



ENTERPRISE AND CULTURE COMMITTEE

2nd Meeting, 2003 (Session 2)

Tuesday, 2 September 2003

The Committee will meet at 2 pm in Committee Room 2.

1. **UK Legal Deposit Libraries Bill:** the Committee will take evidence on the Bill from the Minister for Tourism, Culture and Sport.
2. **Subordinate Legislation:** the Committee will consider the following negative instruments—
 - the Education (Student Loans) Amendment (Scotland) Regulations 2003
 - the Stevenson College (Change of Name) (Scotland) Order 2003
3. **Scottish Solutions Inquiry:** the Committee will take evidence from Professor Arthur Midwinter.
4. **Scottish Solutions Inquiry:** the Committee will consider a proposal on witness expenses.
5. **Scottish Solutions Inquiry:** the Committee will consider a proposal for an event.
6. **Committee Work Programme:** the Committee will consider its work programme.

Simon Watkins
Clerk to the Committee
Room 2.7, Committee Chambers
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The following papers are enclosed:

Agenda Item 1
Cover note

[EC/S2/03/02/01](#)

Agenda Item 2
Cover note

[EC/S2/03/02/02](#)

Agenda Item 3

Cover note

EC/S2/03/02/03

Evidence from Professor Midwinter

EC/S2/03/02/04

SPICe briefing Funding Higher Education in Scotland and England

EC/S2/03/02/05

SPICe briefing Methods of Funding Higher Education

EC/S2/03/02/06

Agenda Item 4

Cover note

EC/S2/03/02/07

Agenda Item 5

Cover note

EC/S2/03/02/08

Agenda Item 6

Cover note

EC/S2/03/02/09

Work programme **PAPER TO FOLLOW**

EC/S2/03/02/10

Enterprise and Culture Committee

Meeting 2 September 2003

UK Legal Deposit Libraries Bill

Introduction

This paper sets out the arrangements for the Committee's consideration of devolved matters which are contained within a UK Bill – the Legal Deposit Libraries Bill.

Parliament is due to debate a 'Sewel Motion' (S2M-240) in the name of Mr Frank McAveety MSP, Minister for Tourism, Culture and Sport: 'That the Parliament supports the principles of the Legal Deposit Libraries Bill 2003 and agrees that the provisions in the Bill that relate to devolved matters should be considered by the UK Parliament.'

The Minister for Tourism, Culture and Sport will appear before the Committee at this meeting to answer any queries members may have on the Motion, in advance of the debate in the Parliament.

Sewel Motions

A Sewel Motion is a device by which the Executive invites the Scottish Parliament to agree to allow the UK Parliament to legislate on relevant devolved matters. The motion is a matter of convention rather than law, and the decision of the Scottish Parliament therefore has no legal effect. Instead, in agreeing or disagreeing to the motion, the Scottish Parliament will be expressing a view on the matters referred to in the motion.

Executive Memorandum

The Executive has prepared a memorandum – attached at Annex A – which outlines the terms of the UK Legal Deposit Libraries Bill and highlights the provisions which relate to devolved matters.

Under section 15 of the Legal Deposit Act 1915 the National Library of Scotland is entitled to receive, on request, a copy of each book or serial or other printed publication which is printed in the UK free of charge.

The Executive memorandum states that the purpose of the Legal Deposit Libraries Bill is: 'to extend the provisions of the legal deposit to cover material published in media other than print: electronic on-line and off-line publications and other non print materials. This would cover materials such as Internet publications, e-journals, CD ROMs and microforms thereby ensuring that all publications of significance are collected, regardless of the medium in which they are published, and are preserved as part of the national published archive, so as to remain available to future generations of users.'

The Bill is provisionally due for a second reading in the Lords on 12 September 2003. A copy of the Bill as brought from the House of Commons on 2 July 2003 is attached as Annex B.

Procedure

As there are no formal procedures for the consideration of Sewel Motions set out in Standing Orders, there is no formal requirement for the Committee to report to the Parliament.

Simon Watkins
Clerk to the Committee

MEMORANDUM

LEGAL DEPOSIT LIBRARIES BILL

Purpose

1. In order to ensure that the National Library for Scotland retains the benefit of the present arrangements, it is proposed that the Legal Deposit Libraries Bill should extend to Scotland. A Sewel Motion is, therefore, required to obtain the consent of the Scottish Parliament to this Bill.

Background

2. The purpose of the Legal Deposit Libraries Bill, which received its Third Reading on 4 July (the Bill went to the Lords on 7 July), is to extend the provisions of the legal deposit to cover material published in media other than print: electronic on-line and off-line publications and other non print materials. This would cover materials such as Internet publications, e-journals, CD ROMs and microforms thereby ensuring that all publications of significance are collected, regardless of the medium in which they are published, and are preserved as part of the national published archive, so as to remain available to future generations of users.

3. Under Section 15 of the Copyright Act 1911, a copy of each book or serial or other printed publication which is published in the UK is required to be deposited, free of charge, in the British Library. Under this, five other libraries (the National Libraries of Scotland and Wales, and the University libraries of Oxford, Cambridge and Trinity College Dublin) are each entitled to receive, on request, one free copy of any book or other printed publication published in the UK. These libraries, together with the British Library, are collectively known as the deposit libraries.

4. Section 15 of the Copyright Act 1911 applies only to works in printed form. Since the development of new media and the growth of publication in non-print forms, the existing legislation has ceased to be adequate to ensure the continuation of a comprehensive archive of the nation's published material.

Content of the Bill

5. The Bill has 17 clauses: Clause 1-3 set out Duty to Deposit; Clause 4 and 5 preserve the existing framework set out in Section 15 of the 1911 Copyright Act regarding print; Clauses 6-8 set out the regulation making powers of the Secretary of State, particularly in relation to non-print material. Clauses 9 and 10 deal with exemption from liability. Clauses 11-13 deal with Regulations. The final clauses deal with general issues of definition (Clause 14), consequential amendments, repeals and revocations (Clause 15), commencement and extent (Clause 16) and short title (Clause 17).

Commentary on Clauses related to Scotland

Clause 1: Deposit of publications

6. This clause imposes a duty on publishers to deposit any published material with the legal deposit library (or libraries) that is (or are) entitled to receive a copy of said material in the medium it is published. Such deposit must be at an address in the United Kingdom to be specified by the library.

7. It describes the types of printed material that must be deposited, and provides that non-print works that are prescribed by Regulations must also be deposited. It specifically addresses the issues of sound and film recordings, identifying the limited circumstances under which these will be covered: when they are incidental features of the main body of a work and not its purpose.

Clause 2: New and alternative editions

8. This clause addresses the issue of duplicate publications and provides that it is not necessary to deposit a new edition of a work if it is substantially the same as one already published in that medium. It enables the Secretary of State to determine the circumstances under which a work is to be considered 'substantially the same' as a previously published work and to determine the medium of deposit where the same work is published in different media.

Clause 3: Enforcement

9. This clause lays out those measures that can be taken if a publisher fails to deposit. The library will be able to apply to the county court (or to the sheriff court in Scotland) for an order requiring deposit, or in those instances where such an order would not be effective or appropriate, an order that the publisher make a payment equivalent to the cost of making good the failure to comply.

Clause 5: Printed publications: other libraries

10. This enables each of the other five legal deposit libraries (the National Library of Scotland, the National Library of Wales, the Bodleian Library, Oxford, the University Library, Cambridge and the Library of Trinity College, Dublin) to request a copy of each printed work. Such request must be in writing, may be made before the publication but may not be made more than 12 months after publication and can cover all future numbers or parts of an encyclopaedia, newspaper, magazine or other work. The deposit must be made within a month of publication or of receipt of the request by the publishers. The copy deposited must be of the same quality as the largest number of copies published in the United Kingdom at the time of delivery.

Clause 6: Regulations: deposit of non-print publications

11. This sets out the types of regulations that the Secretary of State can make in relation to non-print material. *Sub-section (1)* gives a general power to the Secretary of State to make regulations regarding the duty to deposit non-print material. *Sub-section (2)* sets out the type of things that the Secretary of State may include in regulations: to determine how and when a non-print publication must be deposited; the obligation to provide the information necessary to make the work accessible; the timing of deposit; the means of delivery of the work; the quality of the copy; the format of deposit (where a work is published in different formats); to determine when on-line publications are to be considered as published in the UK and to specify the medium in which the publication is to be delivered. It will not be necessary to deposit works published before the necessary regulations are made.

Clauses 9 and 10: Exemption from Liability

12. These specify exemptions from liability in relation to the deposit of publications and activities related to publications, and enable the Secretary of State to make regulations to apply in relation to liability (including criminal liability) of any description prescribed in the regulations.

Clauses 7 and 8: Use of non-print publications

13. These enable the Secretary of State to make regulations that amend other legislation, such as the Copyright, Designs and Patents Act 1988 to enable the deposit libraries to take copies of the material for the purposes of access to the material by the library and its readers, and for preservation purposes, without infringing intellectual property rights in that material. There is an arrangement whereby legal publications are in fact deposited with the Faculty of Advocates in Scotland, instead of the National Library of Scotland. Therefore, for the purposes of clause 7, the Faculty of Advocates is deemed to be a deposit library.

Clauses 11-12: Regulations

14. These enable different provisions to be made for different purposes, including for different media, for different descriptions of work, for different deposit libraries, and may make exceptions to the general provisions. Regulations will not be made without the consent of the National Assembly for Wales or the Scottish Executive, where the regulations remove or do not confer entitlements on the National Library of Wales or Scotland, respectively. There will be no obligation to obtain that consent where the National Libraries (or the Faculty of Advocates in the case of legal publications) have access to electronic works by electronic means.

15. In all other cases the National Assembly and the Scottish Ministers must be consulted if the regulations would affect the National Libraries in any way. It is also necessary to consult the deposit libraries and those publishers most likely to be affected before Regulations can be made. Any regulations that are made must be approved in draft by each House of Parliament.

Clause 15: Consequential amendments, repeals and revocations

16. This sets out the consequential amendments to the National Library of Scotland Act 1925, providing for legal publications to be deposited with the Faculty of Advocates, and together with the Schedule, those provisions which are to be repealed or revoked as they are superseded by this Act.

Clause 16: Commencement and Extent

17. The provisions of this Act, other than the powers to make regulations, will be brought into force by order made after consultation with the Scottish Ministers and the National Assembly. It extends throughout the UK.

SCOTTISH EXECUTIVE

July 2003

Legal Deposit Libraries Bill

CONTENTS

Duty to deposit

- 1 Deposit of publications
- 2 New and alternative editions
- 3 Enforcement

Printed publications

- 4 Printed publications: the British Library
- 5 Printed publications: other libraries

Non-print publications

- 6 Regulations: deposit of non-print publications
- 7 Restrictions on activities in relation to non-print publications
- 8 Activities in relation to non-print publications: copyright etc.

Exemption from liability

- 9 Exemption from liability: deposit of publications etc.
- 10 Exemption from liability: activities in relation to publications

Regulations

- 11 Regulations: general
- 12 Regulations: Scotland and Wales
- 13 Regulations: Trinity College, Dublin

General

- 14 Interpretation
 - 15 Consequential amendment, repeals and revocation
 - 16 Commencement and extent
 - 17 Short title
-

Schedule – Repeals and revocation

A
B I L L

TO

Make provision in place of section 15 of the Copyright Act 1911 relating to the deposit of printed and similar publications, including on and off line publications; to make provision about the use and preservation of material deposited; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Duty to deposit

1 Deposit of publications

- (1) A person who publishes in the United Kingdom a work to which this Act applies must at his own expense deliver a copy of it to an address specified (generally or in a particular case) by any deposit library entitled to delivery under this section. 5
- (2) If a deposit library other than the authority controlling the Library of Trinity College, Dublin has not specified an address, the copy is to be delivered to the library.
- (3) In the case of a work published in print, this Act applies to— 10
 - (a) a book (including a pamphlet, magazine or newspaper),
 - (b) a sheet of letterpress or music,
 - (c) a map, plan, chart or table, and
 - (d) a part of any such work;but that is subject to any prescribed exception. 15
- (4) In the case of a work published in a medium other than print, this Act applies to a work of a prescribed description.
- (5) A prescribed description may not include works consisting only of—
 - (a) a sound recording or film or both, or
 - (b) such material and other material which is merely incidental to it. 20

- (6) Subject to section 6(2)(h), the obligation under subsection (1) is to deliver a copy of the work in the medium in which it is published.
- (7) In this section, “address” means an address in the United Kingdom or an electronic address.

2 New and alternative editions 5

- (1) This Act does not apply to a work which is substantially the same as one already published in the same medium in the United Kingdom.
- (2) Where substantially the same work is published in the United Kingdom in more than one medium—
- (a) section 1(1) applies only in relation to its publication in one of those media, and
 - (b) that medium is to be determined in accordance with regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision as to circumstances in which works are or are not to be regarded for the purposes of this section as substantially the same. 10

3 Enforcement

- (1) This section applies where a person (in this section, “the publisher”) who is required by or under this Act to deliver anything to an address specified by a deposit library, or to a deposit library, has failed to comply with that obligation. 20
- (2) The library may, in accordance with rules of court, apply to the county court (or, in Scotland, to the sheriff) for an order requiring the publisher to comply with the obligation.
- (3) If on an application under subsection (2) it appears that— 25
- (a) the publisher is unable to comply with the obligation, or
 - (b) for any other reason, it is not appropriate to make an order under that subsection,
- the court or sheriff may instead make an order requiring the publisher to pay to the library an amount which is not more than the cost of making good the failure to comply. 30

Printed publications

4 Printed publications: the British Library

- (1) The British Library Board is entitled to delivery under section 1 of a copy of every work published in print. 35
- (2) The copy must be delivered within one month beginning with the day of publication.
- (3) The copy is to be of the same quality as the best copies which, at the time of delivery, have been produced for publication in the United Kingdom.
- (4) The Board must give a receipt in writing (whether sent by electronic or other means). 40

5 Printed publications: other libraries

- (1) Each deposit library other than the British Library Board is entitled to delivery under section 1 of a copy of any work published in print which it requests.
- (2) A request under this section must be in writing (whether sent by electronic or other means). 5
- (3) A request—
 (a) may be made before publication, and
 (b) in particular, may relate to all future numbers or parts of an encyclopaedia, newspaper, magazine or other work.
- (4) No request may be made after the end of 12 months beginning with the day of publication. 10
- (5) The copy must be delivered within one month beginning with—
 (a) the day of publication, or
 (b) if later, the day on which the request is received.
- (6) The copy is to be of the same quality as the largest number of copies which, at the time of delivery, have been produced for publication in the United Kingdom. 15

*Non-print publications***6 Regulations: deposit of non-print publications**

- (1) The Secretary of State may make regulations supplementing sections 1 and 2 as they apply to works published in media other than print. 20
- (2) Regulations under this section may in particular—
 (a) make provision about the time at which or the circumstances in which any deposit library becomes or ceases to be entitled to delivery under section 1; 25
 (b) require the person mentioned in section 1(1) to deliver, with the copy of the work, a copy of any computer program and any information necessary in order to access the work, and a copy of any manual and other material that accompanies the work and is made available to the public; 30
 (c) require delivery within a time prescribed by reference to publication or another event;
 (d) permit or require delivery by electronic means;
 (e) where a work is produced for publication in copies of differing quality, specify the quality of copies to be delivered; 35
 (f) where a work is published or made available to the public in different formats, provide for the format in which any copy is to be delivered to be determined in accordance with requirements specified (generally or in a particular case) by the deposit libraries or any of them;
 (g) make provision as to the circumstances in which works published on line are or are not to be treated as published in the United Kingdom; 40
 (h) specify the medium in which a copy of a work published on line is to be delivered.

7 Restrictions on activities in relation to non-print publications

- (1) Subject to subsection (3), a relevant person may not do any of the activities listed in subsection (2) in relation to relevant material.
- (2) The activities are –
- (a) using the material (whether or not such use necessarily involves the making of a temporary copy of it); 5
 - (b) copying the material (other than by making a temporary copy where this is necessary for the purpose of using the material);
 - (c) in the case of relevant material comprising or containing a computer program or database, adapting it; 10
 - (d) lending the material to a third party (other than lending by a deposit library to a reader for use by the reader on library premises controlled by the library);
 - (e) transferring the material to a third party;
 - (f) disposing of the material. 15
- (3) The Secretary of State may by regulations make provision permitting relevant persons to do any of the activities listed in subsection (2) in relation to relevant material, subject to such conditions as may be prescribed.
- (4) Regulations under this section may in particular make provision about –
- (a) the purposes for which relevant material may be used or copied; 20
 - (b) the time at which or the circumstances in which readers may first use relevant material;
 - (c) the description of readers who may use relevant material;
 - (d) the limitations on the number of readers who may use relevant material at any one time (whether by limiting the number of terminals in a deposit library from which readers may at any one time access an electronic publication or otherwise). 25
- (5) In this section –
- (a) “reader” means a person who, for the purposes of research or study and with the permission of a deposit library, is on library premises controlled by it; 30
 - (b) “relevant material” means –
 - (i) a copy delivered under section 1 of a work published in a medium other than print;
 - (ii) a copy delivered pursuant to regulations under section 6 of a computer program or material within section 6(2)(b); 35
 - (iii) a copy of a work to which section 10(6) applies;
 - (iv) a copy (at any remove) of anything within any of subparagraphs (i) to (iii);
 - (c) “relevant person” means – 40
 - (i) a deposit library or person acting on its behalf;
 - (ii) a reader;
 - (d) references to a deposit library include references to the Faculty of Advocates.
- (6) A contravention of this section is actionable at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty. 45

8 Activities in relation to non-print publications: copyright etc.

- (1) In Chapter 3 of Part 1 of the 1988 Act (acts permitted in relation to copyright works), after section 44 insert—

“44A Legal deposit libraries

- (1) Copyright is not infringed by the copying of a work from the internet by a deposit library or person acting on its behalf if—
- (a) the work is of a description prescribed by regulations under section 10(5) of the 2003 Act,
 - (b) its publication on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and
 - (c) the copying is done in accordance with any conditions so prescribed.
- (2) Copyright is not infringed by the doing of anything in relation to relevant material permitted to be done under regulations under section 7 of the 2003 Act.
- (3) The Secretary of State may by regulations make provision excluding, in relation to prescribed activities done in relation to relevant material, the application of such of the provisions of this Chapter as are prescribed.
- (4) Regulations under subsection (3) may in particular make provision prescribing activities—
- (a) done for a prescribed purpose,
 - (b) done by prescribed descriptions of reader,
 - (c) done in relation to prescribed descriptions of relevant material,
 - (d) done other than in accordance with prescribed conditions.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- (a) “the 2003 Act” means the Legal Deposit Libraries Act 2003;
 - (b) “deposit library”, “reader” and “relevant material” have the same meaning as in section 7 of the 2003 Act;
 - (c) “prescribed” means prescribed by regulations made by the Secretary of State.”
- (2) In Part III of the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032) (database right), after Regulation 20 insert—

“Exceptions to database right: deposit libraries

- 20A.**(1) Database right in a database is not infringed by the copying of a work from the internet by a deposit library or person acting on its behalf if—
- (a) the work is of a description prescribed by regulations under section 10(5) of the 2003 Act,

- (b) its publication on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and
 - (c) the copying is done in accordance with any conditions so prescribed. 5
- (2) Database right in a database is not infringed by the doing of anything in relation to relevant material permitted to be done under regulations under section 7 of the 2003 Act.
- (3) Regulations under section 44A(3) of the 1988 Act exclude the application of paragraph (2) in relation to prescribed activities in relation to relevant material as (and to the extent that) they exclude the application of section 44A(2) of that Act in relation to those activities. 10
- (4) In this Regulation –
- (a) “the 2003 Act” means the Legal Deposit Libraries Act 2003; 15
 - (b) “deposit library” and “relevant material” have the same meaning as in section 7 of the 2003 Act.”

Exemption from liability

9 Exemption from liability: deposit of publications etc.

- (1) The delivery by a person, pursuant to section 1, of a copy of a work is to be taken – 20
- (a) not to breach any contract relating to any part of the work to which that person is a party, and
 - (b) not to infringe copyright, publication right or database right in relation to any part of the work or any patent. 25
- (2) Subsection (1) applies to the delivery, pursuant to regulations under section 6, of a copy of a computer program or material within section 6(2)(b) as it applies to the delivery of a copy of a work pursuant to section 1.

10 Exemption from liability: activities in relation to publications

- (1) A deposit library, or a person acting on its behalf, is not liable in damages, or subject to any criminal liability, for defamation arising out of the doing by a relevant person of an activity listed in section 7(2A) in relation to a copy of a work delivered under section 1. 30
- (2) Subsection (1) does not apply to the liability of a deposit library where –
- (a) it knows, or in the case of liability in damages it knows of facts or circumstances from which it ought to know, that the copy contains a defamatory statement, and 35
 - (b) it has had a reasonable opportunity since obtaining that knowledge to prevent the doing of the activity in relation to the copy.
- (3) Where, pursuant to section 1, a person (in this section, “the publisher”) has delivered a copy of a work to an address specified by a deposit library, the publisher is not liable in damages, or subject to any criminal liability, for defamation arising out of the doing by a relevant person of an activity listed in section 7(2A) in relation to the copy. 40

- (4) Subsection (3) does not apply where—
- (a) the publisher knows, or in the case of liability in damages the publisher knows of facts or circumstances from which it ought to know, that the copy contains a defamatory statement, and
 - (b) it has had a reasonable opportunity since obtaining that knowledge to inform the library of the matter, facts or circumstances known to it and has not done so. 5
- (5) Where a work is published on the internet, subsection (6) applies to a copy of the work if—
- (a) the work is of a description prescribed by regulations under this subsection, 10
 - (b) the publication of the work on the internet, or a person publishing it there, is connected with the United Kingdom in a manner so prescribed, and
 - (c) the copy was made by a deposit library or person acting on its behalf copying the work from the internet in accordance with any conditions so prescribed. 15
- (6) Where this subsection applies to a copy of a work—
- (a) no person other than the library is liable in damages, or subject to any criminal liability, for defamation arising out of the doing by a relevant person of an activity listed in section 7(2A) in relation to the copy, and 20
 - (b) subsections (1) and (2) apply in relation to the doing of an activity in relation to the copy as they apply in relation to the doing of the activity in relation to a copy of a work delivered under section 1.
- (7) In this section— 25
- (a) “relevant person” has the same meaning as in section 7;
 - (b) references to activities listed in section 7(2A) are references to those activities whether or not done in relation to relevant material (as defined in section 7);
 - (c) references to a deposit library include references to the Faculty of Advocates. 30
- (8) The Secretary of State may by regulations provide for this section, as it applies in relation to liability in damages and criminal liability for defamation, to apply in relation to liability (including criminal liability) of any description prescribed in the regulations, subject to such modifications as may be prescribed. 35
- (9) Where this section applies to the doing of an activity in relation to a copy of a work it also applies to the doing of the activity in relation to a copy (at any remove) of that copy.
- (10) Nothing in this section imposes liability on any person. 40

Regulations

11 Regulations: general

- (1) Any power under this Act to make regulations—
- (a) includes power to make different provision for different purposes, including in particular different media, descriptions of work, deposit libraries or areas; and 45

- (b) as well as being exercisable in relation to all cases to which it extends, may be exercised in relation to those cases subject to specified exceptions, or in relation to a particular case or class of cases.
- (2) Regulations under this Act may not be made unless the Secretary of State has consulted – 5
- (a) the deposit libraries, and
- (b) the publishers appearing to the Secretary of State to be likely to be affected.
- (3) Regulations under section 1(4) or 6 may not be made so as to apply to works published before the regulations are made. 10
- (4) Regulations under section 1(4), 2 or 6 may not be made unless the Secretary of State considers that the costs likely to be incurred as a result of the regulations by persons who publish works to which the regulations relate are not disproportionate to the benefit to the public arising from the delivery of copies of such works. 15
- (5) Regulations under section 1(4), 2, 6, 7 or 10(5) may not be made unless the Secretary of State considers that the regulations do not unreasonably prejudice the interests of persons who publish works to which the regulations relate.
- (6) Any power to make regulations under this Act is exercisable by statutory instrument, and no such regulations may be made unless a draft of the instrument containing them has been laid before and approved by a resolution of each House of Parliament. 20

12 Regulations: Scotland and Wales

- (1) Regulations under this Act may not be made without the consent of the Scottish Ministers if they would – 25
- (a) remove an entitlement conferred by or under this Act on the authority controlling the National Library of Scotland, or
- (b) confer an entitlement that is not conferred on that authority on any other deposit library.
- (2) Subsection (1) does not apply where the entitlement is to delivery of copies of electronic publications and – 30
- (a) in the case of legal publications, the Faculty of Advocates, or
- (b) in any other case, the authority controlling the National Library of Scotland,
- is provided with a means of accessing those publications electronically. 35
- (3) Where subsection (1) does not apply, regulations under this Act that would affect the authority controlling the National Library of Scotland may not be made unless the Secretary of State has consulted the Scottish Ministers.
- (4) Regulations under this Act may not be made without the consent of the National Assembly for Wales if they would – 40
- (a) remove an entitlement conferred by or under this Act on the authority controlling the National Library of Wales, or
- (b) confer an entitlement that is not conferred on that authority on any other deposit library;

but this does not apply where the entitlement is to delivery of copies of electronic publications and that authority is provided with a means of accessing those publications electronically.

- (5) Where subsection (4) does not apply, regulations under this Act that would affect the authority controlling the National Library of Wales may not be made unless the Secretary of State has consulted the National Assembly for Wales. 5

13 Regulations: Trinity College, Dublin

- (1) Regulations under this Act which confer an entitlement on the authority controlling the Library of Trinity College, Dublin may not be made unless the Secretary of State is satisfied, in relation to relevant material delivered pursuant to such an entitlement— 10
- (a) that as regards the restriction by section 7 (having regard to any regulations made under that section) of activities in relation to relevant material, the restriction of those activities under the laws of Ireland is not substantially less, 15
 - (b) that as regards the protection under the laws of any part of the United Kingdom of copyright, publication right, database right and patents in relation to relevant material, the protection under the laws of Ireland of corresponding rights is not substantially less, and
 - (c) that as regards the protection from liability under subsections (3) and (4) of section 10 (or those subsections as applied by regulations under that section), the protection under the laws of Ireland in relation to corresponding liability is not substantially less. 20
- (2) In this section “relevant material” has the same meaning as in section 7.

General 25

14 Interpretation

In this Act—

- “the 1988 Act” means the Copyright, Designs and Patents Act 1988 (c. 48);
- “database right” has the meaning given by regulation 13(1) of the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032); 30
- “deposit library” means any of the British Library Board and the authorities controlling—
 - (a) the National Library of Scotland,
 - (b) the National Library of Wales,
 - (c) the Bodleian Library, Oxford, 35
 - (d) the University Library, Cambridge,
 - (e) the Library of Trinity College, Dublin;
- “electronic publication” means an on line or off line publication including any publication in electronic form (within the meaning given by section 178 of the 1988 Act); 40
- “film” has the meaning given by section 5B of the 1988 Act;
- “medium” means any medium of publication, including in particular any form of on line or off line publication;
- “prescribed” means prescribed by regulations made by the Secretary of State; 45

“publication”, in relation to a work –

- (a) means the issue of copies of the work to the public, and
- (b) includes making the work available to the public by means of an electronic retrieval system;

and related expressions are to be interpreted accordingly;

5

“publication right” has the meaning given by regulation 16(1) of the Copyright and Related Rights Regulations 1996 (S.I. 1996/2967);

“sound recording” has the meaning given by section 5A of the 1988 Act.

15 Consequential amendment, repeals and revocation

(1) The provisions listed in the Schedule are repealed or revoked to the extent specified. 10

(2) Section 5 of the National Library of Scotland Act 1925 (c. 73) (transfer of privilege under section 15 of the Copyright Act 1911) is amended as follows.

(3) For subsections (1) to (3) substitute –

“(1) Copies of legal publications delivered for the Board as the authority for the Library under section 1 of the Legal Deposit Libraries Act 2003 shall be transmitted by the Board to the Faculty. 15

(2) The Board shall cause to be inserted in the requests made for them under section 5 of that Act such legal publications as may be named in writing to them by the Faculty.” 20

(4) In subsections (4) and (5), for “law books” substitute “legal publications”.

(5) After subsection (5) add –

“(6) In this section, “publication” includes a publication made available to the public by means of an electronic retrieval system.”

16 Commencement and extent

25

(1) The preceding provisions of this Act, except so far as they confer power to make regulations, come into force in accordance with provision made by the Secretary of State by order made by statutory instrument.

(2) Different provision may be made for different purposes.

(3) An order under subsection (1) may not be made unless the Secretary of State has consulted the Scottish Ministers and the National Assembly for Wales. 30

(4) This Act does not apply to works published before the commencement of section 1.

(5) This Act extends to Northern Ireland.

17 Short title

35

This Act may be cited as the Legal Deposit Libraries Act 2003.

SCHEDULE

Section 15(1)

REPEALS AND REVOCATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Copyright Act 1911 (c. 46)	Section 15.
British Museum Act 1932 (c. 34)	The whole Act.
British Library Act 1972 (c. 54)	Section 4(1).
National Assembly of Wales (Transfer of Functions) Order 1999 (S. I. 1999/672)	In Schedule 2, the entry relating to the Copyright Act 1911.

5

Legal Deposit Libraries Bill

A

B I L L

To make provision in place of section 15 of the Copyright Act 1911 relating to the deposit of printed and similar publications, including on and off line publications; to make provision about the use and preservation of material deposited; and for connected purposes.

Brought from the Commons on 7th July 2003

Ordered to be Printed, 7th July 2003

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Enterprise and Culture Committee

Meeting 2 September 2003

Subordinate Legislation

Introduction

The following instruments were laid before Parliament on 6 June 2003 and are attached at Annex A:

the Education (Student Loans) Amendment (Scotland) Regulations 2003

the Stevenson College (Change of Name) (Scotland) Order 2003

Scottish Executive officials will be in attendance at the meeting to take questions on the instruments.

Education (Student Loans) Amendment (Scotland) Regulations 2003

These regulations increase the maximum amounts that may be lent to students in relation to an academic year, in line with inflation. They amend the Education (Student Loans) Regulations 1998, which govern mortgage-style loans for students.

The Subordinate Legislation Committee had no issues to raise on these regulations.

Stevenson College (Change of Name) (Scotland) Order 2003

This order changes the name of Stevenson College to Stevenson College, Edinburgh. It also changes the name of the board of management of the college to the Board of Management of Stevenson College, Edinburgh.

The Subordinate Legislation Committee drew the attention of the Committee to two issues as follows:

- this Order is not accompanied by an Executive Note. The Executive responded that it considers that the Explanatory Note covers the purpose and effect of the instrument and everything that would be contained in the Executive Note. **The Subordinate Legislation Committee's view is that the Explanatory Note does not really give any real information as to why it was necessary for the name of the college to be changed.**
- the Subordinate Legislation Committee queried the use of (Scotland) in the title of the Order, given that the territorial limitations of the Order appear to be obvious. The Executive responded that "Stevenson College" in the title was not sufficient to indicate an exclusive connection with Scotland (given the possibility of a similarly named College elsewhere in the UK) and therefore that the title should include "(Scotland)" for this Order. **It is the Subordinate Legislation Committee's view that the word "(Scotland)" in the title guards against there being another similarly named college in the UK. It**

would not assist if there were another such college in Scotland, for example

Recommendation

The Committee is invited to consider any issues that it wishes to raise in reporting to the Parliament on these instruments.

Simon Watkins
Clerk to the Committee

Enterprise and Culture Committee

Meeting 2 September 2003

Scottish Solutions Inquiry: Evidence from Professor Midwinter

The Committee launched its call for evidence in June with a deadline of 30 September for submissions. To date few submissions have been received, and the bulk of responses are likely, on past experience, to arrive near the deadline.

The Committee has however received an interesting early submission from Professor Arthur Midwinter. Professor Midwinter has undertaken research in the past on higher education funding in England and Scotland, and his paper reviews some of the issues regarding cross-border flows of students and the financial arrangements that relate to them.

Professor Midwinter's view is of course a personal one, but it does raise some of the issues on which members will wish to brief themselves early in the inquiry. He has therefore been invited to give oral evidence in support of his submission.

Also included are two background briefing notes prepared by SPCle, on higher education funding in Scotland and England, and methods of higher education funding globally.

Professor Midwinter has also acted as an adviser to the Finance Committee on the budget scrutiny process. However, his appearance before the Enterprise and Culture committee is entirely independent of that role.

Alasdair Morgan
Convener

**ENTERPRISE COMMITTEE
SCOTTISH SOLUTIONS INQUIRY**

Higher Education Funding in Scotland: Memorandum of Evidence

by

Professor A Midwinter

Budget Adviser to the Finance Committee

Background

1. The Committee's remit is to enquire into the impact in Scotland of the implementation of proposals in England to raise tuition fees for higher education. It is essential, therefore, that members have a clear understanding of the public financing of higher education, which is the dominant source of university funding.
2. The objective of this briefing paper is to provide a description of the current financial arrangements and an analysis of trends in university funding since its transfer from the University Funding Council in April 1993, and the further developments following the creation of the Scottish Parliament in 1999. It does not cover student funding.
3. University funding has faced considerable change since 1980. Funding support for overseas students was removed; recurrent grant for home students reduced; and further savings targets imposed until 1990. After two years of respite, fiscal squeeze returned in 1992.
4. The Scottish Higher Education Funding Council provides grants for recurrent and capital costs, whilst institutions also receive funds in lieu of individual fees from the Student Awards Agency for Scotland. In 1993-4, when the function was transferred to the Scottish Office, SHEFC provided for 104,000 students in Scottish Universities and this rose to 124,000 over the next decade. When HE students not in the university sector are included the current total provision is for 133,500.

5. However, over the 1993 to 1999 period, government pay policy assumed that increases in public sector pay would be funded from efficiency gains of around 2% per annum. In practice, this simply squeezed university staffing budgets, with a deterioration in staff-student ratios as a result

The Post-Devolution Period

6. The financial arrangements for funding devolution largely continued the block and formula system developed since 1978, which is known as the Barnett Formula. The Scottish block grant is contained within its Departmental Expenditure Limit, and it is the main source of higher education funding. Under this system, Scotland receives a population-based proportion of changes in planned spending on comparable UK government services. This means that the historic expenditure baseline, which has long been significantly higher in per capita terms in Scotland, forms the dominant part of the new budget.

7. There are three factors in determining changes to the block grant. These are:

- the *quantity* of change in planned spending in UK Government departments;

- the extent to which the relevant programme is *comparable* with the services carried out by the Executive; and

- the Scottish *population proportion* of England and Wales, as appropriate (England; England and Wales).

8. Mathematically, this converts into:-

Budgetary Change in UK Programme x Comparability Percentage x
Appropriate Population Proportion

In the case of higher education the comparability percentage is 100%;
and the population proportion is 9.66% (Scotland as % of England and
Wales).

9. The combined results of these calculations forms the block grant. The Executive has no obligation to follow the pattern of increase in England – indeed these are not in the public domain - and resources are allocated according to Scottish priorities. Nevertheless, the calculation of the higher

education element can be problematic for the Scottish Budget as a whole, as we currently cater for around 11% of the UK student population.

10. When the higher education budget was transferred into the block in 1993-4 the assumption was that Scotland was funding a surplus of 12600 students from elsewhere in the UK – the most recent estimates I have seen suggest this grew to around 16500 prior to the change in student finance in 1999. *This is an aspect of the inquiry for which the Committee requires more timely information.*
11. The Scottish Higher Education Funding Council grants to the Scottish Universities fund their core teaching and research costs. In practice this covers the salary costs of permanent academic and administrative staff, running costs and estate costs. Universities supplement this income through research and consultancy contracts, employing significant numbers of staff on temporary contracts. Most of this work is self financing, although some portion of it flows into general funds through overhead charges (not *all* funding bodies will pay overheads charges and universities are often prepared financially to subsidise research contracts from within their own resources to allow staff to undertake important research projects.
12. Since 1999, education has been identified as a spending priority by the Executive but the Higher Education Programme's share of the Scottish Budget has been falling consistently since then, and over the next Spending Review period its share will fall again, from 3.3% to 3.1%. Whilst there was modest growth in student numbers over the first Parliament of around 0.5% per annum, the expectation is that student numbers will remain broadly stable to 2005-6.

Issues for Consideration

13. What issues do these trends raise for the Scottish Solutions Inquiry? Firstly, members should be clear that HE's declining share of the Scottish Budget is the result of *political choice*, not the mechanistic operation of the Barnett formula. Comparisons with HE spending in England are problematic. The recent ministerial announcement of a 19% increase in real terms following the

UK Spending Review (compared with 7% in real terms for Scotland) included OST research funding – which is UK wide and some of which will flow to Scotland – and also HE students provided in the FE sector – which the Scottish figures do not. In addition, the differences in course mix would need to be taken into account to provide comparable data.

14. Under Barnett, Scotland receives the same *per capita* increase as the rest of the UK. As our baseline is higher, this results in a lower *percentage* increase – as it does for Wales and Northern Ireland. However, over the years this has been offset by our relative population decline, to maintain the higher per capita spend in Scotland (in Northern Ireland, population growth has the opposite effect, promoting convergence towards the UK average).
15. We can examine this with some precision by looking at figures for education as a whole, as set out in Table 1. This shows that the education share of Scottish expenditure has been falling since 1997, and so too has an expenditure per capita relative to the UK. However, Scottish per capita spending as a whole remained broadly stable over this period. This confirms the outcomes reflect political choice, not the block and formula system.
16. Table 2 sets out spending plans for higher education in comparison with total education and the Scottish Budget to 2005-6. This shows that whilst higher education funding will grow by 14.9% over this period, total education will grow by 25.4%, and the Scottish Budget will grow by 23.8%. *Higher Education funding has not been a budget priority for the Executive.*
17. The Committee will need accurate comparative data with the UK if it is to address the issue in an appropriate way. Although Barnett has no direct adverse consequences for HE at the moment, if English universities are permitted to increase fees further, then the additional monies will accrue *direct* to the universities concerned, and give them a comparative advantage, both over Scotland where there are no fees, and with these universities in England whose student population has a higher proportion from low-income households – as they can only charge what the market will bear. As income

from fees is *not* classed as public expenditure, these will not attract any Barnett consequentials to Scotland.

18. Higher education is distinctive in the devolution context, as it is administered within Scotland, but continues to operate on a UK basis for student applications. The Committee as a result will require to examine the impact of the UK changes on cross-border flows, which may increase as English, Welsh and Northern Ireland students seek to avoid these fees by studying in Scotland. In the NHS by contrast a system of cross-border payment flows compensates health authorities for such interaction. If cross-border flows become more important, then the Committee may wish to consider if the funding system needs reconsideration. In higher education, Scotland's higher spending reflects its share of the UK student population, not higher needs *within* Scotland as in school education.
19. These issues are of concern, not only for higher education as a function in its own right, but because of its relevance to both the economic and the social strategy. Increased fees in England will give their top universities further comparative advantage in terms of resources, and will increase inequality of access to higher education.
- 20.

Arthur Midwinter is Emeritus Professor of Politics at the University of Strathclyde. He was Dean of the Faculty of Arts and Social Sciences from 1994 -1999.

Table 1: Educational Expenditure in Scotland

	Education (£m)	Spending on public services (£m)	Share (%)	Education Index (%UK)	Public Services Index* (%UK)
1997-8	4058	16163	25.1	126	126
1998-9	4159	16726	24.8	123	126
1999-0	4293	17669	24.3	121	126
2000-1	4457	19206	23.2	117	127
2001-2	4992	21469	23.2	117	126
%Increase					
1997-2002	+23	+29			

Source: HM Treasury, Public Expenditure Statistical Analyses, 2003

Table 2: Spending Plans for Scotland to 2005-6

	2002-3 £m	2003-4 £m	2004-5 £m	2005-6 £m	% Change
Higher Education	700	726	770	804	+14.9
Total Education	4897	5416	5793	6141	+25.4
Scottish Budget	20972	22854	24210	25957	+23.8

Source: The Draft Budget (Scottish Executive 2002) and
Local Authority Grant-Aided Expenditure Assessments

FUNDING HIGHER EDUCATION IN SCOTLAND AND ENGLAND

ROSS BURNSIDE

This briefing has been produced for the Enterprise and Culture Committee to assist in its inquiry into the “impact of England’s University fees on Scottish Higher Education” (Scottish Parliament Enterprise and Culture Committee, 2003). It should be read in conjunction with SPICe Briefing 03/68 , *Methods of Funding Higher Education* (Burnside, 2003), which looks at global trends and funding figures for higher education in various systems throughout the world.

After briefly outlining the extent of higher education in Scotland, this paper will summarise the proposals contained within the English White Paper, *The Future of Higher Education* (Department for Education and Skills, 2003b), before looking at the levels of funding for higher education institutions in Scotland and England. The paper will also look at some of the potential key issues that may be of interest to the Committee inquiry.

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SPICe briefing

25 August 2003

03/67



The Scottish
Parliament

CONTENTS

<u>Key Points of this Briefing</u>	3
<u>What is Higher Education?</u>	4
<u>Inquiry Background – English Higher Education White Paper</u>	4
<u>The Future of Higher Education</u>	4
<u>Public Expenditure Implications of White Paper Proposals</u>	5
<u>Scottish Position on Tuition Fees</u>	6
<u>Public Funding of Higher Education in Scotland</u>	7
<u>Funding in Scotland and England Compared</u>	8
<u>Annex 1: Higher Education Institutions in Scotland</u>	12
<u>References</u>	13

KEY POINTS OF THIS BRIEFING

- In January 2003, the Department for Education and Skills published the *Future of Higher Education* outlining proposals for higher education in England, which, if implemented, would come into effect in 2006 at the earliest
- It is proposed that from 2006, English universities will be free to set their annual tuition fees up to a maximum of £3,000
- It is envisaged by the UK government that the reforms outlined in the White Paper will increase participation in English higher education from 43% to 50% of 18 to 30 year olds
- The publication of the English White Paper prompted the Scottish Parliament's Enterprise and Culture Committee to launch an inquiry "into the impact of England's university fees on Scottish higher education"
- All political parties in Scotland have ruled out the introduction of tuition fees in Scotland
- One potential implication of the changes to the English fee regime is increasing cross-border flows of students from England into Scotland
- If English universities are permitted to increase fees up to £3,000, as proposed in the White Paper, then the additional monies will accrue direct to the universities concerned, giving those universities a comparative financial advantage, both over Scotland where there are no fees, and over those universities in England unable to raise their fee rates above the minimum level due to a lack of demand
- There is debate as to the extent of funding for universities and the degree to which Scotland has higher funding levels than England
- Strict comparisons are problematic due to the different course offerings in Scotland and England
- From 1994-95 to 2001-02, the increase in total income to universities has been 44.5% in England and 45.2% in Scotland

WHAT IS HIGHER EDUCATION?

Higher education (HE) in Scotland ranges from Higher National Certificates (which last one year and are often taught in a further education college), through to three year ordinary degrees, four year honours degrees and doctoral qualifications. All HE degrees will include a theoretical base, and many are also directly vocational in nature. Annex 1 lists the 21 higher education institutions (HEIs) in Scotland, all of which, with the exception of the Scottish Agricultural College (SAC), are funded by the Scottish Higher Education Funding Council (SHEFC).

In 2001-02 there were a total of 272,627 students studying in the Scottish higher education sector (Scottish Executive, 2003b). Studies of the impact of the HEI sector on the Scottish economy have emphasised the importance of universities to Scottish prosperity (see McNicoll, Kelly and McLellan 1999). As well as employing 31,455 people directly, Universities Scotland (2003a) calculate that HEIs earn upwards of £365 million from the rest of the UK and abroad for the Scottish economy each year.

INQUIRY BACKGROUND – ENGLISH HIGHER EDUCATION WHITE PAPER

THE FUTURE OF HIGHER EDUCATION

In January 2003, the Department for Education and Skills (2003b) published *The Future of Higher Education* outlining proposals for HE in England. It is important to note that the implementation of these proposals will require changes to legislation, **and will not be put into effect prior to 2006.**

Included in the White Paper were the following proposals for HE in **England**:

- From 2006, universities will be free to set their annual tuition fees up to a maximum of £3,000. Under the current system (introduced in 1998) tuition fees are fixed across universities and courses at £1,100 per annum (for new entrants in Autumn 2002) – although, only students from families whose income exceeds £30,000 are required to pay these in full. Those from families with income below £20,000 are fully exempt.
- From 2006, students whose family income is up to £20,000 (who are exempt from fees under the current system) will be liable to pay fees up to a maximum of £1,900 per annum.
- No fees are required to be paid up front, as is currently the case. Fees can be paid up front, but can also be paid at the end of the course of study, via the Graduate Contribution Scheme (GCS) which operates in the same way as the current loan system. The loans will be set at a zero real interest rate and will be repayable once the (former) student starts earning over £15,000.
- Universities who set their tuition fees above £1,100 are subject to a signed “Access Agreement” – whereby the university is certified as taking steps to widen participation in higher education by students from lower socio-economic groups and non-traditional backgrounds.
- Fees are allowed to vary within institutions for different courses – for instance, a university may charge more for a medical degree than for an arts degree.
- Starting in Autumn 2004, students whose families have an income of £10,000 or less will be entitled to an annual grant of £1,000. Smaller grants, linked to salary, will be awarded to students from families earning £10,000 to £20,000. Students with family income over £20,000 will have no grant entitlement.
- It is envisaged that these reforms will increase participation in HE in England from 43% to 50% of 18 to 30 year olds.

In addition to these changes, the White Paper also proposes that the income threshold at which repayments start will increase from the current annual salary amount of £10,000 to a start amount of £15,000 p.a. **This specific proposal has implications for Scotland.** Because each of the devolved nations use the same system for repaying loans, the increase in the repayment threshold from £10,000 to £15,000 will apply across the UK.

The publication of the English White Paper prompted the Scottish Parliament's Enterprise and Culture Committee to launch an inquiry "into the impact of England's University fees on Scottish HE." The Scottish Executive too, has acknowledged the importance of any changes to HE in England to the Scottish HE sector. *A Framework for Higher Education in Scotland: Higher Education Review, Phase 2* (Scottish Executive, 2003a), stated:

We recognise that we will need to assess what impact new fee regimes being proposed elsewhere in the UK (as contained in the DfES paper, *The Future of higher education*) may have on the Scottish higher education sector. Any changes to the fee regime in England will require legislation and will not come into effect before 2006 – there is time to do this in a thoughtful way (p56).

PUBLIC EXPENDITURE IMPLICATIONS OF WHITE PAPER PROPOSALS

The *Institute for Fiscal Studies* has calculated that the introduction into law of the English HE White Paper proposals will likely cost an additional £1.8 billion per year once the system is fully in place, largely, they claim, because of the expansion in student numbers predicted in the White Paper. Table 1 outlines the additional costs of the proposals relative to the current HE system. It should be noted that the IFS figures are based on assumptions made by the IFS rather than policy commitments by Ministers.

Table 1: The public expenditure costs of the White Paper proposals relative to the current HE system

	Full Expansion (£ million)
<i>Extra Funds required</i>	
Teaching and maintenance loan subsidies - additional students	1,109
GCS loan subsidies - existing students	378
GCS loan subsidies - additional students	61
Maintenance grants - existing students	258
Maintenance grants - additional students	51
Raising funding per student - existing students	1,165
Raising funding per student - additional students	190
<i>Total extra funds required</i>	3,211
<i>Contributions</i>	
Top-up fee income - existing students	1,165
Basic fee income - additional students	61
Top-up fee income - additional students	190
<i>Total extra contributions</i>	1,416
<i>Net funds required</i>	1,795

Source: Goodman and Kaplan (2003, p41)

Table 2 presents IFS calculations of the additional cost of introducing the White Paper proposals over a transitional 5 year period.

Table 2: Cost of the White Paper Proposals relative to the current system in a 5 year transitional period

<i>£ million</i>	Full expansion	Example transition				
		Year 1	Year 2	Year 3	Year 4	Year 5
<i>Net funds required</i>						
White Paper proposals	1,795	615	973	1,331	1,563	1,795

Source: Goodman and Kaplan (2003, p45)

One potential impact of changes to the fee regime in England is increasing **cross-border flows** of students from England to Scotland. In terms of student numbers at the moment, Scottish HEIs host around 11% of the UK total, despite having only 8.6% of the UK population or 10% of the English population. This higher level of activity will have formed the basis of the resource transfer to Scotland when SHEFC was created in 1992. Increasing applications of students from England and elsewhere in the UK may be disadvantageous for Scotland in that it squeezes places at Scottish universities for Scottish students. In recent years, the net result of cross-border flows is about +16,500 for Scotland, substantially greater than the +12,600 figure which applied in 1993-94 when funding was transferred to the Scottish Block. The increasing net inward migration of students to Scotland, and the consequent budgetary implications for Scottish universities, may be an issue that the Committee and the Executive will want to think about as a potential effect of the English White Paper proposals.

If English universities are permitted to increase fees further as proposed in the White Paper, then the additional monies will accrue *direct* to the Universities concerned, and give those universities a comparative advantage, both over Scotland where there are no fees, and over those universities in England whose student population has a higher proportion from low-income households, as they can only charge what the market will bear. The Committee may want to consider options for filling the funding gap created when certain English universities are free to increase tuition levels, but Scottish universities have no such authority.

SCOTTISH POSITION ON TUITION FEES

All political parties in Scotland have ruled out the introduction of tuition fees in Scotland despite the current fee regime in place in England, where tuition is set at £1,100, and the proposals for top-up fees outlined in the White Paper. In *A Framework for Higher Education (2003a)*, the Scottish Executive made explicit its intention to not follow the fee route:

The abolition of fees was a major achievement, reflecting strongly-held views in Scotland about the way in which higher education should be funded – and for the same reason, the Executive does not intend to follow the move to higher fee contributions being explored in England (p58).

However, the Executive does make clear that funding from external sources is necessary if Scottish universities are to remain competitive:

Diversifying the sources of income will be an important theme over the next decade – institutions will need to look hard at the possibilities of increasing income from self- or employer-funded students, from business and industry, from charitable research funders and other partners (p58).

SPICe Briefing, *Methods of Funding Higher Education* (Burnside, 2003), will look at methods of funding HE used in other nations throughout the world, particularly the various degrees of public and private sector funding spent on tertiary education in OECD countries.

PUBLIC FUNDING OF HIGHER EDUCATION IN SCOTLAND

The largest funder of higher education in Scotland is the Scottish Executive, who in 2005-06 are expected to make £804 million available to Scottish HEIs via SHEFC and £373 million available via the Student Awards Agency for Scotland (SAAS) (Scottish Executive, 2002). SHEFC estimates that public funding accounts for 52% of total income to HEIs in Scotland (Universities Scotland, 2003a), a proportion which has been decreasing in recent years as the value of income from other sources has grown significantly in real terms.¹

Public funding is distributed to HEIs in three main ways. Most of the money is paid through the *Scottish Higher Education Funding Council* (SHEFC), an arms length agency which distributes money on behalf of the Scottish Executive. SHEFC operates three main elements of funding.

The largest share of money goes on **Teaching grants** – a total of £555 million, or 76% of the total SHEFC budget in 2003-04. The teaching grant allocation is calculated by a formula based on the number of students studying different subjects, which are arranged into 13 pricing bands ranging from £2,400 to £12,000 (averaging about £4,500 p.a.). Teaching grant funding is the main mechanism for funding Scottish universities and covers everything from core teaching to various maintenance costs. It is the decision of the individual HEI as to how this money is allocated.

The second element of funding is the **Research grant** which is used to sustain the research base of Scottish universities. This is allocated in accordance with a formula based on the Research Assessment Exercise (RAE), whereby universities with better RAE results get more of the research money. The research grant money for 2003-04 was a total of £139 million. There are also smaller grants available to post-graduate research (£15.6 million) and knowledge transfer (£6.5 million). Finally, there is a small amount of money for special projects or where it makes sense to fund activity collectively rather than each institution individually. An example of such a project is the JANET and subsequently SUPER-JANET project, the electronic cabling project which connects the UK education and research community. It currently connects all FE and HE institutions and the research councils.

Another source of public funding for HE comes from the *Student Award Agency for Scotland* (SAAS). The key function of SAAS is to provide financial support and advice to Scottish domiciled students undertaking HE courses in the UK and abroad. Spending plans for 2003-04 put the SAAS budget at £362 million (Scottish Executive, 2002).

A final source of public funding to HE in Scotland comes from UK-wide Research Councils which fund specific research projects in a range of academic fields. UK universities are able to bid for this money on a project-by-project basis. In 2000-01, Scotland won £85 million in Research Council funding equating to 13% of the total Research Council funding monies (Universities Scotland, 2002).

¹ The degree of public financing varies significantly from institution to institution.
providing research and information services to the Scottish Parliament

FUNDING IN SCOTLAND AND ENGLAND COMPARED

There is debate as to the extent of funding for universities and the degree to which Scotland has higher funding levels than England. Strict comparisons are problematic because of the different courses on offer north and south of the border. During the course of the inquiry, the Committee may want to seek guidance on comparing funding levels in England and Scotland.

Table 3 presents *Higher Education Statistics Association (HESA)* figures for total English and Scottish university income from 1994-95 onwards. It shows that increases during that period in total income have been 44.5% in England and 45.2% in Scotland.

Table 3: Sources of University funding 1994/95 to 2001/02 (£'000)

	Funding council grants	Tuition fees & education grants & contracts	Research grants & contracts	Other income - other services rendered	Other income other	Endowment & investment income	Total Income
England (£'000)							
1994/95	3,511,836	1,894,613	1,200,692	343,751	1,040,953	198,719	8,190,563
1995/96	3,552,729	2,119,093	1,294,262	394,450	1,169,239	215,639	8,745,412
1996/97	3,503,666	2,282,644	1,365,633	459,881	1,265,936	225,680	9,103,441
1997/98	3,609,435	2,396,244	1,430,986	488,807	1,327,888	246,962	9,500,322
1998/99	3,950,252	2,303,971	1,504,767	492,809	1,421,345	241,821	9,914,965
1999/00	4,127,617	2,440,433	1,613,757	481,336	1,552,625	248,881	10,464,649
2000/01	4,299,885	2,589,365	1,812,384	506,803	1,614,259	245,949	11,068,645
2001/02	4,550,854	2,827,714	1,986,518	531,969	1,721,685	220,336	11,839,076
England % change year-on-year							
1995/96	1.2	11.8	7.8	14.7	12.3	8.5	6.8
1996/97	-1.4	7.7	5.5	16.6	8.3	4.7	4.1
1997/98	3.0	5.0	4.8	6.3	4.9	9.4	4.4
1998/99	9.4	-3.9	5.2	0.8	7.0	-2.1	4.4
1999/00	4.5	5.9	7.2	-2.3	9.2	2.9	5.5
2000/01	4.2	6.1	12.3	5.3	4.0	-1.2	5.8
2001/02	5.8	9.2	9.6	5.0	6.7	-10.4	7.0
Scotland (£'000)							
1994/95	518,765	211,265	182,665	75,219	132,842	24,489	1,145,245
1995/96	549,167	228,430	187,387	84,831	147,371	27,894	1,225,080
1996/97	537,628	247,861	199,740	102,114	160,397	26,319	1,274,059
1997/98	545,474	263,388	215,629	94,560	176,713	30,726	1,326,490
1998/99	592,398	245,739	237,231	96,216	186,515	31,920	1,390,019
1999/00	619,773	257,922	255,430	93,048	202,925	27,817	1,456,915
2000/01	632,513	275,368	278,265	83,378	212,774	30,948	1,513,246
2001/02	693,453	309,199	320,521	103,566	211,439	25,283	1,663,461
Scotland % change year-on-year							
1995/96	5.9	8.1	2.6	12.8	10.9	13.9	7.0
1996/97	-2.1	8.5	6.6	20.4	8.8	-5.6	4.0
1997/98	1.5	6.3	8.0	-7.4	10.2	16.7	4.1
1998/99	8.6	-6.7	10.0	1.8	5.5	3.9	4.8
1999/00	4.6	5.0	7.7	-3.3	8.8	-12.9	4.8
2000/01	2.1	6.8	8.9	-10.4	4.9	11.3	3.9
2001/02	9.6	12.3	15.2	24.2	-0.6	-18.3	9.9

Source: HESA, *Resources of Higher Education Institutions*, various years

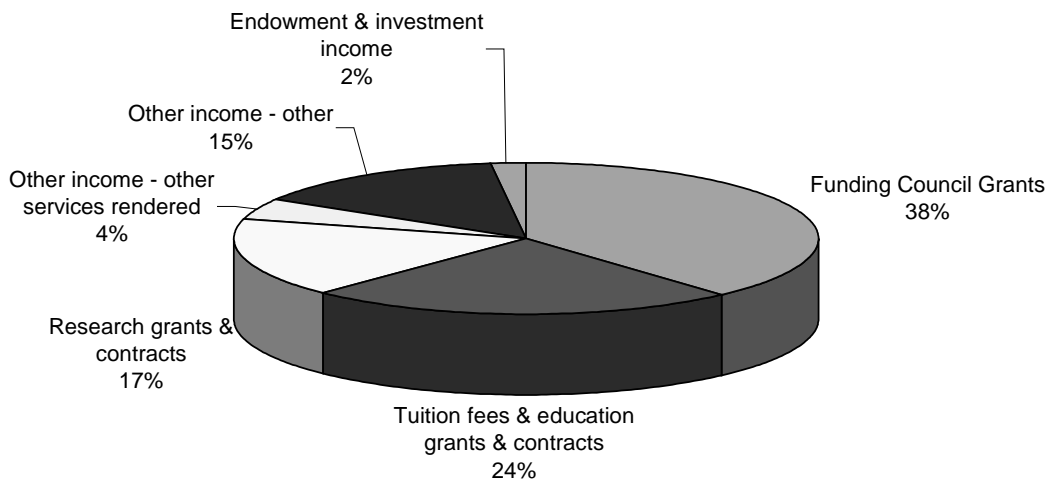
The sources of income included in each of the categories in table 3 can be found on the [HESA website](http://www.hesa.ac.uk/holisdocs/pubinfo/finance/findef02.htm). Available at: <http://www.hesa.ac.uk/holisdocs/pubinfo/finance/findef02.htm>.

Figure 1 (below) compares the proportion of funding in universities in Scotland and England in 2001-02. It shows that Scottish universities, in 2001-02, attained a higher proportion of their income from Funding Council Grants, but less from tuition fees, education grants and contracts. Scottish universities earned a slightly higher proportion of their income from research grants and

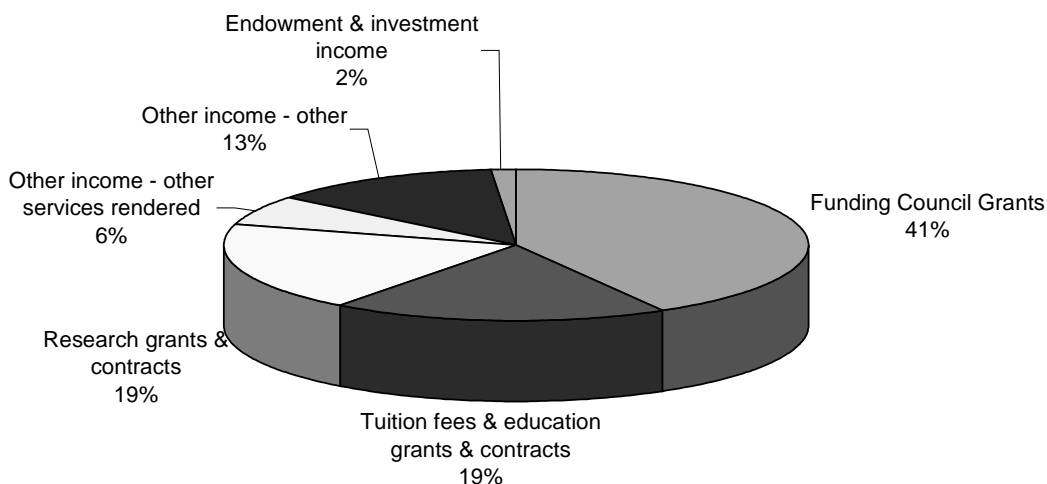
contracts (19%) than English universities (17%). English and Scottish universities earned the same 2% of their total 2001-02 income from endowment and investment income.

Figure 1: Sources of funding in England and Scotland (2001-02) compared

Sources of University funding in England, 2001-02 (£'000s)



Sources of University funding in Scotland, 2001-02 (£'000s)



Source: Higher Education Statistics Association (HESA)

Table 4: Projected spending plans for Scottish Higher Education

	2003-04	2004-05	2005-06
£ million	New Plans	New Plans	New Plans
Scottish Higher Education Funding Council	726	770	804
Student Awards Agency for Scotland	362	372	373
Total HE spend	1088	1142	1177
% change year-on-year		5.00%	3.10%

Source: Scottish Executive, 2002

Table 4 outlines the projected spending plans for Scottish HE until 2005-06. It shows that spending will increase by 8.1% from 2003-04 to 2005-06, but HE will represent a declining share of the total Scottish budget, decreasing from **4.76%** in 2003-04 to **4.55%** in 2005-06.

Table 5 presents the projected spending figures for English HE. As the total budget for England is not available,² it is not possible to present spend on HE as a proportion of the English budget – as is done for Scotland above.

Table 5: Projected spending plans for English Higher Education

	2003-04	2004-05	2005-06
£ million	Plans	Plans	Plans
Higher Education	7176	7326	8138
% change year-on-year		2.10%	11.10%

Source: Department for Education and Skills, 2003a

²There is no budget for England. This is due to the many areas for which funding is presented for England and Wales or the UK as a whole. Examples of UK-wide areas of spend include defence, social security and certain UK-wide transport links.

ANNEX 1: HIGHER EDUCATION INSTITUTIONS IN SCOTLAND

Of the 21 HEIs in Scotland, there are 13 Universities, The Open University in Scotland, one University college, two colleges of higher education, two Art Schools, a conservatoire, and the Scottish Agricultural College (which is funded directly by the Agriculture Department of the Scottish Executive). The 21 Scottish HEIs are as follows:

- University of Aberdeen
- University of Abertay Dundee
- University of Dundee
- University of Edinburgh
- Edinburgh College of Art
- University of Glasgow
- Glasgow Caledonian University
- Glasgow School of Art
- Heriot-Watt University
- Napier University
- University of Paisley
- Queen Margaret University College
- The Robert Gordon University
- Royal Scottish Academy of Music and Drama
- Scottish Agricultural College
- University of St Andrews
- University of Stirling
- University of Strathclyde
- The Open University in Scotland
- Bell College
- UHI Millennium Institute

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METHODS OF FUNDING HIGHER EDUCATION

ROSS BURNSIDE

This briefing has been produced for the Enterprise and Culture Committee to assist in its inquiry into funding higher education in Scotland. It provides some comparative sources of funding higher education in various educational systems throughout the world. It should be read in conjunction with the SPICe briefing 03/67, *Funding Higher Education in Scotland and England* (Burnside, 2003).

This briefing will look at some general global trends in the funding of Higher Education Institutions (HEIs) in recent years. It will outline some of the methods of funding HEIs in various educational systems (OECD and non-OECD European countries), and present funding indicators for various OECD countries.

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CONTENTS

<u>Key Points of this Briefing</u>	3
<u>Defining Higher Education</u>	4
<u>The Financing of Higher Education Institutions</u>	4
<u>Private Sources of Funding Tertiary Education</u>	5
<u>Private Sector Support to Tertiary Education in OECD Countries</u>	5
<u>Entrepreneurial Activities</u>	6
<u>Philanthropy</u>	7
<u>Public Financing of Tertiary Education</u>	7
<u>Tuition Fees & Grants/Loans</u>	7
<u>Model 1: Free Tuition</u>	7
<u>Model 2: Free Tuition with additional support provided to parents</u>	8
<u>Model 3: Support to cover the cost of living and tuition</u>	8
<u>Model 4: Hybrid</u>	8
<u>Public Support to Tertiary Education in OECD Countries</u>	8
<u>General Spending Patterns in OECD Countries</u>	9
<u>References</u>	13

KEY POINTS OF THIS BRIEFING

- The 1990s have seen a number of reforms in the finance and management of universities and other institutions of higher education, which have been consistent in many countries worldwide
- As demand for Higher Education has increased inexorably, governments throughout the world have sought methods of funding higher education that do not involve public funding
- This has resulted in government revenues increasingly being supplemented by non-governmental revenues by shifting the costs of higher education from the general taxpayer to parents and students especially, but also to philanthropists and purchasers of university services
- Universities across the world remain largely publicly funded, although the use of privately sourced money is a substantial and increasingly prevalent source of tertiary education funding
- In 10 out of 19 OECD countries, private expenditure grew by more than 30% between 1995 and 1999
- The increase in private funding to universities has generally not been accompanied by a decrease in public financing of universities – it would appear that the increase in private spending on tertiary education tends to complement, rather than replace, public investment
- There are a range of public financing policies pursued in various education systems throughout the world – although the levels of public expenditure do vary
- In 1999, the United Kingdom spent \$9,554 (US) per tertiary student, slightly higher than the OECD country mean of \$9,210 (US)
- In 1999, Canada, Korea and the United States spent the highest proportion of their GDP on tertiary education (2.5%, 2.4% and 2.3% respectively) accounting for more than one-third of their total expenditure on education

DEFINING HIGHER EDUCATION

When analysing tertiary education funding in other countries, one must be aware that the international definition of tertiary (post school) education includes both what we would call higher education (HE) **and** further education (FE). Comparative international data often does not make a distinction between HE and FE, and as a result the figures presented in this paper will compare the funding levels for HE and FE combined – as that is the only comparative data available.

A higher education qualification at degree level takes a minimum of three years to complete, more usually four and sometimes more. Universities Scotland (2002) state that “it will have a theoretical underpinning, it will be at a level which would qualify someone to work in a professional field and it will usually be taught in an environment which also includes advanced research activity.”

THE FINANCING OF HIGHER EDUCATION INSTITUTIONS

The 1990s have seen a number of reforms in the finance and management of universities and other institutions of higher education. These reforms have been remarkably consistent in many countries throughout the world. An important theme, underlying the recent reforms in HE, is a move to expand access and diversify HE outputs, driven by the demands of a growing, upwardly mobile population and the needs of an increasingly competitive, technologically sophisticated economy. The reforms of higher education can usefully be viewed in the context of five general trends:

- An expansion and diversification of enrolments, participation rates and the numbers and types of HEIs
- Increased fiscal pressures, resulting from, among other things, the increasing participation rates in HE
- An increase in the use of “market” orientations and solutions, in the search for non-government revenue to meet the increasing demand for HE
- An increase in demand for greater accountability on the part of institutions and faculty, and on behalf of students, employers, and those who pay for their HE
- An increase in demand for better quality and efficiency of the HE “product”

The main forces behind the expansion and diversification of HE could be described as being:

- The expansion of basic and secondary education throughout the world which creates a strong potential demand for HE
- The increasing demands of the labour market for well-educated workers
- The new possibilities for the expansion of HE in order to meet the growing and complex demands of “globalisation” driven by information technology
- The increasing incentives being provided by governments throughout the world in order for students to have equal access to HE
- The expansion of the amount of (or time spent in) HE per participant

Source: Adapted from Johnstone, 1998

With the increased uptake of HE throughout the world, governments have increasingly looked at methods of funding HE that do not involve public funding.

Government revenues are increasingly supplemented by non-governmental revenues by shifting the costs of HE from the general taxpayer to parents and students especially, but also to philanthropists and purchasers of university services. Table 1 outlines some of the various strategies of revenue diversification which HEIs may opt to pursue.

Table 1: Revenue Diversification Options for HEIs

	Government (Taxpayers)	Students and/ or Parents	Industries Services	Alumni / philanthropists	International links
Direct Institutional Contribution	X				
Indirect contributions (Financial Assistance / Subsidised loans)	X			X	
Tuition Fees	X	X	X		
Student Loans and Graduate Taxes	X	X	X		
University Services					
Consulting	X		X		X
Research	X		X		X
Laboratory Tests	X		X		
Production of Goods			X		
Rental of Land and Facilities			X	X	
Donations			X	X	X

Source: Adapted from Johnstone, 1998

PRIVATE SOURCES OF FUNDING TERTIARY EDUCATION

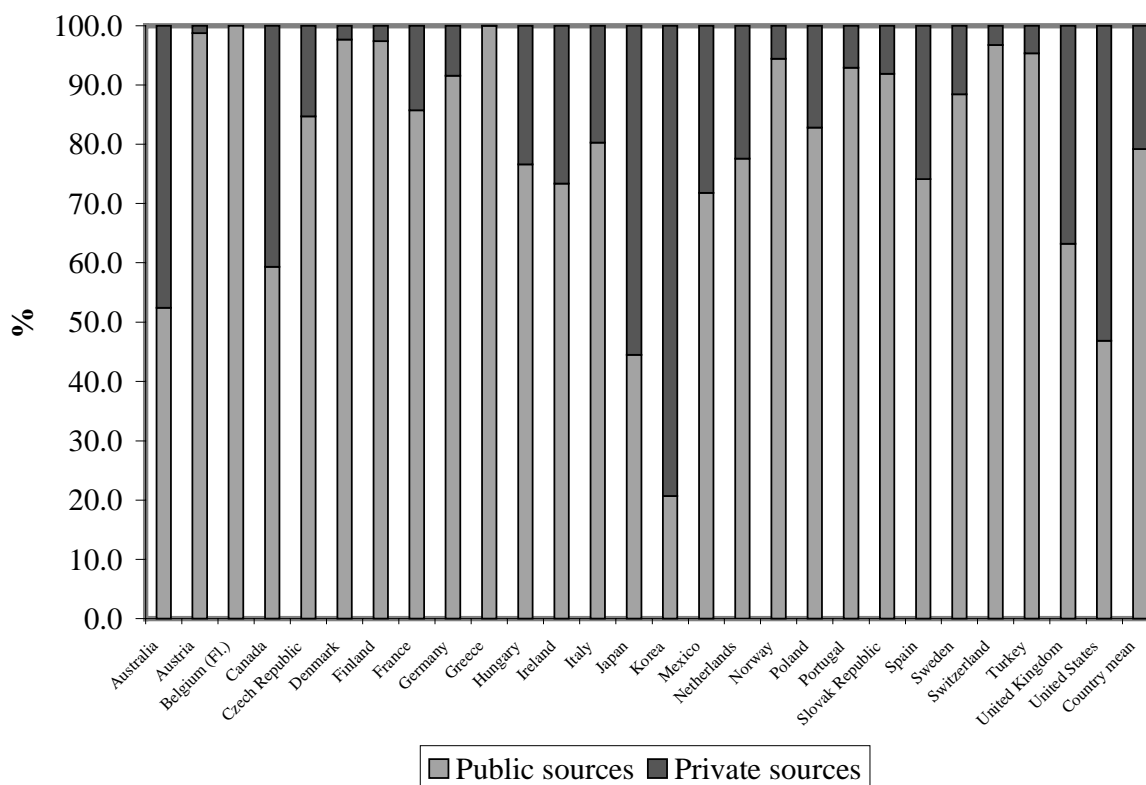
PRIVATE SECTOR SUPPORT TO TERTIARY EDUCATION IN OECD COUNTRIES

As Figure 1 (below) shows, universities are still largely publicly funded, although the use of private sources is a substantial and increasingly prevalent source of tertiary education funding. In 10 out of 19 OECD countries, private expenditure on tertiary education grew by more than 30% between 1995 and 1999. The justification often used for the increasing input of private sources in HE is that a university provides an individual with better **employment and income opportunities**, and therefore is not something that can be deemed to be a purely “public good”. The counter argument would be that the training of a country’s future doctors, teachers and public servants is indeed in the “public good” and should be provided by the “state”.

Figure 1 shows that the proportion of tertiary education expenditure emanating from private sources ranges from about 3% or less in Austria, the Flemish community of Belgium, Denmark, Finland, Greece and Switzerland, to over one-third in Australia, Canada, Japan, Korea, the UK and the United States. In Japan and the United States, over half of all final funds originate from private sources. In Korea, the figure is even higher, at around 80% private income.¹

Figure 1: Distribution of Public and Private Expenditure on Tertiary education (1999)

¹ In Korea, over 80% of students are enrolled in private universities, where more than 95% of budgets are derived from tuition fees.



Source: OECD, 2002

Although the extent to which public and private sector support for tertiary education differs between and often within OECD countries, direct private expenditure on tertiary education has increased substantially in recent years. In Australia, the private-sector proportion increased from 36% to 48% from 1995 to 1999. During the same period, the private-sector proportion increased from 20% to 23% in Hungary and from 12% to 22% in the Netherlands. However, there have been exceptions to this trend. In Ireland, an increase in private sector funding of 34% between 1995 and 1999 was outpaced by an increase in public funding of 60%. In Austria and the Czech Republic, private funding of tertiary education decreased by around half between 1995 and 1999.

The overall increase in private funding has been a governmental response to heavy demand. As demand has increased, so has the share of the financial burden borne by families and individuals. The OECD (2002) claim the increase in private household spending in HE can be explained by:

- An increase in enrolments
- Increased or newly imposed fees, charges or contributions
- A rise in the costs of education-related goods and services which tend to rise faster than unit costs in the overall economy
- A growth in enrolment in private institutions where fees are higher

Johnstone (1998) claims that increasing private sector input into HE can also be explained by the competition for public money from other public needs, like basic education, public infrastructure, health, the maintenance of public order, and addressing poverty.

ENTREPRENEURIAL ACTIVITIES

providing research and information services to the Scottish Parliament

With the great diversity in higher education, many institutions throughout the world have built strong relationships with the private sector – for example, leading to the commercialisation of research, spin-off companies from universities and apprenticeship schemes. For example, in Scotland the commercialisation of university research has been actively encouraged by the Scottish Executive, via initiatives like the Proof of Concept scheme designed to provide funding to university research projects with commercial potential.

PHILANTHROPY

Successful philanthropic support for HEIs requires a tradition of philanthropy and in many countries charitable support to institutions like universities has not taken off. In the United States, a country which has utilised the concept of philanthropy, charitable donations were once virtually restricted to private sector HEIs until around the 1970s, when state public support began to wane, and public college presidents discovered philanthropy. Johnstone (1998) argues that it may take decades before a university has a critical mass of alumni who have accepted the notion that they should contribute to their HEI – particularly given that many would argue HE is the responsibility of “government”. It also takes years, and a large financial investment from a university, to compile the updated alumni addresses, the volunteers, and the initial experience with fund raising to begin to make any kind of net revenue.

However, it is important to point out that the increase in private funding has not generally been accompanied by a decrease in public funding in the various OECD countries covered in this briefing. Indeed, some of the countries with the highest growth in private funding have had the highest growth in public funding as well. This suggests that the increases in private spending on tertiary education tends to complement, rather than replace, public investment as governments simply attempt to keep up with the expanding demand and take-up of tertiary education. The next section will look at some of the trends in public financing of tertiary education.

PUBLIC FINANCING OF TERTIARY EDUCATION

TUITION FEES & GRANTS/LOANS

There are three major types of public financial support to students in tertiary education, namely support for the payment of tuition fees, grants and/or loans to cover the cost of living, and allowances for the parents of students. In OECD countries, an average of 16% of public spending on tertiary education is devoted to subsidising tertiary education provision. In Australia, Denmark and the United Kingdom, public subsidies account for about one-third or more of public tertiary education budgets (OECD, 2002).

A key policy question is whether financial subsidies to students should be provided in the form of free tuition, grants and/or loans. Are loans an effective means of helping to increase the efficiency of financial resources invested in education and shift some of the cost of education to the beneficiaries of educational investment? Or are student loans less appropriate than grants and/or free tuition fees in encouraging low-income students to pursue tertiary education? These are perennial policy questions which are open to debate. The next section will outline the public financing policies pursued in various educational systems.

Model 1: Free Tuition

providing research and information services to the Scottish Parliament

This model exists in Scotland, the Nordic countries, Iceland as well as Bulgaria and Malta. Tertiary education is provided free of charge, students don't pay tuition fees and receive support to cover the cost of living.

Model 2: Free Tuition with additional support provided to parents

This model is found in Germany, Greece, Luxembourg, Liechtenstein, the Czech Republic, Romania, and Slovakia. The main feature distinguishing it from the first model is that additional support is awarded to parents of students. Such support includes methods like family allowances and tax relief.

Model 3: Support to cover the cost of living and tuition

This model involves student payment of tuition fees and is the least widespread model in Europe. However, tuition fees have been in place for decades in several industrialised and OECD countries. Canada, Australia, New Zealand and the United States all have tuition fees set at varying rates. In the European context, this model exists in the United Kingdom (except Scotland), the Netherlands, Hungary and Poland. It involves financial support to students to cover the cost of living and paying their fees. In the United Kingdom (except Scotland), student contributions towards their tuition fees are based on a means-test. Means tested financial assistance and loans are introduced in this model in order to maintain accessibility in the face of costs being borne by students and families in the form of tuition and fees.

Model 4: Hybrid

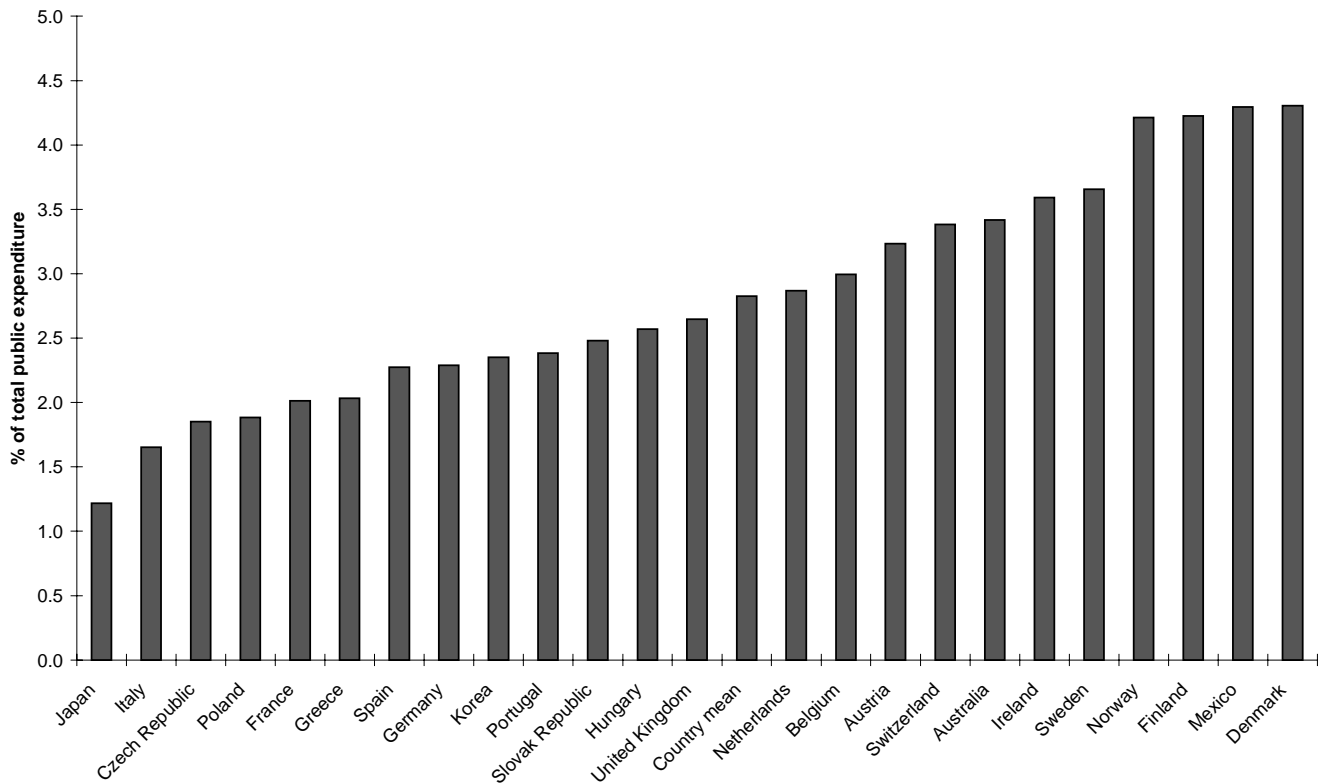
The fourth model comprises the three types of support outlined in the above models. It applies in Belgium, Spain, France, Ireland, Italy, Austria, Portugal and Slovenia, in all of which tertiary education institutions require payment of fees: registration fees (to cover administrative costs), tuition fees (which help to finance some of the costs of education itself) or both. The state support consists of family means-tested student grants, family allowances, tax relief for parents of students concerned and assistance with the payment of tuition fees which takes the form either of exemption from payment/a reduction in the amount required or, alternatively, the award of special grants.

PUBLIC SUPPORT TO TERTIARY EDUCATION IN OECD COUNTRIES

Figure 2 outlines public expenditure on tertiary education as a percentage of total public expenditure in OECD countries. This provides an indication of the value attached to tertiary education relative to other public investments such as health care, social security and defence. In terms of the Scottish Budget 2003-04, 6.63% of the total budget will be spent on Lifelong Learning (ie HE and FE and therefore comparable with the OECD figures on tertiary education) and 4.76% specifically on HE². However, it is important to note that this only covers public expenditure figures for areas of spend devolved to the Scottish Parliament. Other forms of public expenditure for reserved, UK-wide areas, like defence and social security, are not included in the calculation.

² This % figure includes funding for the Scottish Higher Education Funding Council (SHEFC) which goes directly to Scottish HEIs, and also the figure provided to the Student Awards Agency for Scotland (SAAS) which provides HE students with financial assistance during the course of their studies.

Figure 2: Public expenditure on tertiary education as % of total public expenditure (1999)



Notes:

Data is not available for Canada, Iceland, Luxembourg, New Zealand, Turkey and the United States.

Source: OECD, 2002

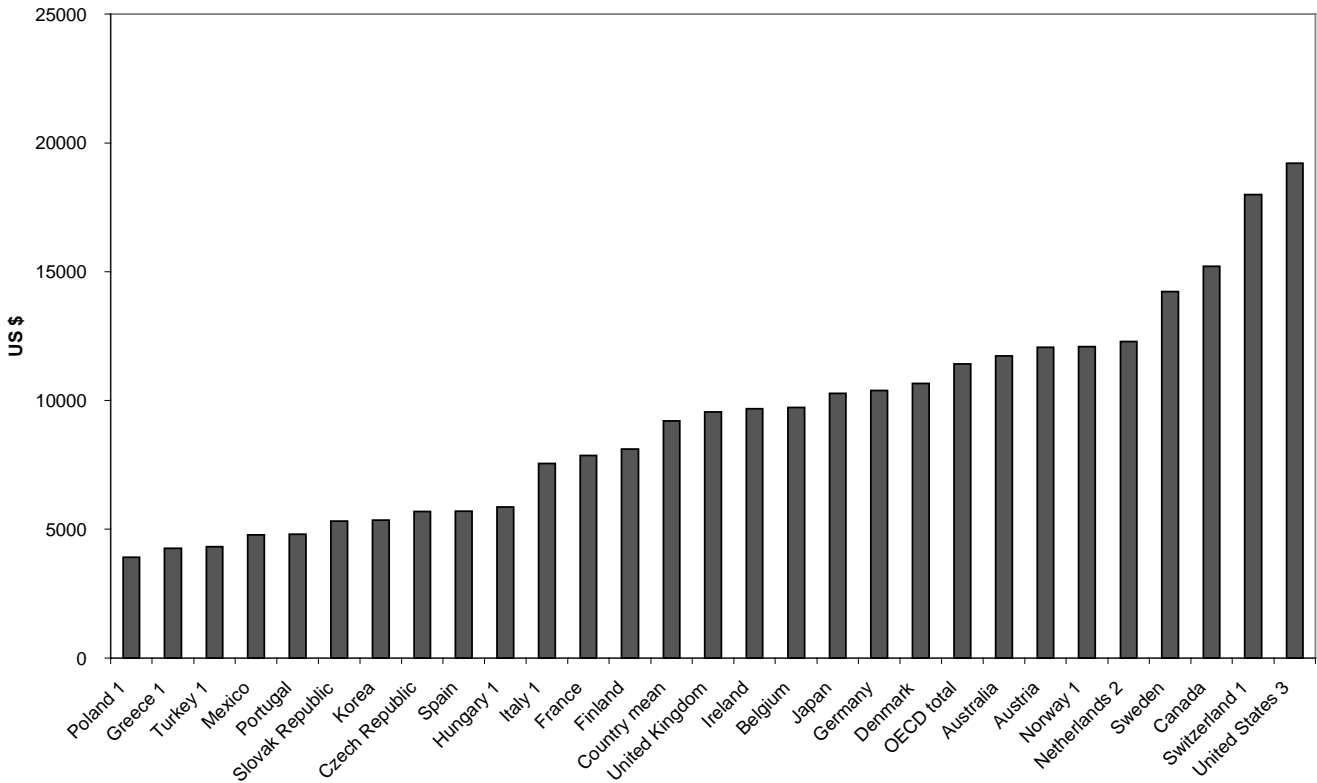
It is possible to calculate an *approximate* figure for Scottish expenditure on tertiary education as a % of total public expenditure for 1999-2000 based on the total expenditure figure contained in the Government Expenditure and Revenue in Scotland (GERS) 1999-2000 document (Scottish Executive, 2001). This would put total public expenditure for tertiary education (HE and FE combined and therefore comparable with the OECD figure) in Scotland at 3.1% and total public expenditure for HE at 2.2% of total Scottish public expenditure.

GENERAL SPENDING PATTERNS IN OECD COUNTRIES

Figure 3 reveals that OECD countries as a whole spend \$11,422 (US) per tertiary student, but this masks a broad range of expenditure across countries, with the United States having the highest level of expenditure per student at \$19,220 (US). Spending on tertiary education in a “typical” OECD country, as represented by the mean across all OECD countries, is \$9,210 (US). The United Kingdom spends \$9,554 (US) per tertiary student.

Spending per student in tertiary education has not always kept pace with the rapid expansion of enrolments. In 6 out of 22 OECD countries – namely, Australia, the Czech Republic, Finland, Hungary, Poland and the UK – tertiary expenditure on education per student declined between 1995 and 1999 by 5% or more. In all of these countries, this was mainly the result of the rapid increase in the number of tertiary students of more than 10% during the same period. On the other hand, expenditure per tertiary student rose significantly in Greece and Ireland despite a growth in enrolment of 42% and 15% respectively.

Figure 3: Tertiary Education, Expenditure per student (US\$) (1999)



Notes:

1. Public Institutions only
2. Public and government-dependent private institutions only
3. Public and independent private institutions only

These figures are based on purchasing power parities (PPPs), not market exchange rates³, and therefore reflect the amount of a national currency that will buy the same basket of goods and services in a given country as that bought by the US dollar in the United States.

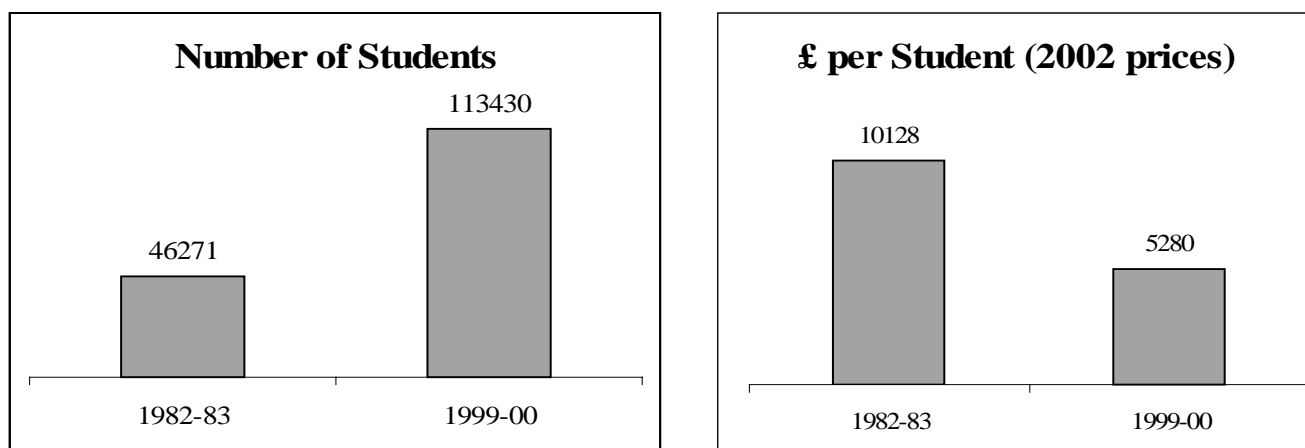
Data is not available for Iceland, Luxembourg and New Zealand.

Source: OECD, 2002.

OECD figures are not available for Scotland, but *Higher Education Statistics Association* (HESA) figures outline the dramatic rise in students in Scotland in the last two decades and the resulting decrease in spending per student in Scottish HE (see Figure 4).

³ PPP is used because the market exchange rate is affected by many factors (for instance, interest rates, trade policies, expectations of economic growth, etc.) that have little to do with the current relative domestic purchasing power in different OECD countries.

Figure 4: Student Numbers & Funding per Student in Scotland



Source: HESA, in Cubie, 2003

Table 2 outlines the expenditure on tertiary education as a % of GDP in OECD countries. Canada, Korea and the United States spend the highest proportion of their GDP on tertiary education (2.5%, 2.4% and 2.3% respectively) accounting for more than one-third of their total education expenditure.

Table 2: Expenditure on tertiary education as a % of GDP (1995, 1999)

	1999			1995
	Public ¹	Private ²	Total	Total
OECD countries				
Australia	0.8	0.7	1.5	1.7
Austria 3	1.4	n	1.5	1.5
Belgium	1.3	m	m	m
Canada 4	1.6	1.0	2.5	2.2
Czech Republic	0.8	0.1	0.9	1.0
Denmark 3	1.5	n	1.6	1.6
Finland	1.8	n	1.8	1.9
France	1.0	0.1	1.1	1.1
Germany	1.0	0.1	1.1	1.1
Greece 3	1.0	n	1.0	0.7
Hungary	0.8	0.2	1.1	1.0
Iceland	m	m	m	m
Ireland ⁵	1.1	0.3	1.4	1.3
Italy	0.7	0.1	0.8	0.8
Japan ⁶	0.5	0.6	1.0	1.0
Korea	0.5	1.9	2.4	m
Luxembourg	m	m	m	m
Mexico	0.8	0.3	1.1	1.1
Netherlands	1.0	0.3	1.3	1.2
New Zealand	0.9	m	m	1.1
Norway	1.4	0.1	1.5	1.7
Poland	0.8	0.2	1.0	m
Portugal 3	1.0	0.1	1.1	0.9
Slovak Republic 3, 5	0.8	0.1	0.8	m
Spain	0.9	0.3	1.1	1.0
Sweden ⁵	1.5	0.2	1.7	1.6
Switzerland	1.2	n	1.2	m
Turkey 3	1.0	n	1.0	0.7
United Kingdom	0.8	0.3	1.1	1.2
United States 4	1.1	1.2	2.3	m
Country mean	1.0	0.3	1.3	~
OECD total	0.9	0.7	1.6	~

Notes:

1. Including public subsidies to households attributable for educational institutions. Including direct expenditure on educational institutions from international sources.
 2. Net of public subsidies attributable for educational institutions.
 3. Public subsidies to households not included in public expenditure, but in private expenditure.
 4. Post-secondary non-tertiary included in tertiary education.
 5. Direct expenditure on tertiary-level educational institutions from international sources exceeds 1.5% of all public expenditure.
 6. Post-secondary non-tertiary included in both upper secondary and tertiary education.
- m. Data not available.
n. Magnitude is either negligible or zero.

Source: OECD, 2002.

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Enterprise and Culture Committee

Meeting 2 September 2003

Scottish Solutions Inquiry: Witness Expenses

Witnesses who are called before Parliamentary committees have the opportunity to claim expenses for travel and some other incurred costs under the witnesses expenses scheme. In practice this rarely happened with the predecessor Enterprise and Lifelong Learning Committee as the vast majority of witnesses had their expenses covered by their employers and did not claim.

The authority to pay expenses rests with the Committee. However, it is possible for the Committee to delegate this authority to the Convener for particular inquiries. In order to avoid the need for individual expense claims to come before the Committee and take up committee time it is proposed to authorise the Convener to agree any payments, should these be necessary. All payments would be made in accordance with the witness expenses scheme, and members would receive reports of expenditure made under delegated authority.

Recommendation

The Committee is invited to delegate authority to the Convener to authorise any witness expenses claims necessary in connection with the Scottish Solutions Inquiry.

Simon Watkins
Clerk to the Committee

Enterprise and Culture Committee

Meeting 2 September 2003

Scottish Solutions Inquiry: Brainstorming Workshop

Introduction

To date committees have received considerable evidence from interested parties in response to calls for submissions. However, the evidence has not tended to include large numbers of positive suggestions from respondents on how to tackle the issues being investigated by the committee. In this context it may be worth experimenting with other methods of generating positive inputs to inquiries.

The Enterprise and Culture Committee has been approached by the Scottish Council Foundation, a politically independent 'think tank' founded by the Scottish Council for Development and Industry. The Foundation would like to assist the Committee in its work on the Scottish solutions inquiry by organising a brainstorming workshop of hand-picked independent individuals whose task will be to generate responses to some of the issues raised by the potential introduction of top-up fees in England and Wales.

The Foundation is offering to organise the workshop, select the participants and use its experience to manage the event on the day. The Committee would participate through nominating up to 3 members to attend as observers and report back to the Committee. There would be no onus on the Committee to accept any of the findings or output from the workshop, but it could form a useful aid to the Committee's thinking when it comes to drafting a Final Report and potential recommendations at the close of the inquiry.

Rather than inviting primarily stakeholders, who will have an opportunity to submit written and oral evidence, it is proposed to utilise a majority of individuals who have a knowledge of higher education but not a direct stake in it. This should help to reduce some of the unconscious bias which participants might otherwise bring to the table, and help to generate some new ideas.

Individuals would be asked to contribute to the event for free and the only costs that would be incurred would be for refreshments for participants on the day, and a modest fee for the use of the Foundation's premises, the total not exceeding £2,000.

Recommendation

The Committee is invited to agree to:

- 1) agree to participate in a brainstorming workshop organised by the Scottish Council Foundation to generate input to the Scottish solutions inquiry.**
- 2) Nominate 3 Members to act as observers and report-back to the Committee.**
- 3) Authorise the Convener to seek agreement from the Conveners' Group for the costs of the event.**

Alasdair Morgan
Convener

20 August 2003.

EC/S2/03/02/9

Enterprise and Culture Committee

Meeting 2 September 2003

Draft Committee Work Programme

At its first meeting in June the Committee agreed to meet informally to consider drawing up a draft work programme for discussion at Committee. Members of the Committee subsequently did this at an awayday on 27 August.

Attached (to follow) is a draft work programme for consideration by the Committee.

Recommendation

The committee is invited to consider the attached draft work programme as a basis for its activities over the next 1-2 years, and to agree a work programme.

Alasdair Morgan
Convener

Enterprise and Culture Committee

Meeting 2 September 2003

Enterprise and Culture Committee Draft Work Programme

On the basis of informal discussions held at the Committee's awayday on 27 August, the following is proposed as the foundation for the Committee's work programme for the next 1-2 years.

Major Inquiries

There are a number of major, strategic inquiries that the Committee may wish to tackle over this period. If agreed they will be subject to calls for evidence, oral evidence sessions and formal reports. They are in no particular order, and will be scheduled in due course.

The full remits, and specific questions to be addressed will be discussed and drawn up in due course.

Renewable Energy

There could be two strands to this inquiry, the first dealing with constraints to the development of current technology, e.g. wind farms, and the interface with the planning system. The second would deal with the longer-term issues of the realisation of the Executive's targets for the contribution of renewable energy, the barriers to, and implications of these, and the new technologies which may contribute. It will assess how the development of the renewables industry may contribute to the updating of a Smart Successful Scotland.

The Roll-out of Broadband

This inquiry would consider the continuing issue of the roll-out of broadband infrastructure across Scotland, the measures being taken by the Executive to promote it, and the difficulties and barriers being encountered. It would build on and update the work on this topic undertaken by the Enterprise and Lifelong Learning Committee inquiry into the New Economy in 2001.

Entrepreneurialism and Business Birth and Growth

Strategies to increase the business birth rate in Scotland and to foster the growth of successful indigenous companies have been amongst the least successful aspects of economic development sponsored by the enterprise network and other public

agencies, yet they are key to the implementation of a Smart Successful Scotland. Research has also identified the importance of support to companies 2 or 3 years after start-up.

This inquiry would examine:

- Whether the model being used to assist start-up and growing businesses is the most appropriate
- Other possible models
- Barriers to new firm formation and growth
- The performance of Scottish Enterprise and the other support agencies in this field
- Possible strategies to encourage risk taking and entrepreneurialism

A related topic for examination would be strategies for developing increased self-confidence within Scottish business culture.

Supporting the Creative Industries and Creativity

The Committee is keen to focus on issues which involve cross-over within its remit. This inquiry would have two aspects to it. Firstly, investigating the potential of the creative industries and the success or otherwise of current strategies to develop them.

Secondly, the separate but related issue of fostering creativity within the business sector as a key skill for its future success, including an audit of current activity.

Smaller Scrutiny Topics

In addition there are a number of smaller subjects that the Committee may wish to examine, though not necessarily through the vehicle of large formal inquiries. These include:

- **Exploiting the Potential of Genealogy for Tourism** – whether the potential for promoting this tourism niche is being fully exploited, and what best practice currently exists. If this is agreed other niche markets might also be included within the topic.
- **The Intermediate Technology Institutes** – these represent a major investment by the Executive and a key aspect of Scotland's long-term economic development strategy. They will be examined once the institutes have had a chance to establish themselves.
- **The Area Tourist Board Review** – this has been ongoing for some time. Once the review is announced the Committee will consider examining the issue.

- **European Language Competences** – questions have been raised as to whether the requisite levels of language competence exist in Scottish business to fully exploit European markets. The Committee may consider whether enough provision is being made to address this issue.
- **Fiscal Policy** – the Committee will consider taking evidence from the Bank of England on interest rate policy.

Activity Linked to Executive Reviews

The Committee will examine further work being undertaken by the Executive on population decline and the structure of funding for the arts, before deciding whether it wishes to further explore these issues.

Ways of Working

This section outlines some general ways of working adopted from the predecessor Enterprise and Lifelong Learning Committee.

Criteria for the Selection of Inquiry Topics

The following are suggested as basic criteria for the selection of inquiry topics:

Remit Balance. Over the course of the parliamentary session the Committee is likely to want to balance its work across its remit. That is between enterprise, lifelong learning, energy, tourism, culture and sport. It should be noted that this is not the same as covering every aspect of the remit. Indeed there are advantages in being very selective and focussing on elements of the remit where it is possible to have a beneficial impact.

Avoiding Duplication. Where other bodies, including the Executive, are investigating or have recently investigated an issue, the Committee may wish to avoid duplicating this work. There may of course be cases where the Committee regards other investigations as inadequate, and would still wish to pursue its own, perhaps with a slightly different focus.

Executive v Own Initiative. Ministers may suggest areas on which a Committee input would be appreciated. The Committee may wish to pursue constructive co-operation in some instances where this can be beneficial. However, it should resist having its entire agenda set for it by Ministers, which is a danger of too close co-operation. The Committee should strike a balance between creative co-operation, and critical scrutiny of the Executive.

Making a Difference. The Committee's main objective is, by the end of the parliamentary session, to have had an impact on the governance of Scotland. The Committee may therefore have a preference for inquiries that have the potential to lead to concrete recommendations, capable of being implemented. This touches on the sensitive area of reserved and devolved matters. On the one hand there is an advantage in focussing on devolved areas where responsibility for implementation rests with the Scottish Executive. On the other hand it may also be useful to examine the extent to which UK-wide policy on some reserved matters (e.g. the New Deal) is suited to Scottish conditions.

Potential for Legislation. The Committee may wish to direct some of its time to examining issues where there may be a need for legislative change that it could initiate at a later date, should this prove necessary.

Timing. An issue may be one that it would be useful and appropriate for the Committee to examine, but the timing is wrong. For instance it might be premature to examine a new initiative before enough evidence is available from its implementation, or too late if a review is already being undertaken.

Topicality. This issue is allied to timing, but slightly different. Issues may be politically topical at one moment, but be of less interest shortly thereafter. The Committee should be wary of taking on issues which have the potential to lose public interest, or become irrelevant, by the time that the Committee reports, e.g. particular plant closures, or large-scale redundancies. Many of these issues are in any event dealt with by the Parliament in the chamber.

Informal and innovative Methods of Working

The Committee will continue to adopt informal and innovative ways of operating where this will assist its work. They include:

Case Study Visits - For most of its large inquiries the Committee will consider commencing its inquiry work by despatching small cross-party groups of members to examine aspects of the inquiry subject at the local level.

Conventions of Stakeholders – as part of its evidence taking the Committee will consider, where appropriate, seeking views or testing its conclusions by organising events bringing together relevant stakeholders, 'consumers' etc.

Pre Report Debate Workshops - Prior to the Parliamentary debate on a report it can be helpful to organise workshops or larger events seeking views from those affected by the report. This can generate a wider debate and provide useful material to feed into the Parliamentary debate.

Committee Meetings

Long committee meetings with large numbers of witnesses giving oral evidence are not necessarily the best use of Committee time. Nevertheless, there are ways in which the usefulness of oral evidence sessions can be maximised:

- being selective in choosing from whom to receive oral evidence
- grouping similar witnesses (e.g. business representatives) in panels of witnesses and letting them answer the same question in turn, rather than having repetitive evidence sessions
- restricting the number of witnesses at the table at any one time to three
- strictly timetabling witness sessions
- restricting the numbers of groups of witnesses questioned in a single meeting.

Whilst witnesses should legitimately be subject to critical questioning, they should also be treated fairly. The Committee should be as open as possible with witnesses about the reasons they are being called, and the basis for questioning. We should seek to give them reasonable advanced notice both for written and oral evidence, and as much general guidance as possible in order to get the best out of them.

Working Electronically

In order to carry out its activities in as business-like and efficient manner as possible, and without excluding anyone from its work, the Committee commits itself to working electronically wherever possible.

Recommendation;

The Committee is invited to:

- 1. endorse the topics set out in this paper as the basis for its work programme for the next 1-2 years.**
- 2. authorise the Convener to draw up a schedule for the implementation of the work programme and draft remits.**
- 3. agree the ways of working set out in the paper as the basis for undertaking its inquiry work.**

Alasdair Morgan
Convener