



**FINANCE COMMITTEE**

**AGENDA**

**12th Meeting, 2002 (Session 1)**

**Tuesday 11 June**

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

- 1. Items in private:** The Committee will decide whether to consider its draft report at Stage 1 of the budget process and its draft PFI/PPP report in private.
- 2. Financial Memorandum:** The Committee will consider the Financial Memorandum of the Criminal Justice (Scotland) Bill and take evidence from:

Alan Millar, Principal Reporter, Scottish Children's Reporter Administration;

John Ewing, Chief Executive, Scottish Courts Service;

Cliff Binning, Head of Operational Policy and Planning, Scottish Courts Service;

Colin Mackenzie, Adviser on Social Work, CoSLA

- 3. Financial Scrutiny Review:** The Committee will consider a draft specification for an adviser on Financial Memoranda.
- 4. PFI/PPP Inquiry:** The Committee will consider a draft report.
- 5. 2003/04 Budget Process:** The Committee will consider a draft report at Stage 1 of the budget process.

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The papers for this meeting are:

**Agenda item 2**

Paper from the Clerk FI/02/12/1

Paper from the Scottish Children's Reporter Administration FI/02/12/2

Paper from CoSLA FI/02/12/3

**Agenda item 3**

Paper by the Clerk and SPICe FI/02/12/4

**Agenda item 4**

Draft report PRIVATE PAPER

**Agenda item 5**

Draft report PRIVATE PAPER

## **Finance Committee Review of Financial Scrutiny: Financial Memorandums**

### **Introduction**

A scoping paper on the Review of Financial Scrutiny (FI/02/6/1) was considered by the Committee on 26 March 2002, while a second, more focussed paper (FI/02/7/3) was considered on 16 April 2002. Both of these papers highlighted, among other things, the need for a review of the way in which Financial Memoranda are scrutinised by the Parliament. The need for improved scrutiny was also stressed at a meeting of former members of the Financial Issues Advisory Group (FIAG) on 21 March 2002.

### **Background**

At present, the Parliament's Standing Orders (Rule 9.3.2) state that Financial Memoranda must be published to accompany all public Bills (with the exception of Consolidation bills) "which shall set out the best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates".

Under Rule 9.6.3 of Standing Orders, the Finance Committee can, at Stage 1, consider a Bill's Financial Memoranda and report its views to the lead committee, which must take these views into account when it prepares its Stage 1 report. (It should be noted that under rule 9.15.8 of Standing Orders, the procedures for Committee Bills at Stage 1 are different, as the Bill is automatically referred to the Finance Committee, which has to consider and report to the Parliament on the Bill's Financial Memorandum).

The Committee has not, to date, produced a report on Financial Memoranda for a lead committee since these Standing Orders came into force. However, given the concerns raised about the existing scrutiny of Financial Memorandums, the Criminal Justice (Scotland) Bill represents the first opportunity since the financial scrutiny review was undertaken for the Finance Committee to look more closely at a Financial Memorandum.

### **Criminal Justice (Scotland) Bill**

The Committee will take evidence on the Bill from CoSLA, the Scottish Children's Reporter Administration and the Scottish Courts Service on 11 June, and from the Scottish Executive on 18 June. This will allow the Committee to report back to the lead committee, Justice 2, in time for its Stage 1 report.

Copies of the Bill and the Explanatory Notes are attached. The Financial Memorandum is contained within the Explanatory Notes at page 65.

Terry Shevlin  
6 June 2002



SCOTTISH  
**CHILDREN'S REPORTER**  
ADMINISTRATION

## **Financial Consequences of the Criminal Justice (Scotland) Bill, Part 7**

### **Note for The Scottish Parliament Finance Committee**

#### **1. Section 43: Physical Punishment of Children**

##### **1.1 Policy and Practice Background**

Children's Reporters already receive significant numbers of reports of the physical abuse of children. Following considerable increases over a 10-20 year period, about 3000 reports of physical ill-treatment or neglect are now received each year.

These reports will include copies of almost all cases reported by the Police to the Procurator Fiscals, and cases that may meet the civil standard of evidence that applies in the Children's Hearings System but not the criminal standard.

Good inter-agency co-operation already exists in child protection work and agencies working with children are accustomed to referring to the Police and Social Work services where indicators of physical abuse raise concern about a child's welfare.

##### **1.2 Impact of Provision**

The primary impact of these legislative provisions will be to provide an authoritative and clear statement of the law in Scotland. They circumscribe more clearly the application of the defence of reasonable chastisement where a child has been physically punished.

### 1.3 Financial Implications and Value for Money Issues

In view of all these factors, I consider that any increase in child protection investigations or referral to the Children's Hearings System arising from these provisions is likely to be small and absorbable within planned resources.

In the long term, it is possible that instances of physical abuse could be reduced if the investment can be made at this stage to promote positive debate and change attitudes. This would have beneficial cost implications both in terms of system costs for assessing cases, service costs for the provision of intervention and the long-term social costs in terms of the impact of child victims.

## 2. **Section 44: Youth Crime Pilot Study**

### 2.1 Policy and Practice Background

Although current legislation provides for 16-17 year olds (if already under compulsory supervision) to be retained in the Children's Hearings System, or indeed to be remitted to Hearings for disposal, in practice these options are used relatively rarely. Services are largely configured towards children and young people under 16.

However, there is growing evidence that investment in research-based interventions with children and young people can have a powerful and positive effect on the level and the seriousness of offending, with clear long-term benefits for the community.

### 2.2 Impact of Provisions

The exact numbers of young people who would be referred to Reporters in the Pilot areas would depend on the instructions to be given by the Lord Advocate and their implementation by the Police and Procurators Fiscal. The Executive's Feasibility Group (on which I sat) assumed that the impact might add about 25% to the workload of Reporters and Hearings in the pilot areas, an assumption with which I concur.

In system terms, Reporters would investigate these cases passed to them and determine which required to progress to a Hearing (the term "Children's" would not be used for this age group). At that stage evidence on disputed charges would require to be heard in chambers by a Sheriff, but the demand for such proof hearings is unlikely to exceed the demand for summary trials that would have been generated if these cases had not been passed to the Reporter.

### 2.3 Financial Implications

- (1) For SCRA – for the pilot area, staff costs would require to increase by 25% to ensure that the additional workload could be accommodated. In a medium-sized local team this would "buy" 2 additional staff (1 Reporter, 1 Support) plus some provision for reception cover and training.

Depending on the location of the pilot sites, resourcing may also be required to cover additional accommodation costs.

- (2) For local authorities – the bulk of the pilot costs will be incurred by local authorities, to cover
  - Children's Panel recruitment and training costs
  - staff costs for casework assessment and planning
  - enhancement of existing interventions or the development of new intervention programmes.
- (3) The Feasibility Group did not identify any other significant additional operational costs although provision for research and evaluation will also be required.
- (4) The current total cost estimate of £0.5m per pilot area appears reasonable in relation to a median-sized local authority area.

### 2.4 Value for Money Issues

As stated earlier, the evidence from both international research and innovative projects in Scotland is that effective interventions with young people who are becoming persistent offenders can significantly reduce both the level and the seriousness of offending for the long term. The pilots will provide an opportunity to test at least over the medium term the extent to which savings can be anticipated in both the social and financial costs of crime.

In addition, the pilots will offer an opportunity to assess and compare process costs, performance issues (such as timescales) and outcomes between the Hearings System and the criminal justice system.

**Financial Memorandum:  
Paper from Colin Mackenzie, COSLA**

## **CRIMINAL JUSTICE BILL**

### **1. General Comments**

The Memorandum refers to the 100% funding arrangements with Local Authorities. It is important to draw attention to the fact that not all services provided by Local Authorities to the Criminal Justice system are funded by the Scottish Executive. The exceptions are work currently undertaken on Deferred Sentence and Fine Supervision Orders.

There is also concern that the current 100% funding arrangements do not fully re-imburse Local Authorities for the level of services they provide. COSLA, the Association of Directors in Social Work and the Scottish Executive require to engage in a piece of work to address this issue and move the agenda forward.

### **2. Specific Comments**

#### **Part 1 – Costs on the Scottish Administration**

The costs of providing the Risk Management Authority seem high in relation to the number of high risk offenders which it is envisaged will require this level of supervision.

Comparative expenditure for the Parole Board in 2001/02 was estimated to be £526,335.

#### **382 – Costs on Local Authorities**

Although the number of high risk offenders covered by these arrangements will be low, the costs associated with implementing the risk management plan will be higher than the current level of funding can sustain. For example the supervision requirement for a medium risk offender already exceeds national standards by 100-200%. Local Authorities will also incur additional expenditure to meet accommodation/housing costs, and in some cases, supervise the activities.

The availability of discretionary funding from the Scottish Executive to meet additional costs requires further discussion and clarification.

#### **Part 2 – Victims Rights**

##### **385/386**

Additional funding will be required for voluntary organisations providing support and advice to the public such as Victim Support, Rape Crisis and Advice Services. Acknowledgement of this requirement is welcomed and indicative levels can be identified through the pilot schemes.

## **Part 5 – Drug Courts**

### **394**

Drug Courts are likely to lead to a significant increase in Criminal Justice Social Work activity centred round the regular review by the Court of the individual's drug treatment and rehabilitation plan.

Short community service orders are staff intensive in the initial period of assessment and introduction to a work scheme. Costs per order are therefore proportionally higher.

### **Costs on Local Authorities**

### **395**

Drug Courts will result in additional costs to Local Authorities for Drug Rehabilitation Programmes, accommodation and housing costs.

### **396**

Similarly, additional costs will be involved for NHS Treatment Services.

## **Part 6 – Non Custodial Punishments**

The experience of the drug testing and treatment order pilots is that additional costs are incurred for testing and rehabilitation programmes. Recognition of the additional costs to Local Authorities is welcomed.

## **Part 7 – Children**

### **Physical Punishment of Children**

### **405**

The clarification of the law on physical punishment will lead to increased expenditure by Local Authorities on services which assist and support families. The availability of Sure Start Funding and similar initiatives will help to meet these increased costs.

## **Part 10 – Criminal Records**

### **Costs on Local Authorities**

### **412**

Local Authorities will incur additional expenditure in obtaining Criminal Record Checks on prospective employees with children and vulnerable people.

## **Part 11 – Local Authority Functions**

### **Costs on the Scottish Administration**

**414**

The new criminal justice groupings have resulted in increased expenditure by Local Authorities in terms of set up costs, increased travel and new Committee costs. These should be met through the 100% funding arrangements.

The increased expenditure on arrest referral and structured deferred sentences is welcomed.

## **SPECIFICATION FOR ADVISER TO THE FINANCE COMMITTEE**

### **Introduction**

As part of an ongoing review of the financial scrutiny arrangements currently in place in the Scottish Parliament, the Finance Committee has identified the scrutiny of the financial implications of draft legislation as an area in which improvements can be made.

### **Background**

On 29 January 2002 the Finance Committee agreed to embark on a review of the current financial scrutiny arrangements within the Scottish Parliament. The aim of the review is to consider existing procedures and practices and to implement improvements where possible. The Committee is keen to streamline what is often seen as a bureaucratic process and to increase the general level of engagement within the Parliament with the scrutiny process.

On 26 March 2002, the Committee considered paper FI/02/6/1 which set out many of the issues that it may want to pursue as part of the review. That paper was also considered by former members of the Financial Issues Advisory Group (FIAG) on 21 March 2002. At both meetings, the issue of the scrutiny of draft legislation was raised as an area in which improvement could be made. There was a general feeling that resources had to be made available to the Parliament in order to ensure that the financial implications of legislation were considered before Bills are passed.

In practice, this will mean more detailed consideration of Financial Memoranda. Under the Parliament's Standing Orders (Rule 9.3.2), Financial Memoranda must be published to accompany all public Bills (with the exception of Consolidation Bills) and must state the best estimates of the administrative, compliance and other costs of the Bill. Under Rule 9.6.3 of Standing Orders, the Finance Committee can, if it so chooses, consider a Bill's Financial Memoranda and report its views to the lead committee, which must take these views into account when it prepares its Stage 1 report.

### **Adviser**

The Committee now seeks the appointment of an adviser in order to assist it with the scrutiny of the financial implications of draft legislation.

### **Role**

To assist the Finance Committee with detailed scrutiny of financial memoranda published to accompany public Bills introduced in the Scottish Parliament. In particular, to provide advice on the assumptions and claims made in memoranda, to advise on the selection of witnesses and lines of questioning and to draft the Committee's reports.

### **Specific tasks**

1. To provide an initial oral analysis of the robustness of the financial memoranda and to advise on the merits of taking evidence on its contents and reporting to the lead committee. As the time available to the Finance Committee at Stage 1 to

arrange for evidence taking and reporting to the lead committee on a Bill is short, this initial advice will be required within 5 days of the introduction of the Bill.

2. Where it is recommended that the Committee takes evidence on memoranda, to advise on the selection of relevant witnesses for oral and written evidence.
3. To provide lines of questioning for members of the Committee in relation to oral evidence taking sessions and to attend meetings of the Committee at which evidence is taken.
4. To analyse all evidence taken and, in conjunction with the clerks, to prepare a first draft of the Committee's report to the lead committee.

### **Skills and duties**

To be considered as an adviser, all candidates require to demonstrate evidence of a good understanding of:

- Public accounting
- the annual Scottish Parliament budgetary process;
- the Scottish Parliament's legislative process and its committee structure;

Candidates must also be able to demonstrate:

- The ability to work to tight deadlines and that he or she has the time to undertake the work;
- Good communication skills (written and oral) and the ability to present and disseminate data in an accessible style. An ability to accurately deal with follow-up queries and offer clarification and explanation is essential;
- proven analytical and interpretative skills;
- As an expert in the field, he or she may have had an involvement with the main agencies involved in providing public services and which may be the subject of draft legislation.

### **Time commitment**

It is envisaged that the time required to carry out the duties of adviser will not be onerous. There are around 15 Bills introduced in the Scottish Parliament each year and not all of these will require evidence to be taken by the Committee. Some Bills have no financial consequences (although where a memoranda contains a statement to this effect, there may still be merit in challenging it) and some memoranda may be sufficiently robust to merit no consideration by the Committee. In cases where the Committee decides to examine a memorandum in detail, the time required will depend on the complexity of the Bill and the quality of the memorandum.