FINANCE COMMITTEE

AGENDA

11th Meeting, 2006 (Session 2)

Tuesday 18 April 2006

The Committee will meet at 10.00 am in Committee Room 4 to consider the following agenda items:

1. **Criminal Proceedings etc. (Reform) (Scotland) Bill**: The Committee will take evidence on the Financial Memorandum from—

   Wilma Dickson, Head of Criminal Procedure Division; Noel Rehfisch, Criminal Procedure Division; and Richard Wilkins, Criminal Procedure Division, Scottish Executive.

2. **Adoption and Children (Scotland) Bill**: The Committee will consider its approach to the scrutiny of the Financial Memorandum of the Adoption and Children (Scotland) Bill.

3. **Item in private**: The Committee will decide whether to take the consideration of potential witnesses for its Accountability and Governance inquiry 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:
- Scottish Executive Justice Department;
- Association of Chief of Police Officers in Scotland (ACPOS);
- COSLA;
- Crown Office and Procurator Fiscal Service (COPFS);
- Inspectorate of Prosecution in Scotland;
- Scottish Court Service (SCS);
- Scottish Legal Aid Board; and
- Scottish Prison Service (SPS).

**PRIVATE PAPER**

*Criminal Proceedings etc. (Reform) (Scotland) Bill* (previously circulated to Members in hardcopy only, copies available from the Scottish Parliament website)

*SPICe Briefings* on Criminal Proceedings etc. (Reform) (Scotland) Bill (circulated to Members in hardcopy only, copies available from Scottish Parliament website)

**Agenda Item 2**

Paper from the Clerk

*Adoption and Children (Scotland) Bill* (circulated to Members in hardcopy only, copies available from the Scottish Parliament website)

*SPICe Briefing* on Adoption and Children (Scotland) Bill (circulated to Members in hardcopy only, copies available from Scottish Parliament website)
Finance Committee

11th Meeting 2006 – Tuesday 18 April 2006

Scrutiny of Financial Memorandum – Evidence on the Criminal Procedures Reform (Scotland) Bill

1. The Criminal Procedures Reform (Scotland) Bill (“the Bill”) was introduced to Parliament on 27 February 2006. The Justice 1 Committee has been designated the lead committee for the Bill at Stage 1.

2. The Finance Committee agreed at its meeting on 7 March 2006 to adopt a level 2 approach to its scrutiny of the Bill. Specifically, the Committee agreed to issue its standard questionnaire to potentially affected organisations and take oral evidence from Scottish Executive officials at its meeting on 18 April 2006.

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

- Scottish Executive Justice Department;
- Association of Chief of Police Officers in Scotland (ACPOS);
- COSLA;
- Crown Office and Procurator Fiscal Service (COPFS);
- Inspectorate of Prosecution in Scotland;
- Scottish Court Service (SCS);
- Scottish Legal Aid Board; and
- Scottish Prison Service (SPS).

Kristin Mitchell
Assistant Clerk
SUBMISSION FROM THE SCOTTISH EXECUTIVE JUSTICE DEPARTMENT

On 27 February the Criminal Proceedings etc. (Reform) (Scotland) Bill (the Bill) was introduced into the Scottish Parliament. The Bill was accompanied by a Financial Memorandum, which outlined the estimated financial implications of the measures contained in the Bill.

We have received your letter of 29 March inviting the Scottish Executive to give evidence to the Finance Committee about the Financial Memorandum on Tuesday 18 April. I can confirm that Noel Rehfisch, Richard Wilkins and I will all attend the Finance Committee meeting on that day. I would like to make a short opening statement at the start of the Committee meeting, which I am sending to you with this letter.

Before the Committee meeting takes place, I thought that it would be helpful to provide you with further information about costs relating to the Bill. In particular, since the Financial Memorandum was finalised during February 2006, some additional information has become available about the financial implications of the Scottish Court Service assuming responsibility from local authorities for the management of the district courts. This additional information relates to two aspects of the court unification process – the pensions liability which the Scottish Court Service will assume as it takes responsibility for the terms and conditions of employment for district court staff, and the adjustment to the Revenue Support Grant which will be made in order to allow for the fact that the cost of running the district courts will in future be met by the Scottish Court Service rather than by local authorities.

**Pensions Liability**

The Scottish Court Service will probably need to meet a shortfall in pension funds when it transfers local authority staff from the Local Government Pension Scheme (LGPS) to the Principal Civil Service Pension Scheme (PCSPS). The shortfall would come about as a result of pre-existing deficits within the local authority schemes (from which staff may transfer when they move from local authority employment to the Scottish Court Service). The policy of court unification will not in itself create any new liability or shortfall in pension funding – rather the transfer of staff from one pension scheme to another creates an obligation to make good any deficit that exists in the LGPS at that time, in respect of those staff transferring to the PCSPS.

A similar exercise in the unification of court administration has recently been completed in England and Wales. In that context the shortfall that was taken on by Her Majesty’s Court Service amounted to approximately £31,250 for each member of staff.

There are however grounds for believing that the average cost of transferring an employee from a Local Government Pension scheme to the Principal Civil Service Pension Scheme will be lower in Scotland. The advice that we have from the Government Actuary’s Department suggests that Scottish LGPS funds are currently in better health than English and Welsh pension funds were at the time of court unification in England and Wales. In addition, calculations from the Government Actuary Department point to a total pensions shortfall of £25,000 per employee, based on an approximate average salary for employees of £21-22k each year and
the estimated average length of service for those employees (10 years). The figure for Lothian and Borders may be even lower than this, since the average salary of local authority district court employees in this sheriffdom is £18-19k, rather than £21-22k. The Government Actuary Department therefore suggests that the pensions shortfall in Lothian and Borders might be up to £1.0m. Such a shortfall could be covered from within the existing provision that has been made for court unification in 2007-08, as is made clear in paragraph 437 of the Financial Memorandum.

The total pensions shortfall for the Scottish Court Service as a whole – including Lothian and Borders - could be in the region of £5m. This figure is based on an estimate of £25,000 per employee, with 200 employees transferring from local authorities to the Scottish Court Service. This liability would be incurred over a number of years, as court unification proceeds on a sheriffdom by sheriffdom basis. The pensions liability for each sheriffdom will need to be met during the financial year when that sheriffdom comes under the management of the Scottish Court Service. Provision will therefore need to be made for the potential shortfall in the financial years after 2007-08. This will be taken into account as part of the 2007 Spending Review.

It is not possible to provide more precise estimates of costs in each sheriffdom in the immediate future, since the size of the pensions shortfall in each sheriffdom will depend on a number of factors, some of which will not be known until after the time of unification. These include specific personal information on those members of staff who are transferring; the number of those staff who choose to transfer their previously accrued benefits from the LGPS to the PCSPS; and the “health” of the LGPS funds at the point of transfer. The figure of £5m, however, is the best working estimate that we can provide at this time.

Adjustment to Revenue Support Grant
When responsibility for managing the district courts transfers from local authorities to the Scottish Court Service, the cost of running those courts will also transfer. We have therefore been in discussions with COSLA about the adjustment to Revenue Support Grant which would be appropriate in order to reflect this transfer of costs. Paragraph 449 of the Financial Memorandum explains the suggested approach that we outlined to COSLA when we began discussions on this issue. As you will be aware, we originally adopted the position that 80% of the cost of running the district courts (£5.18m) should be transferred from RSG to central government.

Since the Financial Memorandum was published, however, we have reached agreement with COSLA that we will transfer only the current Grant Aided Expenditure (GAE) allocation for district courts out of local authorities’ revenue support grant. GAE for district courts in 2007-08 totals £4.79m, which means that the annual expenditure to be transferred from local government to central government will be £0.39m less than was stated in the Financial Memorandum to the Bill. This does not affect the total cost of running the district courts; however it means that a larger share of that cost will be met from central government resources, rather than a transfer from revenue support grant. This transfer will take place over a number of years, as court unification is phased in across the country.
The agreement that has been reached with CoSLA affects the total costs of court unification which are set out in the summary table at paragraph 384 of the Financial Memorandum. Once court unification has been completed, the recurring costs of running the District Courts will require extra expenditure from the Executive of £1.86m each year, rather than £1.47m as was originally stated. Local authorities, on the other hand, will be left with £1.68m each year which they currently spend on running the district courts, rather than £1.29m.

I hope that you find this information helpful. If you have any questions about the contents of this letter then you are of course, very welcome to contact me. I look forward to seeing you at the Finance Committee meeting on Tuesday 18 April. With best wishes.

Yours sincerely,

Wilma Dickson
SUBMISSION FROM THE ASSOCIATION OF CHIEF OF POLICE OFFICERS IN SCOTLAND

I refer to your correspondence dated 8 March 2006 in connection with the above subject, which has been considered by members of the Finance Management Business Area, and can now offer the following by way of comment.

Members welcome the Bill and recognise that whilst there will undoubtedly be savings these are more likely to be in terms of efficiency rather than costs. It is important to stress that there may in fact be increased costs associated with putting in place systems to maximise the potential efficiency gains and members are keen to ensure this factor is noted.

It is also essential that the proposed changes are introduced in a measured fashion to ensure that the currently capacity of criminal justice organisations is not overwhelmed. The various parts of the Bill on which comment has been made are outlined below.

PART 1 - BAIL
The Scottish Police Service recognises the part it has to play in supplying the relevant information to the prosecutor to ensure the court is aware of all relevant factors to inform any bail decision. Whilst the proposals on bail are welcomed it is necessary to emphasise that this may impact on the police service in many ways. Initially police officers will communicate the relevant information via the Standard Prosecution Report (SPR) and thereafter through its updated replacement, the Standard Prosecution Report 2 (SPR2). Although it is recognised that the full implications of the proposals are unknown, it is realistic to expect that there will be training implications to ensure that staff are properly equipped to deliver this enhanced bail information on the SPR, and subsequently SPR2. Members would appreciate further detailed information than is presently given relative to this section.

PART 2 - UNDERTAKINGS
The ability of officers to release an offender from the locus on an undertaking without removing him or her to a police office is a new way in which to cite an accused to attend court. Work is already underway to increase the number of accused persons liberated from custody on an undertaking to attend court. There will however, have to be some form of technical court programming available to all criminal justice partners to avoid potential confusion, or current systems becoming overwhelmed. Members welcome the proposal however the mechanics of how this will be delivered are awaited with interest. It is anticipated that there will be significant training implications for the Scottish Police Service in relation to this, and therefore associated costs.

Costs in relation to the relevant I.T. and equipment necessary to facilitate the proposals are also envisaged however it is impossible to be prescriptive in terms of the exact costs involved. There will undoubtedly be both initial and ongoing financial outlay for the Scottish Police Service which must be taken into account.
Members appreciate that the forthcoming Lord Advocates Guidelines on Bail will provide guidance and direction and will therefore allow proper scoping in relation to costs to be undertaken.

PART 3 - PENALTIES
The procedures introduced at Subsection (1)(e), which amend the maximum level of a conditional offer, are significant. The personal circumstances of an offender, and in particular his or her means, will assume a critical importance in offering an appropriate fine tariff. Members are aware that the onus will fall on police officers to obtain this information. In this regard, the same provisions documented in the section relating to bail apply, in that this information will require to be put before the court in far more detail than at present. This will incur a cost.

Fines Enforcement Officers
It is acknowledged that the provisions of this section will benefit the Scottish Police Service, given the often overwhelming number of Means Enquiry Warrants that forces have to deal with. It would perhaps be wrong however, to suggest that this will lead to cost savings given that a substantial number of such warrants, albeit reduced from current levels, will still require to be dealt with by the police. In effect, this proposal has been recognised by members to be one of efficiency savings rather than costs.

There is the likelihood of increased costs being incurred through charting the effects and impact of the reforms, in particular through seeking to quantify financial or efficiency savings.

I trust that the foregoing is of assistance to you.

Yours sincerely

[Signature]

Chief Constable
(Hon. Secretary)
SUBMISSION FROM COSLA

Introduction
1. COSLA welcomes the opportunity to submit written evidence on this Bill to the Finance Committee.

COSLA's Position on the Bill
2. COSLA is supportive of the broad direction of the Bill and accepts the phased transfer of the courts to the Scottish Court Service from local authorities. In addition, we are committed to working with the Scottish Court Service (SCS) to ensure that the merger process proceeds with the minimum of disruption to council employees and local government more widely.

Key Issues for COSLA
3. The key financial issues for local government are set out below, and include:
   - Transfer of Financial Resources
   - Transfer of Assets
   - Safety Camera Partnership
   - Introduction of Alternative Forms to Prosecution

Transfer of Resources
4. One of the key issues for COSLA relating to the provisions of the Bill is the appropriate amount of funding to be transferred from local authorities to the Scottish Court Service and the principles under which such a transfer will be made. The Financial Memorandum recommends for the transfer of funding from Local Authorities to the Scottish Court Service to be at the level of 80% of Local Authorities net expenditure as assessed in a previous Joint Working Group Report. COSLA is of the view that any transfer or distribution of resources should be undertaken on the basis of Grant Aided Expenditure (GAE) as this is an estimate provided by the Scottish Executive as to how much it considers local authorities require to spend in order to provide a “standard” level of service. As a result of successful lobbying, COSLA is pleased to report that since the Criminal Proceedings etc (Reform) (Scotland) Bill has been introduced to Scottish Parliament, we have received confirmation that Ministers have now agreed that the financial transfer will be based on GAE. This we believe will ensure that the transfer proposal is justifiable and fair to all parties.

5. The District Court unification will be introduced on a phased basis, with only one sheriffdom (Lothian and Borders) to be unified during the Spending Review 2004 period, with the timeframe for the remainder still to be determined. As the financial transfer will now be based on GAE, COSLA would seek reassurance that sufficient resources will continue to be included within the local authority baseline budget as part of the 2007 Spending Review and subsequent Spending Reviews.

Transfer of Assets
6. Although there is no specific reference to the transfer of assets within the Financial Memorandum, we understand that this will be considered through further regulatory Orders. COSLA’s view is that asset transfers from local authorities to SCS will need to take into account a range of local complexities –
for example, where district courts are located within council buildings that provide accommodation to other council services or where there is outstanding loan debt on the property. COSLA considers that there should be no detriment to local government resulting from those clauses in the regulation that enable Scottish Ministers to take ownership of district court buildings (together with ancillary buildings necessary for the purposes of the court including furniture and fittings), where they consider this appropriate. Nor should there be any possibility of detriment by entitling Ministers to take ownership of a part or parts of a larger property currently used for district court business, along with the necessary ancillary rights of use.

Safety Camera Partnership
7. COSLA is aware that there is likely to be a similar review of the Safety Camera Partnership in Scotland to that undertaken in England. COSLA would seek reassurance that any financial implications arising as a result of this review would not be to the detriment of Scottish councils.

Introduction of Alternative Forms to Prosecution
8. The Bill is seeking to introduce alternative forms of prosecution which will require alleged offenders to carry out a period of unpaid work in the community, including the introduction of work orders. If the work orders are implemented nationally, we would expect additional resources to be made available to local authority criminal justice social work services to develop suitable programmes of community work.

Conclusion
9. In scrutinising the Criminal Proceedings etc (Reform) Bill at Stage 2 we ask that Finance Committee members take full account of COSLA’s position and our key issues of concern, to ensure the proposed legislation is fair and equitable to councils and their employees.
SUBMISSION FROM THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE (COPFS)

Consultation

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

Yes, COPFS was fully engaged in the consultation exercise for the Bill and we took the lead role in preparing the financial information relating to the Department detailed in the financial memorandum. The Department worked in partnership with colleagues in the Scottish Executive Justice Department in the development of the policy reflected in the Bill.

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

Yes.

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

Yes.

Costs

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

Yes, the financial implications for COPFS are accurately reflected in the Financial Memorandum.

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

Yes. The principal cost for COPFS relates to training for prosecutors. This and other costs will be met from within existing baseline provision.

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

Yes.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?
Yes. The financial memorandum is comprehensive from the department’s perspective and draws together the prospective costs and time-releasing savings arising from the summary justice reform programme as a whole.

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

    No significant future costs for COPFS are anticipated.
SUBMISSION FROM THE INSPECTORATE OF PROSECUTION IN SCOTLAND

Consultation

1. I took part in the consultation exercise of the Bill only to the extent that the Inspectorate of Prosecution was affected by it and I made comments on the financial assumptions.

2. I believe that my comments on the financial assumptions are accurately reflected in the Financial Memorandum.

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

Costs

4. The creation of the Inspectorate is cost neutral as it is a pre-existing organisation simply being put on a statutory footing.

5. I am content that the Inspectorate can meet the financial costs associated with the Bill. As stated it pre-exists the Bill and no additional costs are anticipated.

6. In view of the above this does not arise.

Wider Issues

7 & 8. For the reasons stated above I cannot comment on other aspects of the Bill. I don’t anticipate the need for any subordinate legislation regarding the Inspectorate.

J O’Donnell
Chief Inspector
Inspectorate of Prosecution in Scotland

3 April 2006
SUBMISSION FROM SCOTTISH COURT SERVICE (SCS)

Introduction
The Scottish Court Service is an Agency of the Scottish Executive and operates within the Justice Department. The main purpose of the SCS is to support the operation of the courts and it does so within a framework of policy objectives set by the Justice Minister. The Chief Executive of the SCS is directly accountable to Ministers for its performance.

The SCS was represented on the McInnes Committee from which the main components of the Bill derive. As part of its overall programme management, the Scottish Executive Justice Department established various project streams under the general headings of Systems Improvement, Court Unification and Fines Enforcement, Lay Justice and Alternatives to Prosecution. SCS leads the court unification and fines project streams and we are represented on all of the other project streams.

We have made detailed comment on the financial implications as these have emerged in the programme and we believe that these are accurately represented in the Financial Memorandum. The fact that we have been so closely involved since inception has been useful in allowing us time to contribute.

Costs
We believe the financial implications for SCS have been accurately reflected. There are financial implications in the context of bail, procedural change, alternatives to prosecution, fines enforcement and unification.

On bail, the comparatively contained additional costs apply to arrangements at bail hearings. The procedural changes (mainly the implication of a shift of business from solemn to summary) have the potential to yield a small saving. Similarly, alternatives to prosecution have the potential to yield modest savings to the SCS, but these have yet to be quantified.

The main financial implications apply to unification and fines enforcement. On unification, the settlement within SR2004 (along with revenue support grant transfer from the authorities within the Sheriffdom of Lothian and Borders) means that we will be funded to complete unification for Lothian and Borders. Future arrangements will be determined in SR2007 and future spending reviews. On fines enforcement, the terms of the Financial Memorandum have been substantially informed by an SCS-led project. The findings of this project can be found at http://www.scotcourts.gov.uk/sjr/docs/fines_enforcement_report.pdf. We are content that the Memorandum accurately reflects this.

We believe that the costings analyses carried out by SCS (including District Court estate and staff surveys) have assisted in reducing the margins of uncertainty. Ongoing analysis of the pension implications with the Government Actuary implies that for Lothian and Borders, the extent of pension liability is at this stage anticipated to be in the order of £1m. The Memorandum refers to a provision (£1.2m) that can be used for this, inflationary increases and any other unforeseen costs. The background and position relating to the potential pensions liability will be set out more...
fully in a letter to you from the Scottish Executive Justice Department which will be issued shortly.

**Wider Issues**
As reported at the outset, the Criminal Proceedings Bill is part of a wider programme of summary justice reform. We are involved in all elements of the reform programme and are satisfied that the costs are sufficiently represented in the Financial Memorandum. On subordinate legislation, for the SCS, the provisions would be administrative in nature – primarily associated with the regulation of the recruitment and appraisal of justices of the peace, along with court procedures. We do not anticipate any significant future cost in that respect.

Eleanor Emberson
Chief Executive
SUBMISSION FROM SCOTTISH LEGAL AID BOARD

Thank you for your letter of 8 March 2005 inviting the Board to complete the questionnaire on the Financial Memorandum produced to accompany the Criminal Proceedings Etc. (Reform) (Scotland) Bill. We welcome this opportunity to comment on the Financial Memorandum and hope that this assists the Finance Committee in its deliberations on the above Bill.

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?
   Staff from the Scottish Legal Aid Board worked with officials from the Scottish Executive Justice Department in relation to the paragraphs in the Financial Memorandum which refer to legal aid matters.

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

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

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been reflected in the Financial Memorandum? If not, please provide details.
   The Board contributed to the Financial Memorandum by providing details of likely savings where these could be reasonably expected. We are content with the assumptions made in the Financial Memorandum, and the explanations given on why it is difficult to make specific predictions on the likely legal aid savings associated with the provisions of the Bill.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?
   We do not expect any additional costs on the Board’s Grant in Aid Budget (which funds our administrative and staffing costs) as a result of the proposals in this Bill.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
   Many aspects of the Bill are designed to improve the efficiency and effectiveness of the Summary Justice System, by changing the behaviours of stakeholders in the wider Justice System. The Board contributed to the Financial Memorandum by providing details of likely savings where these could
be reasonably expected, for example by an increased number of cases being reduced from solemn to summary proceedings as a result of the increased Sheriff sentencing powers.

In relation to the proposed increased fiscal fines, fiscal compensation orders, and work orders, it is very difficult to estimate the impact on legal aid costs, without knowing the numbers or types of cases which will be following these new procedures. That said, we do not believe that the assumptions made at paragraphs 413, and 420 (assuming only marginal or no legal aid savings) are unreasonable. We therefore believe that the Financial Memorandum accurately reflects the margins of uncertainty associated with these aspects of the Bill.

Wider Issues

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

The Scottish Legal Aid Board is currently working with the Scottish Executive in reviewing the operation of criminal legal assistance, and to ensure that it supports and facilitates the changes to the Summary Justice system. We are not aware of other legal aid costs which ought to be reflected in the Financial Memorandum.

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

We are not aware of other legal aid costs associated with this Bill.

Yours sincerely

Lindsay Montgomery
Chief Executive
SUBMISSION FROM THE SCOTTISH PRISON SERVICE (SPS)

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

Yes, SPS participated in the consultation exercise and provided comments on the estimated impact of the proposals on the prisoner population and associated financial implications.

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

Yes, the Financial Memorandum accurately reflects the financial implications for SPS based on the estimated changes to the prisoner population and the assumption that such changes would be accommodated within existing capacity.

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

Yes

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

Yes

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

Yes

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

Yes. Paragraph 386, in relation to the bail and remand proposals, states that provided that the likely maximum impact of the overall package on prisoner numbers can be met from within existing capacity, the cost of these prisoner places can be met from within existing resources. Paragraph 431 also states, in relation to the enforcement of fines proposals, that greater use of sanctions such as arrestment of earnings and deductions from benefits will reduce the number of people sent to prison. Implementation of these proposals should help to offset some of the likely increase in prisoner numbers that will be generated by the bail and remand proposals.
In the event that the increase in prisoner numbers resulting from these proposals cannot be accommodated within existing capacity, the estimated cost of providing additional capacity will be around £40k per place per annum.

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

N/A

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

No.
Finance Committee

11th Meeting 2006, Tuesday 18 April 2006

Scrutiny of Financial Memorandum – Adoption and Children (Scotland) Bill

Background

1. The Adoption and Children (Scotland) Bill (“the Bill”) was introduced to Parliament on 28 March 2006.

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 modernises and improves the legal framework of adoption in Scotland. The Executive anticipates that the implementation of the Bill’s provisions will bring about improved arrangements for adoption and, in turn, this will lead to an increase in the number of adoption applications. Many of the Bill’s provisions extend existing services, particularly those provided by local authorities.

4. The key provisions of the Bill include:

   • unmarried couples will be able to adopt jointly;
   • local authorities will be able to provide additional adoption support services (to be detailed in subordinate legislation);
   • the Executive will be able to set minimum levels of fostering allowances (also to be detailed within subordinate legislation);
   • people directly affected by adoption will have the right to pre-adoption services and, if they have an assessed need, post-adoption services;
   • clarification of who is able to receive what type of pre-adoption and post-adoption support service; and
   • permanence orders will be introduced (replacing existing adoption orders) to allow parental responsibilities and rights to be granted to appropriate people whilst granting rights relating to residence and guidance to local authorities.
 COSTS

5. The additional costs and savings anticipated in the FM are detailed below:

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<th>Element</th>
<th>Cost £</th>
<th>Saving £</th>
<th>Net Cost £</th>
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<td>Implementation and associated training</td>
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<td><strong>Recurrent costs – per annum (local authorities)</strong></td>
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<td>Adoption support services</td>
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<td>Fostering allowances (lowest rate)</td>
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<td>Intercountry Adoption</td>
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<td><strong>Total recurrent (lowest rate)</strong></td>
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**Scottish Administration**
6. The FM estimates minor costs for the Scottish Executive relating to the implementation of the policies and associated training totalling between £330k and £380k.

**Local authorities**
7. The FM estimates that the Bill’s provisions will result in an increase in costs to local authorities and states that such costs will be met from current funding (either core funding or from Changing Children’s Services Fund).

8. In relation to the provision of support services, the Executive has based its estimate on the fact that the UK Government set aside £70 million over 2004-04 to 2005 – 06 for the provision of support services and has suggested approximate expenditure in Scotland of £2.35m.

9. The FM notes that the increase in the level of successful adoptions as a result of the Bill is difficult to estimate but notes that, should adoption levels increase, the cost of the Bill’s provisions will be offset in part by a reduction in costs for supporting children currently in foster care or in residential care. The FM sets out what the Executive considers to be the lowest and the highest levels of savings from a reduction in the need for residential care (between £580k and £5.7m p.a).

10. In relation to fostering allowances, at present there is no single agreed rate and the average weekly rate is below the rates suggested by
COSLA, UK Department of Education and Skills and the Fostering Network. The Bill includes provision which would enable the Executive to set minimum levels of fostering allowances, either on an indicative or a mandatory basis. The Executive has not yet committed itself to setting rates at a particular level. The FM therefore provides a range of costs between the COSLA rate (£1.17m p.a) and the Fostering Network rate (£8.14m p.a).

**Legal aid**

11. The FM also estimates a small increase in legal aid costs ‘likely to be no greater than £50,000 per year’.

**Conclusion**

12. Members may wish to question the Executive on, amongst other things, the basis for the range of figures presented for the recurring cost of residential care; the assumption that additional funding for support services can be met from the existing portfolio budget; and the likely actual cost of fostering allowances.

13. Therefore, it is suggested that the Committee adopts Level 2 scrutiny which would involve seeking written evidence from bodies upon whom costs falls and taking oral evidence from Executive officials. The organisations from whom written evidence could be sought are:

- COSLA;
- Scottish Legal Aid Board;
- Fostering Network; and
- Adoption agencies.

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