bill are to be, or the costs that are likely to fall on them as a result of the Bill. The Explanatory Notes state that these agencies are likely to include Scottish Natural Heritage, the Scottish Environmental Protection Agency and Local Enterprise Companies, however, the full list is to be provided in regulations.

**Conclusion**

17. The Bill’s reforms will have a major impact on local authorities and occur within a context of significant concern about the adequacy of existing resources for local authorities’ role in planning. It is thus anticipated that this aspect of the Financial Memorandum will be controversial. The research prepared for the Executive by Arup is likely to be important to the Committee’s considerations here. In addition, the Committee may wish to test the Financial Memorandum’s assumptions in relation to anticipated costs on business, and to ascertain the costs being anticipated by “key agencies”.

18. For these reasons, the Committee is invited to agree to adopt level 3 scrutiny for this Financial Memorandum. This would involve seeking oral and written evidence. It is proposed that written evidence be sought in the form of a response to the Committee’s standard questionnaire from:

- COSLA
- Confederation of British Industry
- Scottish Council for Development and Industry
- Scottish Building
- Homes for Scotland
- Scottish Environmental Protection Agency
- Scottish Natural Heritage
- Scottish Society of the Directors of Planning
- Royal Town Planning Institute
- Local Enterprise Companies
- Scottish Water
- Loch Lomond and the Trossachs National Park Authority
- Cairngorms National Park Authority
19. In terms of oral evidence, in addition to the Executive Bill Team, it is proposed that the Committee seek oral evidence from COSLA.

Merrin Thompson
Assistant Clerk
Finance Committee

2nd Meeting 2006, Tuesday 24 January 2006

Scrutiny of Financial Memorandum – Local Electoral Administration and Registration Services (Scotland) Bill

Background
1. The Local Electoral Administration and Registration Services (Scotland) Bill (‘the Bill’) was introduced into the Scottish Parliament on 19 December 2005 and the Local Government and Transport Committee has been designated the lead committee for the Bill at Stage 1.

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 Bill has two functions: firstly, to bring into line administrative practices in local government elections with practices for Scottish Parliament elections, and to align procedures with legislation which was introduced to Westminster; and secondly to make changes to the registration services for births, deaths and marriages.

4. The Bill seeks to improve administrative effectiveness and security of local government elections. Legislation was introduced in Westminster in October 2005, which covered reserved matters relating to elections, including Scottish Parliament elections. Provisions were made for procedures relating to voter registration and the regulation of all political parties as these are reserved matters. The Bill will help to align this legislation with procedures for returning officers and their staff, and to avoid confusion of having different sets of procedures for different elections. For example, to increase electoral access by enabling administrators to provide guidance to voters in a variety of languages and formats, and to introducing a marked register of postal votes received similar to the current system used at polling stations.

5. The Bill seeks to improve the service provided by the General Registrar for Scotland for the registration of births, deaths and marriages and make more efficient use of technology for this purpose. The Bill will allow for births, deaths and marriages to be recorded anywhere in Scotland, rather than restricting it to the local registration office as at present. In addition, it will allow for registered events to be sent electronically to local authorities, government departments and other bodies as requested. It will also allow for people with a Scottish connection, e.g. those living abroad but with a Scottish parent or grandparent, to record events in a Book of Scottish Connections, and allow for extracts to be provided upon request.

6. The Financial Memorandum anticipates that costs from the Bill relating to the election procedural changes will fall on local authorities. The Financial Memorandum does not have an estimate of this cost, as there is no separate information for local elections from the Scottish Parliament elections, although it
does not anticipate that there will be any additional costs arising from this. In addition, as it is expected that election offences are likely to be minimal, it is anticipated that any prosecutions arising from this can be met through existing resources by the Crown Office and Procurator Fiscal Service.

7. The Financial Memorandum also estimates that for the changes to registration of births, deaths and marriages, this will also be a minimal cost. £100,000 has been budgeted for in 2007-08 to acquire computer software and hardware to provide e-registration of events. This will be met from the existing resources of the General Register for Scotland (GROS). GROS will also be able to charge a fee for requests of extracts from the Book of Scottish Connections. The Financial Memorandum estimates that there could potentially be a saving of £0.5 million through efficiency savings from having a national infrastructure. However, it is estimated that there could be a decrease of income for requests of paper extracts of events such as death certificates from local authorities, for which they receive a statutory fee. However, local authorities will receive revenue for electronic death notification ordered locally.

8. Specifically, the Financial Memorandum states the following costs and savings:

- **£100,000** has been allocated from the existing resources of the General Register Office for Scotland for computer software and hardware for electronic notification of events.
- **£500,000** is currently received as income by local authorities for death notices, and this would therefore decrease following the introduction of the information being supplied by GROS to government bodies and agencies, however this could be offset against the cost of people requesting electronic death notification for other purposes, for example banks, and utility companies.

9. The Presiding Officer has decided that no financial resolution is required for this Bill.

**Recommendation**

10. In conclusion, it seems that the financial implications of the Bill are minimal. However, the Financial Memorandum does not estimate the costs associated with electronic death notifications or the cost of prosecutions in relation to electoral fraud. In addition, the Financial Memorandum does not provide estimates for revenue increases from selling extracts of the Book of Scottish Connections. It is recommended therefore, that in addition to the questions asked in the standard questionnaire, that the Committee agree to ask respondents if they have any concerns in relation to these provisions in the Bill.

11. **Members are asked to agree that the Committee should adopt level one scrutiny for the Bill on the basis of the information contained in the Financial Memorandum, i.e. that it should take no oral evidence on the Financial Memorandum, but should instead seek written comments from relevant organisations (listed below) through its agreed questionnaire and then pass these comments to the lead committee. This will mean that the lead committee will be made aware of any concerns expressed by these**
organisations as the review is progressing. Members are also asked to agree that in addition to the standard questionnaire, that respondents are asked if they have any view of potential cost in relation to the implications of death notifications, electoral fraud, and the Book of Scottish Connections.

12. Relevant organisations:
   - COSLA
   - General Register Office for Scotland (GROS)
   - Crown Office
   - Procurator Fiscal Service
   - Association of Registrars of Scotland
   - Association of Electoral Administrators

Kristin Mitchell
Assistant Clerk to the Finance Committee
January 2006
20 January 2006

Dear Mr McNulty

SINGLE STATUS AGREEMENT - EQUAL PAY

I refer to your letter of 21 December 2005 on the above matter in which you sought details of each authorities' financial implications in relation to the above agreement.

There are essentially two elements:

1)  The potential retrospective payments under the Equal Pay Legislation.

2)  The ongoing staff cost implications of dealing with job evaluation outcomes in order to address the equal pay issue going forward.

1)  Potential Retrospective Payments

The potential retrospective payments based on three groups of employees: Catering, Cleaning and Homecare, is estimated to be around £10 million. This assumes a settlement can be reached with the Trades Unions in terms of the 'matrix' proposed by COSLA. This matrix, in effect, assumes a scaling back of the full amount that could be claimed. This matrix has, itself, already been rejected by the Trades Unions so it is most unlikely that this will be the final settlement figure.

Even if the matrix solution were to be accepted by some or most of the staff in these employee groups, if some staff who had not signed up were to successfully challenge this negotiated settlement before an Employment Tribunal, the costs could escalate further completely destroying the matrix agreement.

Other employee groups, not included within the matrix agreement, including Admin and Clerical staff, may well lodge equal pay claims which would significantly increase the overall retrospective pay envelope.

We therefore have a number of different scenarios. The Council's estimate based on worst case scenario is that the total backdated cost could be nearer £55 million.

Contd./……
2) **Job Evaluation Outcomes**

The estimated cost of Job Evaluation outcomes, i.e. revisions to salary/wage grades, will mean an extra cost of around £10 million per annum on to the Council pay bill. It is worth highlighting that the City Council was one of the first local authorities to attempt to implement the outcomes of the Job Evaluation Scheme. The Council is committed to partly offsetting these costs by introducing changes in terms and conditions of service, along with modernisation of working practices. However, it is estimated that there will still be a net cost of around £4.5 million per annum. Negotiations are still ongoing with the Trades Unions in this regard.

**Impact on Council Services**

The potential impact on Council services of a backdated claim approaching £55 million and ongoing gross annual costs of around £10 million, at least for the period of salary protection, are unimaginable. Put simply, if these costs had to be contained within a one to three year budget timeframe it would result in a decimation of services.

The only realistic way that the Council could consider meeting this funding (if there were to be no Scottish Executive funding support) would be:

a) To review all the resources available to the Council, in particular, the physical asset base, and release assets on the open market. However, this would only partly solve the funding problem as there is a restriction on the use of the amount of capital receipts, via the Capital Fund, which can be used to support revenue expenditure in any year.

b) To borrow funds to meet the potential backdated costs and spread the repayments over a number of years. However, current local authority accounting rules prohibit this accounting treatment. The Scottish Executive would have to introduce some form of regulation to allow this to happen.

In conclusion, the Council believes very strongly that there requires to be some form of funding support from the Scottish Executive to avoid major decimation of services and/or unacceptable increases in Council Tax levels.

I trust these brief comments are helpful.

Yours sincerely

Gordon Edwards
Corporate Director for Resources Management