FINANCE COMMITTEE

AGENDA

19th Meeting, 2006 (Session 2)

Tuesday 27 June 2006

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

1. **Accountability and Governance inquiry**: The Committee will take evidence from—
   
   Tom McCabe MSP, Minister for Finance and Public Service Reform; Colin McKay, Head of Public Service Reform Development Division, Scottish Executive; and David Robb, Head of Public Bodies and Relocation Division, Scottish Executive;
   
   and then from—
   
   John Scott MSP, Member of the Scottish Parliamentary Corporate Body; Paul Grice, Chief Executive, Scottish Parliament; and Huw Williams, Head of Corporate Policy, Scottish Parliament.

2. **Budget Process 2007-08**: The Committee will consider an approach paper from the Clerk.

3. **Financial Memoranda**: The Committee will consider its approach to the financial memoranda for forthcoming bills.

4. **Items in private**: The Committee will decide whether to consider its draft report on its Accountability and Governance inquiry in private at subsequent meetings. The Committee will also decide whether to consider its draft report on the Financial Memorandum of the Adult Support and Protection (Scotland) Bill in private at its next meeting.

5. **Accountability and Governance inquiry (in private)**: The Committee will consider the themes arising from evidence sessions on its inquiry in order to inform the drafting of its report.

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

**Agenda Item 1**

Submission from the Scottish Parliamentary Corporate Body  
Audit Scotland “Shared Services” Report, Commissioned for the Scottish Parliamentary Corporate Body  
Supplementary submissions from:  
- Audit Scotland;  
- Scottish Information Commissioner;  
- Commissioner for Public Appointments in Scotland;  
- Scottish Parliamentary Standards Commissioner;  
- Scottish Commission for the Regulation of Care; and  
- Scottish Commission for Public Audit.

PRIVATE PAPER

PRIVATE PAPER

Scottish Executive: [Transforming Public Services: The Next Phase of Reform](previously circulated to Members, available from Scottish Executive website)

Scottish Executive: [A Shared Approach to Building a Better Scotland: A Consultation Paper on a National Strategy for Shared Services](previously circulated to Members, available from Scottish Executive website)

**Agenda Item 2**

Paper from the Clerk
Finance Committee

19th Meeting 2006, Tuesday 27 June 2006

Accountability and Governance Inquiry

1. The Committee launched its Accountability and Governance Inquiry on 1 March 2006. The remit of this inquiry is to:

   - examine the growth in the number of independent, regulatory and investigatory bodies and the associated growth in funds allocated since devolution;
   - examine the adequacy of processes for setting and scrutinising the annual budgets of such bodies;
   - examine the appropriateness of existing lines of accountability and how this process works in practice; and
   - identify whether there are any potential overlaps in remits and responsibilities of independent, regulatory and investigatory bodies and any financial implications of such overlaps.

2. A call for evidence was issued and all submissions which have been received can be found on the Committee’s webpage.

3. The Committee has so far taken evidence on 16 May from the Auditor General and Audit Scotland, the Scottish Commission for Public Audit and the Scottish Legal Services Ombudsman; on 23 May from the Scottish Charity Regulator, the Standards Commission for Scotland and the Scottish Commission for the Regulation of Care; on 6 June from Scotland’s Commissioner for Children and Young People, the Scottish Information Commissioner, the Scottish Parliamentary Standards Commissioner and the Scottish Public Services Ombudsman; and on 13 June from the Permanent Secretary of the Scottish Executive.

4. The evidence session on 27 June will involve taking evidence from John Scott MSP, Member of the Scottish Parliamentary Corporate Body; Paul Grice, Chief Executive of the Scottish Parliament and Huw Williams, Head of Corporate Policy of the Scottish Parliament. The Committee will then take evidence from Tom McCabe MSP, Minister for Finance and Public Service Reform. The written submission from the Scottish Parliamentary Corporate Body is attached.

Roz Wheeler
Senior Assistant Clerk
Submission from the Scottish Parliamentary Corporate Body (SPCB)

31 March 2006

Thank you for your letter of 1 March informing the SPCB of the above mentioned inquiry and inviting the SPCB to submit evidence to the inquiry.

The SPCB very much welcomes the announcement of this inquiry, particularly with the statutory role the SPCB has in relation to Crown appointees.

As you are aware the establishing legislation for Crown appointees has been introduced in a piecemeal fashion over the last six years. This has resulted in a number of differences between the establishing legislation (details of which are set out in a table in the attached annex A) and has also meant that there has been little scope for the co-location of these new offices and any resulting savings, although this is something the SPCB is constantly looking at and as you know, we have commissioned Audit Scotland as part of its governance review to look specifically at this. We will of course share this report with you as part of your inquiry when we have received the report and considered any response we may wish to make to it.

The SPCB considers that given the recent scrutiny by the Finance Committee of the officeholder budgets and the committee’s recommendations in its report of Stage 2 of the Budget Bill for 2006/07; the Justice 1 Committee consideration and report on the proposed Human Rights Commissioner Bill and the report of the Procedures Committee on Crown Reappointments, now is a good time to take stock of the current position in relation to parliamentary-nominated officeholders and to consider whether any changes are required to ensure that the provisions relating to the officeholders are consistent and that the appropriate checks and balances are in place to enable proper scrutiny and accountability to the Parliament.

In the attached annex we address the specific questions raised by the Committee and would be happy to accept an invitation to give oral evidence later in the year to expand on this.

Yours sincerely

GEORGE REID
1. The Executive has proposed in the Bankruptcy and Diligence etc (Scotland) Bill that a Scottish Civil Enforcement Commissioner be set up as an NDPB to enable it to be independent. What are your views of the model of having Commissioner and the Ombudsman under the control of the SPCB?

Since 2000, 8 officeholders have been nominated by the Parliament and appointed by Her Majesty The Queen. They are the Auditor General for Scotland, the Scottish Public Services Ombudsman and 3 Deputy Scottish Public Services Ombudsmen, the Scottish Information Commissioner, the Commissioner for Children and Young People in Scotland and the Commissioner for Public Appointments in Scotland.

To ensure that Crown Appointees are independent from government and political pressure in the exercise of their functions, they are nominated by the Parliament and appointed by Her Majesty and they can only be removed from office by Her Majesty in pursuance of a resolution of the Parliament.

The SPCB’s role in relation to a Crown Appointee apart from the Auditor General (see below) is to determine his/her length of appointment; to set his/her terms and conditions of appointment; approve determinations; pay his/her salary and allowances and any expenses incurred by the Crown Appointee in the exercise of his/her functions and to designate an Accountable Officer who is answerable to the Parliament for ensuring that his/her finances have been used properly, efficiently and effectively.

The SPCB’s role in relation to the Auditor General is to determine the amount of his/her salary and allowances but the salary and allowances and any expenses incurred by the Auditor General in the exercise of his or her functions are to be paid by Audit Scotland.

The Auditor General is the only Crown Appointee whose appointment is not fixed for between 1 to 3 periods of up to 5 years each. The Public and Accountability (Scotland) Act 2000 provides that the Auditor General is to vacate office on attaining the age of 65, or on such later date as the Parliament may by resolution determine.

The establishing legislation provides that in the exercise of their functions (as set out in legislation) the Commissioners and Ombudsman are not subject to the direction or control of any member of the Parliament; any member of the Scottish Executive or the Parliamentary corporate except where otherwise indicated in the Act for example where the Parliament may give the Ombudsman directions as to the form and content of his/her Annual Report.

The model for a Scottish Civil Enforcement Commission is fundamentally different in that the Bill provides that in the exercise of its functions, the Commission must act in accordance with any directions given to it by the
Scottish Ministers and the Scottish Ministers may by regulations confer, remove or modify the functions of the commission. Membership of the Board is prescribed and those appointed will be appointed by Scottish Ministers who will determine the member’s terms and conditions of appointment. Scottish Ministers may remove a member from office if they consider that the member is unable or unfit to discharge their functions or that they have not complied with their terms and conditions of office. Scottish Ministers will approve the Commission’s determinations and the Scottish Minister may pay grants or make loans to the Commission of amounts that they determine.

2. What (if any) differences exist between the various commissioners and ombudsman in terms of accountability and budgetary control?

For ease of reference, we have answered this question by way of the table below which we consider provides a list of the differences:-

<table>
<thead>
<tr>
<th>Act</th>
<th>Provision</th>
<th>Other Acts</th>
<th>Note</th>
</tr>
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<tbody>
<tr>
<td>Public Finance and Accountability (Scotland) Act 2000</td>
<td>Scottish Commission for Public Audit - Section 12 provides for a body to be known as the Scottish Commission for Public Audit. The Commission is to consist of the convener of the Audit Committee and 4 other members of the Parliament. The Commission’s main areas of responsibility are: (a) to examine Audit Scotland's proposals for the use of resources and expenditure and report on them to the Parliament; (b) to appoint a qualified person to audit the accounts of Audit Scotland; and (c) to lay before the Parliament and publish a copy of Audit Scotland’s accounts and the auditor’s report on them.</td>
<td>No equivalent provision in any of the other Acts establishing Officeholders.</td>
<td>Other Acts silent on budgetary approval</td>
</tr>
<tr>
<td>Public Finance and Accountability (Scotland) Act 2000</td>
<td>Auditor General for Scotland – Section 13 provides that the salary and allowances and any expenses incurred by the Auditor General in the exercise of his/her functions are to be set by the SPCB and paid by Audit Scotland.</td>
<td>The SPCB meets the cost of salaries and allowances and expenses incurred by all the other Officeholders.</td>
<td></td>
</tr>
<tr>
<td>Commissioner for Children and Young People (Scotland) Act 2003</td>
<td>Financial Provision - Schedule 1 para 9(b) provides that the SPCB is to pay any expenses properly incurred by the Commissioner in the exercise of the Commissioner's function.</td>
<td>Other Acts provide that the SPCB is to pay any expenses incurred by the Commissioner in the exercise of the Commissioner's functions</td>
<td></td>
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<tr>
<td>Commissioner for Children and Young People (Scotland) Act 2003</td>
<td>Staff – Schedule 1 para 7(1) provides that the Commissioner may, with the consent of the Parliamentary corporation as to numbers, appoint staff to assist in carrying out the Commissioner's functions.</td>
<td>Other Acts provide that the Commissioner/Ombudsman may appoint such staff on such terms and</td>
<td>The Commissioner for Children and Young people is required to</td>
</tr>
<tr>
<td>1. Commissioner for Children and Young People (Scotland) Act 2003</td>
<td>Allowances and expenses – Schedule 2, paragraph 8 provides that the Commissioner’s determination to pay to persons giving evidence or producing documents requires the SPCB’s approval.</td>
<td>No equivalent provisions in the Freedom of Information (Scotland) Act 2002 or the Public Appointments and Public Bodies etc (Scotland) Act 2003.</td>
<td>SPCB scrutiny of allowances and expenses rates paid by the Commissioner and Ombudsman to individuals.</td>
</tr>
<tr>
<td>2. Scottish Public Services Ombudsman Act 2002</td>
<td>Investigation procedure - Section 12 (5) provides the Ombudsman may pay to a person such allowances in respect of expenses properly incurred by the person and by way of compensation for loss of time, as the SPCB may determine.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scottish Public Services Ombudsman Act 2002</td>
<td>Advisers - Schedule 1, paragraph 10 provides that the Ombudsman’s determination to pay for advice from a qualified adviser requires the SPCB’s approval.</td>
<td>No equivalent provision in the other Acts for Commissioners to obtain the SPCB’s approval to pay for advisers.</td>
<td>The SPCB has given the Chief Executive of the Parliament dispensation to approve expenditure up to £1,000. For sums in excess of £1,000, the Ombudsman must obtain the SPCB’s approval. This should ensure scrutiny of spend on external advisers.</td>
</tr>
<tr>
<td>Public Appointments and Public Bodies etc. (Scotland) Act 2003</td>
<td>Assessors – Schedule 1, paragraph 9 provides that the Commissioner may appoint assessors to assist him/her in the exercise of his/her functions. The Commissioner determination as to the fees and allowances payable to assessors requires the SPCB’s approval.</td>
<td></td>
<td>Assessors are unique to this Commissioner.</td>
</tr>
</tbody>
</table>

3. Has SPCB scrutiny changed and/or developed as more commissioners have been established?

As the number of officeholders has increased and the cost to the Parliament has increased, the SPCB has been striving to put in place, within the parameters of existing legislation and the officeholder functional independence, appropriate mechanisms to ensure that the officeholders are accountable to the Parliament in particular for the use of public funds. These include the following:-
A protocol was agreed between the SPCB, the Finance Committee and officeholders which provides that the SPCB shall scrutinise the annual budgetary proposal from an officeholder prior to forwarding it to the Finance Committee as part of the SPCB’s overall budget. The SPCB may call on officeholders to give evidence to them in support of their budget proposals.

A Memorandum of Understanding between the SPCB and the officeholders on access to the Officeholder’s Contingency Fund held by the SPCB was agreed which provides for occasions when proposed exceptional expenditure will be incurred by an officeholder which cannot be met from their agreed budget allocation for any given year. This was put in place to alleviate the need for each officeholder having a separate contingency within their individual budgets and thus reducing their overall cost to the Parliament.

A Financial Memorandum Manual was prepared in consultation with the officeholders. This provides a framework within which the officeholders, as Accountable Officers and the SPCB are required to operate to ensure the officeholders have access to appropriate funding to enable them to undertake their functions.

The SPCB agreed a proposal from the officeholders, with the caveat that it be reviewed annually, that they establish their own financial and audit systems to enable them, as Accountable Officers, to have more control over their financial processes. The officeholders financial and audit system went live on 1 April 2005. A review will be undertaken in due course to establish costs and to identify any potential for savings.

The SPCB invited Audit Scotland to undertake an independent review of opportunities for the officeholders to share services and the issue of office location. As mentioned in our covering letter we are awaiting Audit Scotland to conclude their review.

We have also allowed access to the independent members of the SPCB’s Advisory Audit Board to officeholders to assist them with their internal control and budgetary arrangements. This offer has been taken up by 2 of the officeholders with the others wishing to put their own mechanisms in place.

The SPCB has also promoted and encouraged the use of shared services; the use of G-Cat and S-Cat for procuring and contracting for a wide range of management consultancy services and has met with officeholders on an ad hoc basis to discuss such issues.

To facilitate proper financial scrutiny, accountability and governance, the SPCB consider the following is required:-
• to put beyond doubt the SPCB’s role in relation to financial scrutiny, the SPCB consider that it should have a statutory role to formally approve or otherwise, an officeholder’s budget proposal;

• that the officeholders should be required to prepare 3-year Strategic Plan and to submit this to the SPCB;

• when an officeholder lays his or her Annual Report, it would be helpful if one or more relevant Committee’s could scrutinise it and invite the officeholder to speak to it; and

• Officeholders should be appraised annually by an independent assessor on their stewardship of funds, goals met as identified in the Strategic Plan and the content of their Annual Reports and a report should be sent to the SPCB. This would also provide evidence to inform the SPCB’s decision as to whether the officeholder should or should not be considered for reappointment.

If such a process was in place then this would provide a meaningful and joined-up procedure for proper scrutiny which would not impinge on the officeholders’ functional independence.

4. How can budgetary control be balanced with independence?

The SPCB consider that budgetary control can be balanced with the functional independence of the officeholders and indeed that it is essential that such control does exist to ensure that they are accountable for the use of public funds.

There is a requirement in primary legislation that budgetary provision for public bodies should be subject to approval and we have noted the recommendation by the Finance Committee in its report on the financial memorandum on the Bill for the proposed Human Rights Commissioner, that the SPCB should have a directional power for budgetary approval which would provide the clarity necessary to both the Parliament and the officeholders in terms of budgetary approval.

We would not anticipate that in having the SPCB approve the budget of the officeholders that this will in any way impact on the functional independence of their posts. It is for the officeholders to determine how they undertake their statutory functions within an agreed budget for a particular year.

In agreeing a budget for any financial year, the SPCB enters into a dialogue with the officeholders over their budget proposals. Based on this dialogue, the SPCB would normally expect the budget proposal to be put to the Finance Committee as part of the SPCB’s overall budget proposals.

Should for whatever reason, the SPCB have reservations about the size of the budget proposed, for example if it considered a programme of work (regardless of its nature) as being over ambitious for a single financial year
when taking account of all the other activities proposed as part of the budget submission, then at present the SPCB would draw this to the attention of the Finance Committee as part of the SPCB’s overall budgetary submission as part of the existing protocol in place.

Having a strategic plan will assist this process as it will identify where and for what purpose the budgetary provision will be required. At the end of a financial year, in addition to the normal accounting arrangements, the SPCB will be able to identify where any of the budgetary targets have not been met and question the reasoning which can inform the budgetary discussions for the next financial year.

In the event of failure to achieve agreement, the existing protocol provides officeholders with a right of appeal to the Finance Committee to justify their proposed budget bid.

5. **Is it possible to implement section B2 of the UN Paris Principles and retain suitable budgetary controls?**

In response to this question we would draw your attention to the attached copy of the SPCB’s letter to the Justice 1 Committee which sets out why the SPCB considers that it is possible to have budgetary control over the officeholders without impeding section B2 of the UN Paris Principles. At this present time we have nothing further to add to this letter.
Dear Pauline,

**Budgetary Arrangements for the Proposed Scottish Human Rights Commissioner**

May I firstly thank you for the opportunity to give evidence to the Committee with the SPCB’s views on the proposed Scottish Commissioner for Human Rights Bill.

One of the questions posed by the Committee was in relation to our proposal that greater clarity be put on the face of the Bill that the SPCB should have a directional power for budgetary approval of the Commissioner’s proposed budget on an annual basis. I agreed at the Committee meeting that I would formally write to you about how we see this proposal sitting with the UN General Assembly resolution 48/134 (the ‘Paris Principles’).

Under the proposed legislation, the funding for any expenditure by the Commissioner in undertaking his or her functions, together with office and staff costs will be met by the SPCB as part of its overall budget. Under the Public Finance and Accountability (Scotland) Act 2000, section1 on the use of resources provides that:

1. **The use of resources by –**

   (a) the Scottish Administration, and
   (b) each body or office-holder (other than an office-holder in the Scottish Administration) whose expenditure is payable out of the Scottish Consolidated Fund (“the Fund”) under any enactment,

   for any purpose in any financial year must be authorised for that year by Budget Act and must not exceed any amount so authorised in relation to that purpose.

There is therefore a requirement in primary legislation that budgetary provision for public bodies should be subject to approval.

At the end of the year the Accountable Officer, whether it is the Commissioner or another appointed person, will be accountable to the Parliament for any monies spent and will have to produce annual accounts which will be subject to audit by the Auditor General for Scotland.

In considering the issue of budgets, we recognise that section B2 of the ‘Paris Principles’ provides that:

“The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of
this funding should be to enable it to have its own staff and premises, in order to be independent of the government it need not be subject to financial control which might affect this independence.”

We consider within the proposed legislation these elements of adequacy and independence will be met. The draft legislation clearly states that the Commissioner will have his or her own staff and premises, although the staff complement, the associated terms and conditions and the location of premises will be subject to the approval of the SPCB. Clearly the Commissioner will be independent of government given the role of the Parliament. The financial review functions of the SPCB do not undermine independence. The SPCB has no powers of veto to prevent activities being undertaken by the Commissioners but its powers rather support the principle of adequacy of funding.

While we recognise that the ‘Paris Principles’ are a particularly helpful marker in establishing national human rights institutions, it is important to recognise that they are advisory in nature. This is reinforced in the recognition of choice throughout the principles. The principles ascribe aspirations and broad deliverables/goals but do not define the method or mode of delivery as it needs to reflect the local environment. This recognises that a balance needs to be struck – in this case a balance between the need to be able to monitor and account for expenditure and achieving independence.

Having regard to this, it is our view that the Parliament must also have regard to the wider issue of public accountability for the use of public monies. There has been discussion recently about the growing expenditure of Commissioners and the need for Parliament to be able to control such expenditure. We consider therefore the SPCB’s suggestion, which is also recommended by the Finance Committee in its report on the financial memorandum on the Bill, for a directional power for budgetary approval would provide the clarity necessary to both the Parliament and the Commissioner in terms of budgetary approval.

As stated above, we do not anticipate that in having the SPCB approve the budget of the Commissioner this will in any way impact on the functional independence of the post. It will be entirely a matter for the Commissioner to determine what enquiries or promotional work it should undertake within an agreed budget for a particular year.

In agreeing a budget for any financial year, the SPCB would enter into a dialogue with the Commissioner over his or her budget proposals, as it does at present with the existing Commissioners and Ombudsmen. Based on this dialogue we would normally expect the budget proposal to be put to the Finance Committee as part of the SPCB’s budget proposals.

Should for whatever reason, the SPCB have reservations about the size of budget proposed, for example if it considered a programme of work (regardless of its nature) as being over ambitious for a single financial year
when taking account of all the other activities proposed as part of the budget submission, then we consider the SPCB should have the power not to agree the budget and to invite the Commissioner to present a revised budget which can be agreed.

In the event of failure to achieve agreement, the existing protocol provides Commissioners and Ombudsman with a right of appeal to the Finance Committee to justify their proposed budget bid.

We also consider this would not preclude the Commissioner making a further bid for additional monies during the financial year should it become apparent that an urgent inquiry, for example, was necessary which could not have been foreseen at the time the budgets were being agreed. The SPCB has already agreed, with the existing Commissioners and Ombudsmen, provisions to take into account occasions where additional funds to the original budget for any financial year are required on an exceptional basis. The procedure for this provision is set out in a Memorandum of Understanding on Access to the Officeholders’ Contingency Fund held by the SPCB should be followed.

This provides that any bids should be submitted to the SPCB by way of a certification explaining the purpose of the funding. Where there are insufficient funds in the Officeholders’ contingency fund then the SPCB shall consider whether it is possible to meet the additional funding from elsewhere in the SPCB’s overall budget. Where additional funding cannot be met from the SPCB’s resources, a bid for additional funding will be submitted to the Finance Committee as part of the in-year budget revision process.

In summary, therefore, we do not consider that the checks and balances which are in place with regard to: the approval by the SPCB of budgets; the Finance Committee’s role; the duty of the Accountable Officer; the powers of Audit Scotland; and the obligation to lay reports before the Parliament, are in any respect, in conflict with the ‘Paris Principles’. Indeed, we consider that the arrangements as structured give assurance of operational independence to Commissioners whilst, at the same time, providing accountability for the expenditure of public funds.

I hope this explanation will be helpful to the Committee but should you require any further information please do not hesitate to contact me.

Yours sincerely

Nora Radcliffe
Audit Scotland is a statutory body set up in April 2000 Under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Executive and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.
Scottish Parliamentary Corporate Body (SPCB)
Ombudsman/Commissioners Shared Services

Introduction

1. At the request of the Corporate Body’s Accountable Officer, we have undertaken a review of the opportunities for Commissioners and the Ombudsman to share services, including the associated issue of office location. We have also reviewed the processes for scrutinising the budgets of the Ombudsman/Commissioners, including an examination of the existing lines of accountability and how they work in practice.

2. The Ombudsman/Commissioners covered by this review are:

   - Scottish Public Services Ombudsman (appointed September 2002);
   - Scottish Information Commissioner (appointed February 2003);
   - Scottish Parliamentary Standards Commissioner (appointed April 2003);
   - Commissioner for Children & Young People (appointed April 2004);
   - Commissioner for Public Appointments (appointed June 2004).

3. The projected combined annual costs of the five offices in 2006/7 are £6 million. Of this, £3.5 million is for direct staff costs and £0.5 million is for accommodation. Almost half of the planned total spend is earmarked for the Ombudsman. The Information Commissioner and the Children & Young People’s Commissioner each account for 22% of the total with the Public Appointments and Parliamentary Standards Commissioners accounting for 6.5% and 1.5% respectively.

4. It is important to recognise the office holders are not a homogenous grouping. Some have jurisdiction over each other and the SPCB itself; some operate in a quasi-legal capacity, while others have more of an advocacy/advisory role; some are more able to determine their workload and priorities while others have workloads that are predominantly demand led.
Key Findings

5. The optimum time for achieving efficiencies in shared services and accommodation costs is generally when organisations are being established. This was not a primary objective when the existing Ombudsman and Commissioner organisations were established.

6. Decisions on the location of premises were a matter for the office holders with no specific guidance/directions on how this should be handled, other than a general expectation that value for money should be achieved.

7. The Ombudsman/Commissioners, supported by the SPCB, have been proactive in considering the scope for sharing common services. However, there is scope to undertake value for money reviews on a more systematic basis as part of a wider business planning and performance monitoring regime.

8. There is a perceived tension within the legislation that established the Ombudsman/Commissioners. On the one hand, the SPCB has certain statutory obligations in relation to the Ombudsman and Commissioners (e.g. payment of pensions) and it has endeavoured to discharge these effectively. On the other hand, by statute, the Ombudsman/Commissioners cannot be subject to the direction and control of the SPCB or any member of the Parliament. While the SPCB has sought to discharge a scrutiny and challenge function, it does not believe it was given adequate powers to fully hold the Ombudsman/Commissioners to account for business operations.

9. While stressing the importance of functional independence, all of the individual office holders provided evidence of high levels of commitment to demonstrating accountability to stakeholders and the wider public and to ensuring that their actions were transparent and open to scrutiny. However, existing lines of accountability for spending by the Ombudsman and Commissioners are not straightforward.

10. In its report on the 2006/7 Budget, the Parliament’s Finance Committee noted “very serious concerns over potential gaps in accountability in respect of all parliamentary commissioners and ombudsman”. We concur with the view of the Finance Committee that “it is critical that all parties – including the Commissioners themselves, the Executive, the Parliament, the SPCB, and the public - have a common understanding of the accountability mechanisms that
operate with respect to such bodies”. This requires a clear appreciation of what constitutes “core functions” where office holders need to act independently (and be seen to be doing so), as opposed to those functions that can be regarded as “business operations”.

11. While the Procedures Committee recently recommended changes to the re-appointment process for Ombudsman/Commissioners (2nd Report 2006), there is no clear framework covering the arrangements for reviewing the remuneration of the office holders. This impacts on control and accountability and has the potential to create unhelpful tensions between the office holders and the SPCB.

**Recommendations**

12. **The Parliament (and the Executive as appropriate) should:**

- Ensure that the scrutiny of the costs of new bodies and the scope for achieving efficiencies from shared common services are an explicit and integral component of the pre-legislative scrutiny phase when establishing such bodies. This should also include considering whether the role being created is complementary to the responsibilities of existing office holders and could therefore potentially be subsumed into existing organisational structures.

- Use existing structures, systems and processes whenever possible in order to provide clarity, minimise bureaucracy and avoid creating unnecessary organisational machinery.

- Give the SPCB explicit responsibility and the necessary powers and resources to oversee the business operations of the Ombudsman and Commissioners in a strategic and proportionate way while building in the necessary checks and balances to (a) protect the independence of the office holders and (b) minimise the risk of any perception that office holders’ independence could be compromised.

- Consider whether the legislation that created the Ombudsman and Commissioners needs to be amended to implement the proposals arising from this review. This consideration may also be extended to include similar
bodies that have been established since devolution that are within the Scottish Executive structure (e.g. The Standards Commission).

13. **The SPCB should:**

- Scrutinise the annual business plan/budget projections from the Ombudsman and Commissioners. This should be a strategic review and be part of the annual budget round that feeds into the Finance Committee’s annual budget deliberations for the whole of the Scottish public sector. The scrutiny should be designed to avoid any suggestion that the SPCB can compromise the independence and integrity of the office holders.

- Review the strategic business performance of the Ombudsman and Commissioners on a systematic basis. Given the relative size and nature of the individual business units and in recognition of the operational control that already exists through individual office holders, it may be judged sufficient for this monitoring to occur quarterly or half yearly.

- Provide an added independent dimension to the scrutiny arrangements and enhance the capacity, expertise and experience available to the Corporate Body by, for example, extending the remit of the Advisory Audit Board and increasing the independent external expert capacity.

- Establish a Remuneration Committee [comprised substantially of independent experts] Amongst other things, the Committee should review the remuneration and terms of reference of office holders and make recommendations to the parliamentary authorities.

14. **The SPCB and the Ombudsman/Commissioners should:**

- Continue to explore opportunities for sharing services and co-location that:

  - take account of the experience of the early years of operations of all five offices and likely future needs;

  - draw on the findings in the consultant’s report on shared services (dated June 2005) that was commissioned by the Ombudsman;
- further develop the role of the operational group that is already established to share expertise, experience and best practice in this area;

• where appropriate exploit opportunities that may emerge from the Executive’s Efficient Government Initiative (the SPCB is not subject to the Efficient Government Initiative but intends to parallel this, where appropriate).

• Undertake a cross cutting examination of all costs of the Ombudsman and Commissioners (not just shared services and accommodation costs) which takes account of current and future business needs of the individual office holders. It is recognised that this may have additional resource implications for the SPCB.

• Ensure that proposals for shared services/co-location are proportionate to the size of the body and the potential benefits to be gained from more efficient and effective business delivery;

• Explore the potential for sharing services beyond the Ombudsman, Commissioners and the SPCB as there may be more business advantage to be had in working with other organisations outside this circle.

• Consider extending the scope of the SPCB Advisory Audit Board to encompass the audit scrutiny arrangements for all of the Ombudsman/Commissioners, with the Board’s terms of reference amended, if necessary, to deal with any potential conflicts of interest. It is recognised that, as matters stand, extending the AAB remit in this way will require the agreement of the Commissioners/Ombudsman.

• Revise the existing Financial Memoranda between the SPCB and the Ombudsman/Commissioners to become broader based Memoranda of Understanding that reflect the changes to the governance and accountability arrangements arising from this review. The Memoranda should make clear the parameters of the scrutiny arrangements including specifying any mechanisms that need to be put in place to safeguard the independence of the Ombudsman/Commissioners.
15. **The Ombudsman and Commissioners should:**

- Continue to have control over their budgets and any changes to the scrutiny arrangements should not dilute their clear responsibility to demonstrate that funds are required for the effective discharge of their responsibilities and that they are achieving value for money.

- Further develop the role of the operational group that already exists to share expertise, experience and best practice across the Ombudsman/Commissioners. One of the key objectives of this group should be to minimise the extent to which office holders need to get involved in routine operational delivery issues, thereby allowing them to focus on their core functions.

- Use the proposed Remuneration Committee of the SPCB in an advisory capacity to support them in dealing with strategic staffing matters including pay and terms and conditions.
Background

16. At the request of the Corporate Body’s Accountable Officer, we have carried out a review of the opportunities taken by the Ombudsman and Commissioners to share services. The background to this request was the Finance Committee’s consideration of the 2006/7 public spending budget process and the Committee’s concern with the rising costs associated with the growing number of Commissioners. The Committee also noted the potential tension between the statutory independence of Commissioners and Ombudsman and their accountability for expenditure of public funds.

17. As part of the review, we have also examined the scrutiny and accountability arrangements for the five offices. The Ombudsman/Commissioners covered by this review are:

- Scottish Public Services Ombudsman (appointed September 2002);
- Scottish Information Commissioner (appointed February 2003);
- Scottish Parliamentary Standards Commissioner (appointed April 2003);
- Commissioner for Children & Young People (appointed April 2004);
- Commissioner for Public Appointments (appointed June 2004).

18. The projected combined annual costs of the five offices in 2006/7 are £6 million. Of this, £3.5 million is for direct staff costs and £0.5 million is for accommodation. Almost half of the planned total spend is earmarked for the Ombudsman. The Information Commissioner and the Children’s Commissioner each account for 22% of the total with the Public Appointments and Parliamentary Standards Commissioners accounting for 6.5% and 1.5% respectively. (table 1)
Audit Approach

19. We examined the relevant legislation establishing each of the Ombudsman/Commissioners and the arrangements surrounding the initial set up. We reviewed the information contained in the SPCB’s submission to the Finance Committee and more detailed supporting information provided by the Ombudsman/Commissioners. We also had helpful discussions with each of the five office holders.

Legislative background and initial set up

20. When the present Ombudsman/Commissioner bodies were set up, the emphasis was on establishing independent and autonomous post-holders. In all cases (with the exception of the Scottish Parliamentary Standards Commissioner) the separate legislation that established the Ombudsman/Commissioners explicitly stated that:

“in the exercise of that officer's functions, …is not subject to the direction or control of:

(a) any member of Parliament

(b) any member of the Scottish Executive

(c) the Scottish Parliamentary Corporate Body”

<table>
<thead>
<tr>
<th>£000s</th>
<th>SPSO</th>
<th>SIO</th>
<th>SPSC</th>
<th>CCYP</th>
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<td>583</td>
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<td>1</td>
<td>84</td>
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<td>264</td>
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Table 1: Ombudsman & Commissioners' Budgets 2006/7. (Source: Finance Committee)
21. The Acts of the Scottish Parliament, that established individual Ombudsman/Commissioners, specified the responsibilities of the SPCB as follows:

- Determining the terms and conditions of the Ombudsman/Commissioners, including salary and allowances.
- Paying the salary and allowances and any expenses of the Ombudsman/Commissioners.
- Making arrangements for the payment of pensions.
- Designating the Ombudsman/Commissioner (or a member of staff) as the accountable officer.
- Ombudsman/Commissioners may, with the approval of the SPCB, appoint staff, on such terms and conditions as that officer may determine, and may also appoint and pay advisers with the approval of the SPCB.

22. The legislation specified that Ombudsman/Commissioners must lay before Parliament each year a general report on their functions.

23. Operationally, Ombudsman/Commissioners were established to undertake specific functional responsibilities often against tight deadlines. With the exception of the Scottish Public Services Ombudsman, newly appointed commissioners were operating initially without staff or existing offices.

24. By contrast, the Ombudsman assumed responsibility for three existing organisations (including a live caseload) with separate accommodation and separate staff on separate terms and conditions.

25. Office holders were clear that the location of office accommodation would be a matter for the Commissioners, although in the case of the Ombudsman, Ministers stated that staff of the predecessor bodies would be accommodated in a single location. Staff from the SPCB worked with the Ombudsman/Commissioners to assist them in establishing their offices, and systems and there has been favourable comment from Ombudsman/Commissioners for this support.
Accommodation

26. We discussed accommodation arrangements with each of the Ombudsman/Commissioners. The current arrangements and accommodation costs in each of the ombudsman/commissioner bodies is shown in table 2.

<table>
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<tr>
<th>Location</th>
<th>Tenure</th>
<th>Annual rent £000</th>
<th>Lease end date</th>
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<td>N/A</td>
<td>Nil</td>
</tr>
<tr>
<td>Commissioner for Public Appointments in Scotland (note 2)</td>
<td>St Andrew Square Edinburgh</td>
<td>Rented (short term)</td>
<td>40 (incl.services)</td>
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<tr>
<td>Scottish Information Commissioner</td>
<td>St Andrews Fife</td>
<td>Rented</td>
<td>36</td>
</tr>
<tr>
<td>Commissioner for Children and Young People in Scotland</td>
<td>Holyrood Road Edinburgh</td>
<td>Rented</td>
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<td>Scottish Public Services Ombudsman (note 3)</td>
<td>Melville St. Edinburgh</td>
<td>Rented</td>
<td>120</td>
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</table>

Table 2: Ombudsman & Commissioners’ rent costs 2006/7 (Source:Ombudsman/Commissioners)

Note 1 The Scottish Parliamentary Standards Commissioner (SPSC) does not have a separate office. He works from home and, where necessary, uses the facilities of the Scottish Parliament to conduct meetings etc in Edinburgh. He therefore, incurs no separate accommodation costs.

Note 2 The Commissioner for Public Appointments in Scotland (OCPAS) operates from serviced offices in St Andrew Square, Edinburgh. The Commissioner took a conscious decision to enter into a short-term let of serviced accommodation to allow her to focus on operational activity in establishing her role and functions, and to allow maximum flexibility in determining longer-term accommodation arrangements. The Commissioner has held discussions with other Commissioners and the Ombudsman about the scope for sharing office accommodation and other services.

Note 3 All of the Commissioner organisations were new organisations. By contrast, the Scottish Public Services Ombudsman (SPSO) took over the responsibilities of three predecessor organisations: the Scottish Parliamentary and Health Service Ombudsman, the Local Government Ombudsman for Scotland and the Housing Association Ombudsman for Scotland.

27. Each of the SPSO’s three predecessor organisations occupied separate offices in Edinburgh and employed separate staff on separate terms and conditions. In addition to her functional responsibilities and the need to deliver “business as
usual”, the integration and rationalisation of these separate arrangements was a major challenge for the Ombudsman when she was appointed in 2002. The Ombudsman sought independent advice on options for future accommodation including relocating the existing three offices into one location. Based on that advice, the Ombudsman examined a number of options for rented office accommodation and entered an agreement for the existing offices in Edinburgh.

28. The accommodation costs being incurred by each office seem reasonable in the circumstances, although the CPAS recognises that there is a need to look for a more permanent solution to her accommodation needs and this is in hand. Three of the largest bodies are committed to long leases and therefore the scope for reducing costs in the foreseeable future are greatly reduced as any early break in lease is likely to incur considerable costs.

29. The Ombudsman has held discussions with other Commissioners on the feasibility of sharing accommodation and other services, and is currently progressing detailed discussions with the Commissioner for Public Appointments.

Sharing of services

30. There is evidence that the Ombudsman/Commissioners have worked together on a voluntary and “collegiate” basis and have had regular exchanges on the running of their respective offices. A cross cutting operational group has been established to share expertise, experience and best practice in relation to business matters.

31. An independent consultant was appointed by the Ombudsman to document and assess the process used in establishing four of the five bodies listed above (i.e. SPSO, OSIC, OCPAS and SCCYP). The consultant’s report considered the subject under the headings noted below, which we have updated to reflect the current state of affairs:

- Financial systems

32. The Ombudsman and three commissioner bodies purchased the same financial system and used the same advisor to install the system and train staff on it. This gave rise to economies of scale, as well as providing back up for contingencies.
• **Accounts support**

33. A self-employed consultant was appointed under separate contracts with OCPAS and SCCYP to undertake monthly and year-end accounts and to provide general financial advice as required. There is scope for further rationalisation in financial services, although any financial benefits are likely to be at the margins.

• **Banking**

34. The commissioner bodies must maintain separate accounts, but have elected to use the same bank, in order to maximise the quality of service they receive and minimise the learning curve the bank must go through to understand the nature of their business.

• **Procurement**

35. All office holders have access to S-CAT and make use of these facilities for procurement of goods and services. They are also alert to opportunities to benefit from economies of scale from contractual arrangements negotiated by either the SPCB or the Scottish Executive.

• **Payroll**

36. Three of the four commissioner bodies use Home Office Payroll and Pensions Service (HOPPS) as its payroll provider. Due to its small size, OCPAS had to source an external payroll bureau and carries out many payroll tasks internally. There is scope to develop a common service here but any savings will be very marginal.

• **Internal audit service**

37. SIC and SCCYP have decided to use Scottish Enterprise’s audit service: the SPCB acted as reference site for this decision, as Scottish Enterprise currently provide the SPCB with an audit manager on secondment. SPSO will take a decision on its internal audit provision this summer. OCPAS is keeping the question under review for the time being, given its small size. Again, there is scope to rationalise around a single provider, although any benefits are likely to
come through a more efficient, effective and joined up service rather than result in significant cash saving.

- **Office services/Facilities management**

38. The office holders believe that the scope for sharing support staff is very limited due to their different locations and remits but are committed to find ways to do so where practical and beneficial.

- **HR**

39. The Ombudsman and Information Commissioner, as the two longer established bodies, are sharing their HR experience in relation to standard documents and terms, and the SCCYP Commissioner is drawing upon these in establishing her office. The SCCYP Commissioner has also formally adopted the OSIC Handbook.

- **Legal and other expert advisers**

40. Lawyers, marketing professionals and other specialists are difficult to procure jointly, as requirements will vary and may be difficult to predict. Consequently, it was felt that, as a rule, individual commissioner bodies would make their own arrangements under the normal procurement and tendering terms in their Financial Memoranda. The Ombudsman/Commissioners will use S-CAT wherever possible, and will also seek to ride on the back of arrangements negotiated by the SPCB, in order to create the greatest possible economies of scale.

- **ICT developments**

41. The Ombudsman has developed a bespoke case management system. The system has been adapted for use by the Scottish Information Commissioner, with significant savings over a stand-alone procurement contract. The SCCYP also plans to make use of this system and adapt to its circumstances. There is scope for some more collaboration in software development but any benefit is likely to be at the margins.

42. As part of the budget scrutiny process for 2006/7, the Scottish Public Services Ombudsman re-affirmed to the Accountable Officer of the SPCB that the SPSO
has explored opportunities for operational efficiencies and shared services with a range of organisations.

43. The Ombudsman has indicated that, as a result of the upgrade of its functional capability during 2005/6, her office now has processes, systems and controls that are capable of cost-effectively supporting other bodies, even when they are located outwith Edinburgh. Every effort should be made to explore these and other opportunities to share services and to generally streamline how business is conducted.

44. The Ombudsman/Commissioners recognise that sharing of services is not restricted to their own grouping. There is also scope for sharing of services with the SPCB; with the Scottish Executive; other similar organisations in Scotland; and between Scottish Commissioners and their counterparts elsewhere in the UK.

45. The Ombudsman/Commissioners, with the support of the SPCB, should continue to explore opportunities for sharing services and co-location. Amongst other things this should:

- take account of the experience of the early years of operations in all three offices and likely future needs;
- draw on the findings in the consultants report on shared services (dated June 2005) that was commissioned by the Ombudsman;
- further develop the role of the operational group that is already established to share expertise, experience and best practice in this area;
- where appropriate, exploit opportunities that may emerge from the Executive’s Efficient Government Initiative (the SPCB is not subject to the Efficient Government Initiative but intends to parallel this, where appropriate).

46. Any review of costs should be cross cutting and include all costs (not just shared services and accommodation costs). It should be systematic and take account of the current and future business needs of the individual office holders. As such, it should be part of a wider business planning and performance monitoring regime that supports office holders in the achievement of their objectives and the effective discharge of their functions. It should also enable office holders to
demonstrate effective accountability to the parliamentary authorities and the wider public through a corporate governance framework that is proportionate and fit for purpose.

47. Any proposals for shared services/co-location need to take account of the size of the body and the potential benefits from more efficient and effective business delivery.

**Scrutiny Arrangements**

48. The maximum scope for achieving efficiencies in accommodation and sharing of services occurs when new organisations are being established. At the time when existing Ombudsman/Commissioners were established, this does not appear to have been a primary objective. Legislation specified that Ombudsman/Commissioners were not subject to the direction or control of the Parliament and there was an assumption that Ombudsman/Commissioner organisations would be both functionally independent and largely operationally autonomous.

49. Scrutiny of the costs of new bodies and consideration of the scope for achieving efficiencies from shared common services should be an explicit and integral component of the pre-legislative scrutiny phase when establishing such bodies. We note that, in its Report on the Financial Memorandum of the Scottish Human Rights Commissioner Bill earlier this year, the Finance Committee scrutinised and challenged the financial arrangements for the proposed new Commissioner. This included a recommendation that the SPCB should in future be given sufficient time to properly scrutinise proposed costs before new bodies are established.

50. In its report on the 2006/7 Budget, the Parliament’s Finance Committee noted “very serious concerns over potential gaps in accountability in respect of all parliamentary commissioners and ombudsman”. While stressing the importance of functional independence, all of the individual office holders provided evidence of high levels of commitment to demonstrating accountability to stakeholders and the wider public and to ensuring that their actions were transparent and open to scrutiny. However, existing lines of accountability for spending by the Ombudsman and Commissioners are not straightforward.
51. While the SPCB has sought to discharge a scrutiny and challenge function, it does not believe that it was given adequate powers to hold the ombudsman/commissioner to account in respect of their business operations. The SPCB has continued to offer support to the office holders, despite its view that it does not consider it has a formal role in specifying the framework for the activities of the Ombudsman/Commissioners (in the way that the Scottish Executive would establish a "sponsor division" to oversee the activities of a NDPB).

52. Consideration should be given to the most appropriate body to undertake scrutiny of Ombudsman/Commissioners. There are a variety of potential governance models. Possibilities include:

- Through the SPCB: The Corporate Body already has a number of responsibilities in statute for the Ombudsman/Commissioners. Financial Memoranda are already in place and the expenditure of the Ombudsman/Commissioner bodies feature in the Annual Accounts of the SPCB. There is a question over whether the SPCB has the requisite powers to assume a greater scrutiny role, although this can be overcome through the creation of broader based Memoranda of Understanding or, if necessary through changes in the legislation. Some concern exists over safeguarding the Ombudsman/Commissioners’ independence. This particularly acute where the Ombudsman/Commissioners have jurisdiction over decisions taken by the SPCB. We believe it should be possible to build checks and balances into the system to deal with any concerns, both perceived and real. This may involve introducing more independent scrutiny through the appointment of external advisers to the SPCB as happens currently through the Advisory Audit Board;

- Through a separately constituted group akin to the Scottish Commission for Public Audit (which exists as part of a wider governance framework for Audit Scotland): This is understood to be a satisfactory mechanism for reviewing the planning and funding requirements of Audit Scotland and would provide a buffer between the office holders and the SPCB. However, a new group would have to be constituted (or the existing Commission’s terms extended). The Commission also meets infrequently and is constituted of MSPs so any potential “conflict” issues that exist for SPCB are likely to remain.

- Reporting direct to the Finance Committee or another committee of the Parliament: While this is an option it would entail the Finance Committee
getting drawn into a level of detail that is perhaps inappropriate. As for other subject Committees, it would again be involving them in unnecessary detail and would perhaps blur the distinction between core functions and getting drawn into operational delivery issues.

53. We note that the question of balancing independence and control was given careful consideration recently by the Parliament’s Procedures Committee when it considered the arrangements for the re-appointment of the Ombudsman/Commissioners. Amongst other things, the Committee examined the role of the SPCB and also how the performance might be assessed as part of the re-appointment process. The SPCB will no doubt wish to draw on the Committee’s Report (2nd Report 2006) given the clear linkages to the issues raised in this report.

54. Every effort should be made to use existing structures, systems and processes in order to provide clarity, minimise bureaucracy and avoid creating more organisational machinery. Against this background, we recommend that:

- the SPCB should be given explicit responsibility and the necessary powers and resources to oversee the strategic business operations of the Ombudsman/Commissioners.

- the SPCB should scrutinise the annual business plan/budget projections from office holders. This should be part of the annual budget round that feeds into the Finance Committee’s annual consideration of the Budget for the whole of the Scottish public sector. The scrutiny arrangements should be sufficiently transparent to avoid any compromise to the independence of office holders. While it is for the Finance Committee to determine what evidence it requires as part of its Budget scrutiny, it is assumed that it would take assurance from the SPCB’s scrutiny and not get drawn into the detail of office holders’ spending proposals other than in exceptional circumstances.

- the SPCB should review the strategic business performance of the Ombudsman/Commissioners on a regular basis. Given the nature of the individual business units and in recognition of the operational control that already exists through individual office holders, it may be judged sufficient for this monitoring to occur quarterly.
• Provide an added independent dimension to the scrutiny arrangements for the Ombudsman/Commissioners and enhance the capacity, expertise and experience available to the Corporate Body by, for example,

  - extending the remit of the Advisory Audit Board and increasing the independent external expert capacity.

• The Ombudsman/Commissioners should continue to have control over their own budgets and be accountable to the SPCB (and the Corporate Body’s Accountable Officer as appropriate) for the finances and general business operations of their offices. The existing Memoranda of Understanding between the SPCB and the Ombudsman/Commissioners should be revised to reflect the proposed changes to the governance and accountability arrangements. The Memoranda should also make clear the limitations on the scrutiny arrangements in terms of protecting the independence of the functions of the office holders and specify any necessary mechanisms that need to be put in place to safeguard this independence.

55. Consideration should be given to amending the legislation that created the Ombudsman/Commissioners, if necessary, to support implementation of the above proposals. This would include giving the parliamentary authorities explicit powers to hold the office holders to account for the effective running of their business operations while protecting the independence of the office holders.

Audit Scrutiny

56. Currently, the independent members of the SPCB’s Advisory Audit Board undertake a similar role for OSiC and SCCYP. OCPAS and SPSO are currently considering the best arrangements to suit their circumstances. Synergies will arise through common membership of audit committees, but it is recognised that the Ombudsman/Commissioners may wish to take independent advice from time to time on audit matters.

57. The scope of the SPCB Advisory Audit Board should be extended to encompass the audit requirements of the Ombudsman/Commissioners. This should dovetail with the recommendations we have made above on clarifying and formalising the SPCB’s governance role. The Advisory Audit Board’s terms of reference
and membership can be amended, if necessary, to take account of this wider role and also to deal with any potential conflicts of interest.

Remuneration Committee

58. The responsibilities of the SPCB include determining the terms and conditions of the Ombudsman/Commissioners, including salary and allowances. The SPCB also have a role in relation to recommending the appointment and re-appointment of office holders. There is scope to improve the existing arrangements by adopting best practice that exists in both the public and private sectors in this area.

59. The SPCB should establish a Remuneration Committee (comprised substantially of independent experts) that, amongst other things, should consider matters associated with the remuneration and terms of reference of office holders, making recommendations to the parliamentary authorities as appropriate. We note that the Procedures Committee recently reviewed the arrangements for the re-appointment of Commissioners. The Committee has made a number of recommendations that include the role of the SPCB and the use of independent assessors. The SPCB may wish to draw on the deliberations of the Committee to ensure that matters of appointment, reappointment, performance and remuneration are effectively aligned, where appropriate.

60. The Remuneration Committee could also be used by the Ombudsman/Commissioners in an advisory capacity to support them in dealing with strategic staffing matters including pay and terms and conditions.

Conclusion

61. The Ombudsman and Commissioners, supported by the SPCB, have made significant inroads into embracing a shared services agenda. There is scope for more streamlining and sharing of services and it is evident that the machinery and willingness already exists at an operational level to make that happen. There is limited scope for achieving greater efficiency through co-location of office holders. This is partly as a consequence of timing but it is also due to the scope for shared services not being a consideration when these bodies were first established. However, lessons have been learned in this respect and are already being actioned.
62. There is scope for greater clarity in terms of the governance and lines of accountability. This can be addressed through the development of the existing business framework, while recognising and respecting the crucial importance of the office holders being able to deliver their core functions independently. The mutual jurisdiction across the bodies accentuates the importance of independence but it should be possible to design suitable checks and balances to mitigate this.

63. It should also be a key principle that the governance and accountability framework is proportionate and fit for purpose – and does not distract the Ombudsman and Commissioners unnecessarily from carrying out their core functions on behalf of the public and other stakeholders.

Acknowledgement

64. We are grateful for the co-operation and assistance received from the Ombudsman and Commissioners and staff of the SPCB during the course of this review.
Finance Committee

19th Meeting 2006, Tuesday 27 June 2006

Accountability and Governance Inquiry

1. The Committee has received supplementary submissions from a number of bodies. These are attached as follows:

- Audit Scotland;
- Scottish Information Commissioner;
- Commissioner for Public Appointments in Scotland;
- Scottish Parliamentary Standards Commissioner;
- Scottish Commission for the Regulation of Care; and
- Scottish Commission for Public Audit.

Roz Wheeler
Senior Assistant Clerk
Supplementary Submission from Audit Scotland

Matters arising from the Finance Committee meeting on 16 May 2006

Following the meeting of the Finance Committee yesterday, Audit Scotland would like to ensure that the Finance Committee is aware of the key facts that demonstrate our commitment to achieving value for money in our use of resources.

Audit Scotland is held to account in a detailed and rigorous fashion through statutory arrangements put in place by the Scotland Act and by the Parliament through the Public Finance and Accountability Act. The Scottish Commission for Public Audit (SCPA) is central to these arrangements. The records of the Commission’s meetings, which are not part of the official report, demonstrate the robust and appropriate role that it plays. In addition, the Audit Committee, which has an interest in policy matters relating to audit, has said in its submission to your inquiry that it considers “that the statutory arrangements for the financial scrutiny of Audit Scotland are robust and effective, although, as with all legislation, they should be subject to periodic review, within the context of the PFA Act.”

We are committed to giving a full and open account to Parliament of how we use our resources, and it is important that the Finance Committee has accurate information about the factors influencing the movements in our budget over recent years.

**Budgets**

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Amount of total operating costs from the Scottish Consolidated Fund (£000)

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**Staffing**

Average number of directly employed staff

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Audit Scotland was formed in April 2000, after extensive consideration of potential audit arrangements by the Constitutional Steering Group and the Financial Issues Advisory Group. We started work with inherited staffing from
the merged predecessor organisations, the Accounts Commission and the NAO Scottish office. This did not meet the full requirements of our new statutory responsibilities and subsequent years reflect the build up of our capacity. Three quarters of our operating costs in any year are covered by fees and charges.

The increase in our expenditure in 2002-03 is almost entirely due to a change in our VAT status. Up to that point we were able to recover our input VAT; due to a decision by HM Customs and Excise in 2002, we have since been required to recognise VAT as a cost.

The movement between 2003-04 and 2004-05 is due in large part to the introduction of the statutory duty of Best Value in local government, reflected in both our budget and our staffing trend. The Accounts Commission has a duty to audit the achievement of Best Value in councils under the Local Government in Scotland Act 2003. The annual cost of this was £1.2 million. The approach incorporates reliance on the findings of Inspectorates, which ensures that its costs are tightly contained and minimises the burden on councils.

Over the same period, we have been given responsibility for a range of new audits, including further education colleges, Scottish Water and new agencies such as Transport Scotland.

In 2000-01, total managed expenditure of the Scottish Executive was £18 billion. In 2005-06, planned spending is just over £27 billion, an increase of 50 per cent. As Executive spending has increased, so have the requirements for audit and therefore our costs to meet this new level of demand. Our total operating costs in 2004-05 were £24.9 million. According to the audited accounts of the National Audit Office and the Audit Commission, their combined operating costs in that year were £310 million.

We apply the best value principles to everything that we do in managing our own resources. For example, over two financial years (2004-05 and 2005-06), we reduced audit charges to the NHS in Scotland by 10 per cent. At the same time, we significantly improved the audit outputs to NHS bodies and to Parliament. This is seen in the improved financial and performance overview reporting to Parliament, which did not exist before 2000. We have a programme of quality and best value reviews internally and there is a full programme of internal audit work, carried out by an external firm of accountants, and covering the full range of our activities. This internal audit programme is set by, and reported to, Audit Scotland’s Audit Committee.

Audit Scotland was required to adopt TUPE principles in setting the salaries of staff transferred from predecessor organisations, and has adopted centrally negotiated local government pay scales. Because we are a relatively young organisation, with many staff near the bottom of their pay scales, our staff costs are projected to increase by 4.2 per cent over the next year. We have advised the SCPA that we will restrict our budget request for next year to 3
per cent, by absorbing increased staffing costs beyond that level through efficiency savings.

The largest part of our income comes from charges to audited bodies. We benchmark our charging regime using confidential information from the Audit Commission and the National Audit Office. We also have intelligence on the fees charged by audit firms in the market place. We are confident that our charges compare favourably those of other audit agencies, and are significantly lower than the fees of the firms in their other markets. We believe that the SCPA may be considering a VFM review of our charging regime and we would welcome this. Thirty per cent of our audit activity is put to competitive tender in the private sector, following full EU procurement rules. This ensures that there is a mixed market for public audit provision in Scotland and enables us to benchmark and contain the overall cost of public audit.

We believe that the current governance arrangements, which are defined in statute and centre upon the role of the SCPA, are robust and effective. The Audit Scotland Board is prescribed in statute. One of its main functions is to enable the Auditor General for Scotland and the Accounts Commission to be served by a single audit agency, with consequent gains in efficiency and effectiveness. Our budget and Annual Report are submitted to and scrutinised by the SCPA. Our next annual report will be published early this summer, and will give a full account of our use of resources and our performance.

In the meantime, we would draw to the Committee’s attention the results of our latest anti-fraud initiative which is published today. We discovered £15 million of fraudulent and inappropriate payments and forward savings on pension costs. The waste uncovered by this single project is over twice the net resources provided by Parliament to Audit Scotland.

We hope this information is helpful in the context of our discussions yesterday.

We may provide you with further information once we have considered the content of the Official Report.

Yours sincerely

Diane McGiffen
Director of Corporate Services
Supplementary Submission from Scottish Information Commissioner

Thank you for your letter of 7 June. I am grateful for the opportunity to provide supplementary information to the Committee, as I think it would be helpful to address an area which came up at the oral evidence session on 6 June but which I had not addressed in my prior written evidence.

I was asked about the extent to which I was accountable to Parliament in respect of my statutory functions and in particular I was asked how Parliamentarians alone or jointly could express their views to me over decisions which I had taken, which had to their mind an impact on the intent of the freedom of information legislation. I think it is important to draw the attention of the Committee to particular sections of the Freedom of Information (Scotland) Act 2002 (FOISA) which set out Parliament’s intent and requirements in this matter.

I am sure the Committee appreciates that Part 3 of FOISA provides the statutory basis for my role and function, including the terms of my appointment by HM The Queen on the nomination of the Scottish Parliament. Section 42 (7) states “The Commissioner, in the exercise of that officer’s functions (except the function of preparing accounts), is not subject to the direction or control of the Parliamentary corporation, of any member of the Scottish Executive or of the Parliament; (emphasis added) but this subsection is without prejudice to paragraph 3(4) of schedule 2.” (Schedule 2 concerns the appointment of staff on such terms and conditions as the Commissioner may determine. Paragraph 3(4) of this schedule requires me to require the approval of the SPCB in the appointment of staff and their terms and conditions.)

Nevertheless the underlying consideration of some of the questions posed by the Committee appeared to be whether, not just in general discussion but in terms of my accountability, the MSPs individually or jointly might influence how I conduct specific investigations or my approach to the enforcement role. I think this would be contrary to the intent of FOISA as explained above. FOISA requires me to be independent and impartial, and not subject to the direction or control of Parliament in coming to my decisions. This is particularly important to safeguard given that clearly my decisions can be in respect of information withheld by the Scottish Executive or Scottish Parliament.

In coming to decisions I have to interpret the legislation and I must do so in a manner which is reasonable and is capable of judicial scrutiny. Parliament has determined that my decisions should only be contested by the authority or the applicant by appeal to the Court of Session or by judicial review. Complaints about me or the operation of my organisation may be referred to the Scottish Public Services Ombudsman, the UK Information Commissioner or the Auditor General as appropriate.

Additionally, at the Committee hearing, particular reference was made to applications which it was suggested some Parliamentarians may regard as
vexatious and not worthy of investigation. I thought it might be useful to set out how such considerations are approached. FOISA requires the Scottish Information Commissioner to issue a decision on all valid applications made to him. I cannot ignore an application or turn it away because of excessive workload or because I do not think it concerns useful information. I can, and do, refuse applications because they are frivolous or vexatious, withdrawn or abandoned but I may only do this within the terms of FOISA. The terms “frivolous and vexatious” are not always readily understood. I apply the term “frivolous” to an application where there would be no useful purpose in issuing a decision. This usually relates to an application where I have already issued a decision on the same information request. Authorities have no power under FOISA to regard requests as frivolous, although they can regard them as vexatious.

The Scottish Ministers Code of Practice on the Discharge of Functions under the FOISA provides guidance on the meaning of vexatious in relation to requests:

‘An authority is not obliged to comply with a vexatious request. The Act does not define the term vexatious and, in the first instance, it will be for the authority to decide whether requests are vexatious. However, irritation or nuisance caused by the applicant or by receipt of the request should play no part in an authority’s consideration of whether or not an application is vexatious. Authorities should be prepared to provide justification for their approach to the Commissioner, and their decisions in this respect should, therefore, be based on clear-cut reasoning. Factors which an authority might take into account could include:

- whether the request has already been rejected on appeal to the Commissioner and the applicant knows this;
- whether there has been unreasonable refusal or failure to identify sufficiently clearly the information required;
- whether there has been unreasonable refusal or failure to accept documented evidence that the information is not held;
- whether the request can be shown to be clearly intended to disrupt the authority’s work rather than for the purpose of obtaining information.

This list is not exhaustive but the power to refuse to respond to a request on the grounds contained in section 14 of the Act should be used sparingly, and should not be abused simply to avoid dealing with a request for information.’

I agree with the Scottish Ministers’ interpretation of “vexatious” and I apply this to my own decision making.

I trust that the above is helpful to the Committee.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner
Supplementary Submission from the Office of the Commissioner for Public Appointments in Scotland

I was not able to appear before the Committee on 6 June and welcome this opportunity to provide information additional to that already supplied in writing. As I have not been given specific questions by the Committee, but have been asked to review the questions asked of the Ombudsman and Commissioners on 6 June, I have identified four key themes on which I respond. I hope my comments are helpful.

1. Clarity and appropriateness of existing lines of accountability.

I consider my lines of financial accountability clear. Since taking up post I have recognised the role of the SPCB in agreeing my budget and the importance of submitting evidence in support of budget bids. Their role is formalised in the Financial Memorandum, in which I recognise their right to negotiate and approve my budget bid. Written communication received from SPCB shortly after I took up post specifies that the money allocated to my office is to be spent exclusively on the discharge of my statutory duties.

My budget bid forms part of the SPCB’s overall bid, which goes before the Finance Committee for approval. I recognise the Committee’s right to approve or reject my bid. Should a dispute arise between the SPCB and myself the Financial Memorandum recognises the Finance Committee as arbiter.

The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the Act) requires me to agree staffing levels and terms and conditions with SPCB. Thus, I am accountable to them for the employment costs I incur.

One of the recommendations in Audit Scotland’s April 2006 report for the SPCB, “Ombudsmen/Commissioners Shared Services” is that SPCB carry out regular scrutiny of our business plans. I consider this suggestion sensible and practical. It would enable dialogue about my annual priorities and provide detailed evidence in support of my budget bid.

The Act states that the Commissioner is not subject to the direction of Parliament or the Scottish Executive. This does not mean that there is no requirement for me to demonstrate good governance, sound operational practice and delivery of the requirements of the Act. I am required to lay before Parliament my Annual Report and I echo my fellow Commissioners in welcoming an opportunity to discuss this report more fully.
2. How can Parliament enter into a dialogue with Commissioners over methods used to implement the requirements of each Act?

At present there does not appear to be a formal mechanism for this. My legislation requires consultation with Parliament as follows:

- I must consult Parliament on the development of my keystone work, the Code of Practice for Ministerial Appointments to Public Bodies in Scotland.
- I must consult Parliament on any changes to this Code.
- I must consult Parliament on my second piece of keystone work, an Equal Opportunities Strategy for public appointments.

I would welcome the opportunity to explore other avenues which would enable wider discussion with Parliament. One mechanism may be the discussion of my business plan with SPCB, as mentioned in my previous answer. Another may be to establish a mechanism for dialogue with the Committee to which I must report Ministers when I deem there has been material non-compliance with my Code. A third may be for a separate body to be established which scrutinises my Annual Report and forward plans. The latter may also support the steps being taken to establish a performance review mechanism to provide evidence to SPCB when considering possible re-appointment.

3. Can the Parliament direct the Commissioners/Ombudsmen in the methods used to implement the requirements of each Act?

There has been some question over whether the Committee or Parliament as a whole has the right to direct our offices. My legislation clearly prohibits such direction.

If the differing forms of consultation or dialogue suggested above are considered insufficient and Parliament wishes to develop a mechanism to give specific direction to Commissioners and Ombudsmen then it would appear that a change in legislation is required.

4. Is there scope for Commissioners and Ombudsmen to share services and roles to avoiding over-complication of the system and possible duplication?

My role is clearly defined under the terms of the Act and I do not believe that there is role overlap.

I recognise that there are areas of work performed by Commissioners and the Ombudsman which are similar and that sharing staff and systems may be beneficial and efficient. I have been working with the Scottish Public Services Ombudsman to establish areas of work and expertise which can be shared.

Karen Carlton
Commissioner for Public Appointments in Scotland
June 2006
Supplementary Submission from Scottish Parliamentary Standards Commissioner

INTRODUCTION

1. I wish to give supplementary written evidence to the Finance Committee subsequent to my provision of oral evidence on 6 June 2006. My reason for this is that I do not think that there is as yet sufficient clarity on the difference between a reasonable and proportionate degree of Parliamentary oversight of financial and efficiency issues in relation to post-holders, the need for which to my knowledge no-one has contested, and arrangements including direction by Parliament which would interfere with the functional or operational independence of the post holders, without which their posts would lose credibility with the public. There appeared in the session on 6th June to be a suggestion coming through some questions that since Parliament pays the piper, it should call the tune, down to suggesting some of the words and music. I will argue particularly in relation to my own post.

2. I refer specifically to the convenor’s comment (Official Report, 6 June, Col 3692) that “…the defining characteristic of a parliamentary commissioner… is that they serve Parliament…” I am not sure that this will assist the public to trust in the independence of my complaints investigations into the conduct of MSPs. If I am a servant of Parliament, how can I take an independent view? There is clearly a difference between a Parliamentary appointee, or in the case of the other posts, Parliamentary nominees and Crown appointees, and a Parliamentary employee, whose duty is to serve Parliament.

3. I wish to remind the committee, and the public, that it was the wish of Parliament that I should be able to investigate complaints independently.

The Standards Committee’s proposals for the post

4. After a 9 month inquiry, the Standards Committee produced its proposals for a mechanism of complaints investigation in its 4th Report 2000. The Committee summarised its view on the appointment of an independent Commissioner thus:

“At its meeting on 14th June, therefore, the Committee agreed to recommend the appointment of a Standards Commissioner, with a view to maximising public confidence in the Parliament’s commitment to maintaining the highest levels of probity in conducting its affairs. The critical factor in the Committee’s decision was the degree of independence which a Commissioner could apply to the investigation of complaints about the conduct of MSPs.”

5. Standards Committee brought forward its Proposal for a Standards Commissioner Committee Bill in its 2nd Report 2001. In the conclusion, it noted that:

“The Commissioner will be an important independent element in ensuring that complaints against Members are dealt with in a transparent and rigorous manner.”
Stage 1 debate on the Bill
6. There is an interesting reminder here that the powers of the posts in question were created, or voted into effect, by Members of the Parliament, even though the full governance framework might not have been considered as each post was set up. In the Stage 1 debate on 28 February 2002, Des McNulty MSP, a member of Standards Committee until January 2001 (as he indicated at Finance Committee on 6th June) said;
“After a long process of deliberation, we decided that we wanted to have an independent Standards Commissioner. I warmly endorse that decision and the fact that it has been carried forward into the bill. There is a broad measure of cross party support for that role and for its being filled by an independent person. …We have established clearer principles and a better procedure for dealing with complaints [compared to Westminster], whereby the person investigating the complaints will be clearly independent and the Parliament itself will transfer its statutory powers to allow that person to carry out their function. Those are good principles.”

The Scottish Parliamentary Standards Commissioner Act 2002
7. Section 4 of the Act generally makes the Standards Commissioner subject to directions given by Parliament about the conduct of investigations or provision of reports. However operational independence is established by subsection 3 which provides:
“However, any direction to the Commissioner by the Parliament under this section shall not direct the Commissioner as to whether or how any particular investigation is to be carried out.”

Other posts
8. I note in passing that the legislation setting up the other posts under consideration protects operational independence by explicitly stating that:
“…in the exercise of that officer’s functions, {the officer} …is not subject to the direction or control of:
(a) any member of Parliament”
(b) any member of the Scottish Executive
(c) the Scottish parliament Corporate Body”
(with some exceptions such as needing approval of SPCB to appoint staff).

Conclusion
9. I hope I have furthered my aim of stressing the need to protect Parliament’s original intention for operational independence for my and other related posts while putting in place appropriate mechanisms for oversight of financial and efficiency issues. I hope I have also reinforced to any member of the public who may have been in doubt that in conducting complaint investigations I operate, as intended by Parliament, independently of the Parliament, rather than being there to serve it.
10. I am confident that the Committee will find a way to put a comprehensive governance framework in place which will not compromise operational independence and which will optimise the interaction between Parliament and the office holders to the benefit of all.

Dr J A T Dyer
Scottish Parliamentary Standards Commissioner
16th June 2006
Supplementary Submission from Scottish Commission for the Regulation of Care

I wish to point out to the Committee that the Social Work Inspection Agency does not routinely enter care homes or other premises defined in the Regulation of Care (Scotland) Act 2001, but it does have the power to enter these premises, if required. This is set out in the legislation “Joint Inspection of Children’s Services and Inspection of Social Work Services” February 2006.

Yours sincerely

Jacquie C Roberts
Chief Executive
Dear Convener

Thank you for giving the Scottish Commission for Public Audit (SCPA) the opportunity to contribute to the Finance Committee’s Accountability and Governance Inquiry. I hope you found the evidence Andy Munro and I provided on behalf of the SCPA on 16 May 2006 useful.

During the course of the meeting John Swinney raised issues relating to the time taken scrutinising Audit Scotland’s annual accounts, Corporate Plan and annual budget bids. In light of this discussion, I thought it might be useful to supplement the response provided which related to the time taken within formal meetings of the SCPA by providing information on the amount of time involved in work undertaken by the SCPA’s external auditors, as this forms part of the ongoing scrutiny of Audit Scotland.

In accordance with its responsibilities as set out in the Public Finance and Accountability (Scotland) Act 2000, the SCPA has appointed a qualified auditor (Haines Watts CA) to audit the accounts of Audit Scotland and to perform Economy, Efficiency and Effectiveness examinations (3E’s) into Audit Scotland’s use of resources.

In relation to 3E’s, Haines Watts is currently undertaking a 3E’s examination, which will require 20 days of partner time, 15 days of senior consultant time and 10 days of consultant time. Unfortunately I am not yet in a position to share details of the subject matter of the examination with the Finance Committee but am hopeful that recommendations will emerge from this piece of work which will aid the SCPA in its scrutiny of Audit Scotland’s use of resources.

Turning to the audit of Audit Scotland, I attach as an annex an extract of Haines Watts’ contract which includes details of the specific areas where the auditor is required to undertake work and report to the SCPA during the course of the annual audit.

Should you require any further information on any of the above or any other matters concerning the work of the SCPA during the remainder of your inquiry please feel free to contact me.

Yours sincerely

Margaret Jamieson MSP
Convener
Scottish Commission for Public Audit
4.3.1 The Contractor will report to the SCPA on the following:

- Their findings on the matters set out in section 22(1)(a) and (b) of the Public Finance and Accountability (Scotland) Act 2000;

- Whether, in the Contractor’s opinion the statement of accounts prepared in accordance with Section 19(1) of the Public Finance and Accountability (Scotland) Act 2000 and any direction issued by the Scottish Ministers give the information so required and show a true and fair view of the state of affairs and the income and expenditure of Audit Scotland.

4.3.2 The Contractor will undertake the following tasks:

- A review of Audit Scotland’s bookkeeping, accounting and internal control systems, including internal audit systems;

- Tests designed to check whether there has been fraud, serious defalcations or other major irregularities;

- Tests on day-to-day operations of Audit Scotland, including payroll payments, project appraisals and tendering procedures; the verification of approvals for projects and expenditure; the verification of assets and liabilities; and the procedures for asset disposals;

- Such other tests, as the Contractor considers necessary to give their opinion on the accounts.

4.3.3 It is recognised that the nature and extent of such tests will vary according to the Contractor’s assessment of Audit Scotland’s general systems of internal control.

4.3.4 The Contractor should draw attention in that report to any of the following points with which they are not satisfied with, or are satisfied only subject to qualifications:

- Whether Audit Scotland has complied with requirements notified by the Scottish Ministers about the form and substance of the accounts;

- Whether proper accounts and other records have been kept by Audit Scotland and proper returns adequate for the purpose of this
audit have been received in respect of all the activities of Audit Scotland;

- Whether Audit Scotland’s accounts are in agreement with the books of account and other records;

- Whether the Contractor has obtained all the information and explanations which they think necessary for the purposes of the audit.

4.3.5 In addition to expressing their professional opinion on the accounts the Contractor should draw attention to any material items of account which are not in accordance with Public Finance and Accountability (Scotland) Act 2000 or with any Financial Memorandum or any other administrative rules and approvals to which attention is not already specifically drawn in the notes to the accounts. In particular, the Contractor should report if Audit Scotland has incurred any revenue or capital expenditure not authorised in accordance with any administrative rules communicated to Audit Scotland, including payments made out with delegated authorities.

4.3.6 The Contractor should provide relevant details in their report, where they find evidence of:

- Any significant losses due to misconduct, fraud or other irregularities, which are disclosed in the course of the audit or have been discovered by Audit Scotland’s management during the financial year;

- Any occasion revealed by the audit when, in the Contractor’s opinion, Audit Scotland’s members or officers have fallen short of the high standards of financial integrity expected of those responsible for the management of public assets;

- Any occasion where a contract has been signed for a value in excess of any delegated limit but for which no authorisation has been issued, or where the expenditure incurred exceeds the delegated authority after taking account of a 10% tolerance to meet price rises;

- Any occasion revealed during the course of the audit or by the tests the Contractor carries out where Audit Scotland has incurred expenditure of an extravagant or wasteful nature judged by normal commercial practice.

4.3.7 While the Contractor is responsible for the management of the audit they must advise the SCPA of any changes in their policies for rotating the responsibility for particular audits among their partners and managers and for changing the members of staff working on any audit from those previously advised.
4.3.8 The Contractor’s formal report on the accounts should be sent to the SCPA to arrive no later than the end of the September following the audit period. Any further reports on other matters covered by the audit should be sent simultaneously to the SCPA with a copy to the Auditor General for Scotland. Where the Contractor makes any observations in a management letter, a copy should be sent simultaneously to the SCPA.
Finance Committee

19th Meeting 2006, Tuesday 27 June 2006

Budget Approach Paper

Introduction
1. The purpose of this paper is to outline proposals for the Finance Committee’s approach to its scrutiny of stage 2 of the 2007-08 Draft Budget. It also details a proposed timetable for this work.

Background
2. In accordance with the standard approach to budget scrutiny previously agreed by the Committee, there will be no formal stage 1 for the consideration of the 2007-08 Draft Budget as it is not a Spending Review year. As such, the Committee will only consider the 2007-08 Draft Budget at stage 2.

Timescales
3. It is anticipated that the Scottish Executive will publish its detailed spending proposals in early September 2006. As with previous years, the stage 2 debate on the draft budget is likely to be in December.

4. Between the publication of the budget and the debate, the Committee will need to factor in various pieces of work into its work schedule. This will include taking evidence on the Executive’s and the Scottish Parliamentary Corporate Body’s (SPCB) proposed budgets, consideration of reports from subject committees and the Scottish Commission for Public Audit (SCPA), and agreeing its stage 2 report.

Evidence
5. As standard, it is proposed that the Committee takes evidence from the Minister and the SPCB on their spending proposals. In addition, last year the Committee received a late written submission from the Scottish Women’s Budget Group, and it was agreed that while it was too late to consider the submission for the 2006-07 Draft Budget, the Group would be invited to give evidence on the 2007-08 Draft Budget. The Committee is therefore invited to agree to request written and oral evidence from the Scottish Women’s Budget Group at stage 2 this year.

External meeting
6. In previous years, the Finance Committee has hosted external meetings as part of its budget scrutiny. In the first session, the Committee visited Orkney, Skye, Kirkcudbright and Perth. In this session the Committee has met in Motherwell, Cupar and Elgin. It is suggested that the Committee may wish to undertake an external meeting again this year, to an area that it has not yet visited. It is suggested that the Committee may wish to host this year’s meeting in the south of Scotland. Members are invited to agree a specific location for this meeting.
7. The purpose of this meeting would be to take evidence from the Minister for Finance and Public Service Reform. The purpose would also be to invite local people to participate in informal workshops prior to the meeting, to discuss how the budget process impacts upon them. The intentions of the workshops are to raise public awareness, encourage public participation with the Parliament and the Finance Committee, and to identify issues from the national budget which affect people at a local level. As with previous years, it is suggested that Committee members will be assigned to each group. One member per group will then be appointed as the workshop chair, and another member will be appointed to report a summary of workshop discussions during the formal Committee meeting.

8. In addition to these workshops there may be scope to encourage further public participation, for example by seeking to involve local school children in the meeting, via the Parliament’s Education Outreach Service, so they can learn more about how the Parliament works.

9. If members agree to hold an external meeting as part of stage 2 scrutiny, the clerks will prepare papers for the Convener’s Group and the Parliamentary Bureau to seek the necessary approvals for the meeting in accordance with Rule 12.3.2 of Standing Orders.

10. To ensure availability of Parliament staff (for example the Official Report and security) given other parliamentary business on Tuesdays, it may be advisable for this meeting to be held on a Monday.

Subject Committee Reports

11. In previous years, subject committees were asked to submit their reports to the Finance Committee in time for them to be included in the Committee’s draft report. As the budget adviser would provide the Committee with a summary of the subject committees’ reports in the Finance Committee’s draft report rather than summarising them at an earlier meeting, then this provides subject committees with more time to scrutinise the draft budget. The Committee may wish to adopt this approach again this year.

12. As standard the Committee will issue guidance to subject committees on stage 2 scrutiny. Last year, the Committee asked subject committees to consider and report on the Efficient Government initiative in relation to their portfolio in addition to scrutinising the relevant spending proposals. This year, the Committee may wish to ask subject committees to comment on the progress of the Efficient Government initiative projects within their remit, in light of the updated Efficiency Technical Notes and the annual report on the Efficient Government initiative which is due to be published.

13. In addition, as due to the elections there will be no stage 1 of the 2008-09 Budget Process, the Committee may wish to request in the guidance that subject committees identify spending proposal priorities for 2008-09
during their stage 2 consideration. These priorities could then be detailed in any legacy paper for future subject committees to consider during stage 2 of the 2008-09 Budget Process.

14. A proposed timetable for the Committee’s stage 2 budget consideration is outlined below. Members are invited to note that this timetable is provisional and dependent upon the Executive publishing draft spending proposals in early September.

<table>
<thead>
<tr>
<th>Date</th>
<th>Agenda Items</th>
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<tr>
<td>Tuesday 12 September</td>
<td>• Agree guidance for subject committees</td>
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<td></td>
<td>• Consider paper from budget adviser on the Draft Budget 2007-08</td>
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<tr>
<td>Tuesday 26 September</td>
<td>• Evidence from the Scottish Women’s Budget Group</td>
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<tr>
<td>Monday 6 November</td>
<td>• External meeting including formal Committee meeting with evidence from the Minister</td>
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<tr>
<td>Tuesday 14 November</td>
<td>• Evidence from SPCB</td>
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<td>• Consideration of SCPA report on Audit Scotland budget bid</td>
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<tr>
<td>Wednesday 15 November</td>
<td>• Deadline for submission of subject committee reports</td>
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<tr>
<td>Tuesday 28 November</td>
<td>• Consider draft stage 2 report</td>
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<tr>
<td>Tuesday 5 December</td>
<td>• Consider and agree draft stage 2 report</td>
</tr>
<tr>
<td>Week commencing 11 December</td>
<td>• Publish stage 2 report</td>
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**Recommendations**

15. The Committee is invited to:

- agree to take evidence from the Scottish Women’s Budget Group;
- agree to hold an external meeting, to agree a specific location and to agree the outline format as set out in paragraphs 10-15 above;
- request the clerks seek the appropriate authorisations for such a meeting;
- delegate the authority given to them under Rule 12.4.3 of Standing Orders to the Convener to authorise witness expenses if appropriate;
- agree to deal with subject committee reports as set out in paragraphs 16 - 18 above; and
- agree to request that subject committees outline future spending priority proposals in any legacy paper for future committees.

Kristin Mitchell
Assistant Clerk