FINANCE COMMITTEE

AGENDA

18th Meeting, 2003 (Session 2)

Tuesday 16 December 2003

The Committee will meet at 10.00 am in The Chamber, Assembly Hall, The Mound, Edinburgh to consider the following agenda items:

1. **Local Governance (Scotland) Bill:** The Committee will take evidence on the Bill’s Financial Memorandum from—
   
   Pat Watters, President and Anil Gupta, Policy Manager, COSLA

2. **Petition PE670:** The Committee will hear an update on the Committee’s investigation into the Executive’s Relocation Policy from the Reporters.

3. **Budget Process:** The Committee will consider a paper by the Clerk on the Budget Process and consider its approach to the 2004 Spending Review.

4. **Education (Additional Support for Learning) (Scotland) Bill (in private):** The Committee will consider its draft report on the Bill’s Financial Memorandum.

Susan Duffy
Clerk to the Committee
The papers for this meeting are:

**Agenda item 1**

Local Governance (Scotland) Bill, Policy Memorandum and Explanatory Notes

- SPICe Briefing Note
- Paper by the Clerk – Written Evidence
- PRIVATE PAPER

**Agenda item 3**

- Paper by the Clerk

**Agenda item 4**

- PRIVATE PAPER
LOCAL GOVERNANCE (SCOTLAND) BILL

STEPHEN HERBERT

The Local Governance (Scotland) Bill was introduced to parliament on 21 November 2003. The Bill contains a range of provisions including the proposal to introduce the single transferable vote electoral system for local government elections. In addition a range of measures relating to widening access to local government and remuneration for councillors are also proposed.

This briefing outlines the legislative proposals contained in the bill, the background to their introduction and in particular, the issues arising from the Scottish Executive’s consultation on a draft of the local governance (Scotland) bill.
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KEY POINTS

- The Local Governance (Scotland) Bill was introduced to Parliament on 21 November 2003. It contains a range of provisions including proposals to introduce the single transferable vote for local government elections, measures to widen access to council membership, and enabling legislation in connection with remuneration, pension arrangements and severance payments.
- The Bill draws upon previous consultations by the Scottish Executive including the work of the McIntosh Commission, Renewing Local Democracy Working Group, the Scottish Executive White Paper *Renewing Local Democracy: the Next Steps*, and the Scottish Executive consultation on a draft of the Bill.
- The Bill proposes changes to the electoral system for local government elections from the present First-past-the-post system to the Single Transferable Vote system using multi-member wards of three or four councillors per ward. The Bill’s Policy Memorandum to the Bill recognises that this level of district magnitude represents a trade-off between proportionality and the councillor-ward link.
- Concerns were raised during the Scottish Executive consultation that the number of members per ward proposed under the Bill is too low and will make it more difficult for candidates from smaller parties to be elected. On the other hand, some respondents emphasised that the proposed system could be seen to remove the councillor-ward link. Respondents in rural areas had concerns over the potential under the Bill’s proposals for large wards and the loss of a link with natural communities.
- Concerns were also raised that the Bill, if passed, will remove the rules underpinning the establishment of ward boundaries, but those which replace them are not shown on the face of the Bill, but will be introduced, by secondary legislation at a later date. Other concerns included the possible implications of holding local government elections on the same day as Scottish Parliament elections both in relation to the number of electoral systems which voters would be expected to use and also with regard to the impact on electoral administrators.
- Respondents were generally supportive of the Scottish Executive proposals in relation to council employees standing for election, and the reduction in the age at which an individual can stand for election from 21 to 18.
- There was a reasonable degree of support for the Scottish Executive’s proposals relating to politically restricted posts and the rules about councillors taking employment with a council after leaving office as a councillor. However some concerns were expressed over detailed aspects of the proposals.
- The Bill proposes enabling measures in relation to remuneration, pension arrangements and severance payments to councillors. The Bill does not attempt to quantify the cost of these proposals. Instead the Bill, if passed, would establish a Scottish Local Authorities Remuneration Committee (SLARC), which would bring forward detailed proposals in due course.
INTRODUCTION

The Local Governance (Scotland) Bill was introduced to Parliament on 21 November 2003. Also published at the same time were the Explanatory Notes (including the Financial Memorandum) and Policy Memorandum. The Policy Memorandum states that the overall policy objective of the Bill is to “strengthen local democracy” (p 1). The Bill aims to do this through a combination of measures relating to the role of councillors. The Policy Memorandum lists the measures contained within the Bill as follows:

- the introduction of the Single Transferable Vote (STV) for council elections
- amendments to existing legislation to bring the conduct and administration of council elections further into line with Scottish Parliamentary elections
- changing the age for standing as a councillor from 21 to 18
- the repeal of legislation establishing a salary threshold for politically restricted posts within local authorities
- the amendment of current legislation so that council employees have to resign on election as a councillor to their employing council, rather than on nomination as a candidate
- the reduction to three months of the period during which most former councillors are unable to take up employment with the council after their period of service comes to an end. The current twelve month period will be retained for politically-restricted posts and for councillors who have been involved in the appointment of senior council staff
- the abolition of the current system of basic and special responsibility allowances and the introduction of a new system of remuneration, supplemented by a limited number of payments to reflect members’ additional responsibilities
- powers to introduce a pension scheme for councillors to allow future service to count for pension purposes; a severance arrangement for councillors; and the establishment of an independent committee to advise on the detailed arrangements for, and the level of, the remuneration package for councillors (p 1-2).

The Bill draws upon a range of work previously conducted by the Scottish Executive during the previous parliamentary session. This includes:


In addition, the previous Local Government Committee undertook a wide range of scrutiny on the issues contained within the Bill, notably as part of the Committee’s Inquiry into Renewing Local Democracy (Scottish Parliament Local Government Committee 2003).

This paper will consider the background to the introduction to the Bill, provide an overview of the main sections of the Bill and discuss the issues raised during the Scottish Executive’s consultation on a draft of the Local Governance (Scotland) Bill (Scottish Executive 2003a).
LOCAL GOVERNMENT ELECTIONS – SINGLE TRANSFERABLE VOTE (STV)

As noted above, consideration of the appropriate electoral system for local government took place during the previous session of Parliament, notably by the McIntosh Commission, the Kerley Working Group and the Renewing Local Democracy White Paper. This section provides a brief overview of developments during the previous session prior to discussing the content of the Bill and issues which have arisen from the Scottish Executive’s consultation on a draft Bill. The paper will not discuss the advantages and disadvantages apportioned to STV, however these are discussed in SPICe Briefing 02/124 (Herbert 2002). The operation of STV in other countries is also not considered in this paper but is discussed in SPICe Briefing 03/85 (Herbert 2003).

THE MCINTOSH COMMISSION

The Commission on Local Government and the Scottish Parliament (1999) (‘the McIntosh Commission’) consulted on the type of electoral system which should be utilised for local authority elections as part of its consideration as to how “councils can best make themselves responsive and democratically accountable to the communities they serve” (p 4). The Commission found substantial and widespread support for the move to a system of proportional representation (PR) for local government elections and concluded as follows:

“We believe that, as far as is practicable, every vote should count, and that Councils, in their composition, should reflect the range and balance of views within the communities which they serve. It is critical that the democratic credentials of councils should be no less strong than those of the Parliament. Since the Parliament has been elected under a form of proportional representation we see this as a compelling reason for adopting PR for Scottish local government too” (p 22).

The Commission did not recommend a particular form of PR for local government elections, but did recommend that the Additional Member System (AMS), STV and Alternative Vote (AV) Top-up were worth particular consideration. Instead the Commission established five criteria which it considered should be utilised to assess the effectiveness of alternative forms of PR for Scottish local government elections. These were:

- proportionality – where the number of seats won by a party is proportionate to the total votes cast for it
- maintenance of a link between councillor and ward
- a fair chance for independents to be elected
- allowance for the geographical diversity among local authorities, particularly between urban and rural areas, and
- a close fit between council wards and natural communities.
REPORT OF THE RENEWING LOCAL DEMOCRACY WORKING GROUP

The Renewing Local Democracy Working Group (2000) (Kerley Working Group) applied the five criteria established by McIntosh against a range of PR systems (but not against First-Past the Post). The findings of the Working Group against each of the five criteria are summarised below as they relate to STV.

Proportionality – Kerley considered that STV was a proportional electoral system whilst also noting that “the greater the number of seats per ward, the more proportionate the result is likely to be” (p 60).

Councillor-Ward Link – The Working Group recognised that ward size would be larger than is currently the case with First-Past the Post (FPTP) and that each elector would have an equal link to several councillors under STV. Kerley noted that the role of each representative would have to be clearly communicated to the electorate and recommended that a “programme of voter education will be an essential component of the successful introduction of a new electoral system for local government” (p 60). Kerley also recognised that multi-member wards existed in Scotland prior to 1975 and are currently in place in many English authorities and suggested that “concerns may be ill-founded” with regard to multi-member wards.

Independents – the Working Group considered that STV offered scope for independents to be elected.

Geographical Diversity – The report of the Working Group highlighted that there currently exists considerable variation in the size of wards in Scotland but noted that these would increase in size with a multi-member system albeit that there would be a number of councillors to represent constituents in those wards. It was also noted that larger wards would “impact disproportionately on independents” (p 62) due to the higher costs of campaigning for election across a wider geographical area.

Natural Communities – As STV would result in larger ward sizes the Kerley Group considered that this would reduce the “risk that communities would be split, or that areas which feel no common community will be put together” (p 62).

The Kerley Working Group considered that STV best met the criteria which had been established by McIntosh. However three members, from the 10 persons comprising the Kerley Group, were unable to support this recommendation. Two members considered that STV would undermine the councillor-ward link and one member preferred the Additional Member System (AMS) to STV. The majority of the Kerley group went on to recommend a version of STV consisting of multi-member wards containing three to five members. In recognition of the larger ward sizes which would be present in sparsely populated parts of Scotland, the Working Group recommended that two members per ward would be appropriate in exceptional circumstances.

RENEWING LOCAL DEMOCRACY: THE NEXT STEPS

The White Paper Renewing Local Democracy: The Next Steps (Scottish Executive 2002) also addressed the issue of electoral reform and consulted on the recommendations of the Kerley Group. The consultation also sought responses with regard to the principles used to evaluate electoral systems and, in particular, the emphasis placed upon proportionality and the
councillor-ward link as the main determinants in influencing the Working Group's choice of electoral system. The Scottish Executive comments on the outcome of this consultation within the Policy Memorandum in the following terms:

"Of the 1,075 responses received, 890 dealt solely with the issue of electoral reform, and supported the introduction of STV. Over 700 of these responses were the result of a pre-printed postcard campaign. A further 66 responses which dealt with a number of the issues covered in the consultation paper also supported the introduction of STV" (p 4).

DEVELOPMENTS DURING THE CURRENT PARLIAMENTARY SESSION

Following the Scottish Parliament elections in 2003 the Partnership Agreement stated that the Scottish Executive would introduce:

"for the next local government elections the proportional Single Transferable Vote system of election. The multi-member wards would have either 3 or 4 members, depending on local circumstances" (Scottish Labour Party and Scottish Liberal Democrats 2003, p 46).

In July 2003, the Scottish Executive issued a draft Local Governance (Scotland) Bill (Scottish Executive 2003a) for consultation. At the same time the Scottish Executive announced the establishment of an STV Working Group¹. The Policy Memorandum describes the remit of the group as being to examine:

"the procedures necessary to facilitate council elections being held using the STV, and how multi-member wards will operate in practice" (p 3).

The membership of this group is listed in Table One.

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>David Green</td>
<td>Former Convener, Highland Council (Chair)</td>
</tr>
<tr>
<td>Leslie Evans</td>
<td>Scottish Executive</td>
</tr>
<tr>
<td>Jeff Hawkins</td>
<td>Society of Local Authority Lawyers and Administrators</td>
</tr>
<tr>
<td>Councillor Jim McCabe</td>
<td>COSLA</td>
</tr>
<tr>
<td>Dr Vicki Nash</td>
<td>Society of Local Authority Chief Executives</td>
</tr>
<tr>
<td>Billy Pollock</td>
<td>Association of Electoral Administrators</td>
</tr>
<tr>
<td>Dr Ken Ritchie</td>
<td>Electoral Reform Society</td>
</tr>
<tr>
<td>Bob Smith</td>
<td>Local Government Boundary Commission for Scotland</td>
</tr>
</tbody>
</table>

¹ In addition, two other working groups were established to consider practical issues related to the Local Governance (Scotland) Bill. These were: the Councillors’ Remuneration Progress Group and the Widening Access to Council Membership Progress Group. The role of these groups is considered later in this paper.
LOCAL GOVERNANCE (SCOTLAND) BILL

PART ONE OF THE BILL

Part One of the Local Governance (Scotland) Bill sets out the structure of the single transferable vote (STV) system proposed by the Scottish Executive. Section One of the Bill establishes that each local government ward will elect either three or four members per ward. The area of wards and the number of councillors per ward (i.e. three or four) will be determined by a Statutory Instrument, via the negative procedure, following a review of the electoral arrangements by the Local Government Boundary Commission for Scotland (LGBCS). Section Two of the Bill establishes that the single transferable vote system will be used and voters will be able to express preferences for as many candidates as are standing within a ward. However, the Bill does not require voters to express preferences for a particular number of candidates and therefore a voter could vote for just one candidate (commonly termed ‘plumping’) if the voter so wished.

Sections three to eight establish the rules underpinning the STV count. The Bill largely follows the rules used to elect local authorities in Northern Ireland. However, in contrast to Northern Ireland, the Bill places the detail of the counting rules in primary legislation whereas Northern Ireland placed the counting rules in secondary legislation (this issue is discussed further below). The counting method proposed in the Bill and as used for Northern Irish local elections is described fully on the website of the Electoral Reform Society as well as containing information on how STV elections to the Northern Ireland Assembly are conducted. The website can be accessed at: http://www.electoral-reform.org.uk/votingsystems/systems3.htm

Section 9 establishes that Scottish Ministers can make rules, via an Order, regarding the conduct of the election of councillors, the questioning of irregularities at such elections, the types of ballot papers that may or may not be transferred, and the consequence of irregularities at local government elections. Section 10 places a duty on the Local Government Boundary Commission for Scotland to review the electoral arrangements for local government areas as a result of the introduction of STV. This section of the Bill also repeals the rules or criteria which the Boundary Commission previously had to follow when conducting boundary reviews. In their place the Bill confers powers on Scottish Ministers to set the rules which the Boundary Commission should follow in establishing the boundaries of multi-member wards. These rules are to be established via a Scottish Statutory Instrument (SSI) using the affirmative procedure.

There are a wide range of variations in the systems of STV which are operational in different countries. Farrell, Mackerras and McAllister (1996) identify five main dimensions of variation in the operationalisation of STV. These are: district magnitude (number of councillors per ward); ballot paper design; the process of transferring votes; how preferences are provided by voters; and casual vacancies. Analyses of the STV system tend to highlight the balance which has to be struck between district magnitude and maintaining a size of ward or constituency which is manageable both for voters and politicians. Farrell and McAllister (2003) describe this situation in the following terms:

“In short, there is a trade-off in the use of STV. The constituency needs to be large enough to produce as proportional a result as possible (that is, to give candidates from all parties a fair chance), but it must not be so large that it...”

providing research and information services to the Scottish Parliament
makes the voters’ job of choosing between candidates impossible. It is generally accepted that the optimal size for STV constituencies is at least five seats” (p 142).

The district magnitude proposed in the Bill of three to four members per ward suggests that the trade-off contained in the Bill, as introduced, veers more towards maintenance of the councillor-ward link than proportionality. The Policy Memorandum recognises this trade-off, commenting:

“The number of councillors to be elected in each ward will be prescribed in secondary legislation. The choice of three or four councillors per ward is intended to achieve a balance between the need for a proportionate outcome and the need to ensure a link between councillor and ward. With a higher number of councillors per ward the result would be more proportional, but wards would also need to be larger, and this could have practical implications for councils and councillors, particularly in remote and rural communities” (p 4).

In terms of the method used to transfer votes, the Bill follows the Northern Ireland model, which involves the transfer of surplus preferences as a proportion of the total preferences expressed for a candidate. This is a more time-consuming, but accurate approach for transferring votes, compared to other methods used such as taking a random sample of preferences or using only the preferences expressed in the surplus package of votes transferred. With regard to the expression of preferences, the Bill does not place any restrictions on how many (or few) preferences a voter should provide. Accordingly, a voter is free to express preferences for a minimum of one or for as many candidates as are listed on the ballot paper.

Lastly, the issue of ballot paper design, and the influences this can have upon votes for a candidate, in terms of ballot paper effects and means of overcoming this such as the random distribution of names on a ballot, are not dealt with by the Bill. This is likely to be an issue which the STV Working Group will deal with. For a discussion of the various methods used to implement STV in other countries, outlining the sources of variation in the operation of STV see SPICe Briefing 03/85 (Herbert 2003).

SCOTTISH EXECUTIVE CONSULTATION ON THE DRAFT BILL

Although seeking views on the broad principle of whether to introduce STV was not a formal part of the consultation on the draft Local Governance Bill, respondents tended to be polarised either in their support for or opposition to the STV provisions in the Bill. Respondents to the consultation could broadly be divided into four main categories: local authorities, community councils, individuals and other organisations. The vast majority of local authorities opposed the introduction of STV, whilst community councils were more split on the issue with a significant proportion supporting STV although expressing some concern at the possible diminution of the councillor-ward link. Responses from other organisations were also more mixed with support for STV being expressed by a diverse range of organisations such as UNISON, Labour Campaign for Electoral Reform and the REACH Community Health project. In contrast, opposition to the change in electoral system came from a range of constituency Labour parties. Support for STV was evident from the majority of individuals responding to the consultation.

Opposition to STV tended to emphasise the importance of the councillor-ward link, the potential for there to be large ward sizes, in geographic terms, particularly in rural and island areas, that

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2 For a discussion of variations in vote transfer rules under STV see Farrell and McAllister (2003).
the system may result in ‘hung councils’ and that STV is overly complex, which may result in reduced turnout amongst voters. The quotes below provide a flavour of the objections raised to the introduction of STV.

“The view of the majority of COSLA’s member councils is that there should be no change to the status quo. The First Past the Post system provides for strong political leadership of a Council with a clear mandate to carry through the programme of measures put to the electorate. It also provides a clear member-ward link and gives a fair opportunity for independent councillors to be elected. … COSLA feels that undue account has been taken of issues of proportionality in the decision to adopt the STV system of proportional representation” (Scottish Executive 2003c, p 4).

“The council agreed previously to support the retention of the First Past the Post system and to oppose the introduction of PR into local government elections, on the basis that PR will increase the number of hung councils, thereby causing political instability within local government and reducing the openness and accountability of Scottish local government by threatening the direct link between voters and their representatives. This is an inherent strength of local politics and is valued by all constituents no matter what their political persuasion. This remains the Council’s position” (Scottish Executive 2003d, p 1).

In contrast, responses in favour of STV suggested that the system would more accurately reflect the views of voters whilst also maintaining the member-ward link and assist the representation of social groups which are currently under-represented. The quotes below provide an indication of the views expressed by organisations in favour of STV:

“UNISON Scotland believes that proportional representation (PR) and the single transferable vote (STV), in particular, would produce a result which more fairly represents the spectrum of opinion within the electorate. Proportional representation will ensure that each party, together with independents will be represented on each council in fairer proportion to the share of the votes received. This should end the council domination by single parties with minority support, and ensure that all council decisions are adequately discussed and scrutinised by all councillors” (Scottish Executive 2003e, p 3).

“STV allows for a result, which is broadly reflective of the views of the community. It is a system, which would result in most votes counting and in the views of the community being broadly reflected in the council chamber. LCER recognises the importance to local government of a strong link between the councillor and the ward s/he represents. We believe that this is still possible under STV. Multi-member wards could allow for whole communities to be included in one ward instead of the artificial break-up of communities which happens in many places under the present system” (Scottish Executive 2003f, p 2-3).

Beyond the broad issue of whether to introduce STV, a range of practical issues were highlighted with regard to the Bill. These are considered below.
**District Magnitude**

District magnitude refers to the number of councillors that are elected per ward. There was a view amongst some political parties that there should be a greater degree of flexibility in the number of councillors that are elected in each ward. The Scottish Socialist Party suggested that wards should elect 6 or 7 Councillors and commented that electing only 3 or 4 members would “restrict councillors to the largest parties in each area and pose unnecessary obstacles to the election of independent councillors” (Scottish Executive 2003g, p 2). Similarly the Scottish Green Party also expressed a preference for a greater number of councillors to be elected in each ward commenting that:

“We feel that setting the number of councillors at either three or four is too restrictive. STV is a system geared towards electing councillors to represent a local community. This restriction will result in large wards in sparsely populated areas, while sizeable towns currently electing 5 or 6 councillors will be split unnecessarily by a ward boundary. We feel that a more flexible range of 2 to 6 or perhaps even 8 councillors per ward would be more reasonable” (Scottish Executive 2003h, p 1).

In contrast, a number of respondents emphasised that district magnitude should be kept as small as possible in order to maintain the councillor-ward link, and the Scottish Labour Party commented:

“If STV is introduced it is our opinion that the method of election should be based on three member wards. If ward sizes were any larger, the Scottish Labour Party believes the ward member link would be at best tenuous” (Scottish Executive 2003i, p 1).

Particular concern was raised by local authorities representing rural and/or island areas regarding district magnitude. Concerns were raised regarding the larger wards which would be created under the proposals resulting in a larger campaigning area for independent candidates, the loss of a member-ward link and the lack of a link with natural communities. COSLA commented on the views of rural authorities as follows:

“COSLA’s rural and island authorities have consistently opposed the introduction of proportional representation, and in particular STV, for council elections, largely on the grounds that there has never been a tradition of party political representation in these areas, and that the councillor/ward link which is highly cherished would be diminished. The view of these councils is that STV would not encourage members of the public to seek election to the Council, since it requires candidates to campaign over a wider area with additional expense, and inevitably reduces the councillor/ward link. There is less likely to be interest from the public in representing large areas which do not correspond to their natural communities, especially in rural and island areas” (Scottish Executive 2003c, p 4).

A number of councils and community councils highlighted the cases of particular islands which may fail to obtain representation in multi-member wards. For example Comhairle nan Eilean Siar commented on the case of Barra in the following terms:
“There are currently three councillors representing South Uist and one councillor representing Barra. In the event that under a Single Transferable Vote system this were to become a three or four member ward it is feared that the representative from Barra could fail to be elected even if all of the Barra voters voted for that representative” (Scottish Executive 2003j, p 2).

**Boundary Review**

As noted above the Bill repeals Schedule 6 of the Local Government (Scotland) Act 1973 which set out the criteria that the Local Government Boundary Commission for Scotland (LGBCS) uses when determining ward boundaries. The Bill does not provide an alternative set of criteria. The consultation document on the Bill commented that “we would hope to obtain Royal Assent by Autumn 2004 allowing the Local Government Boundary Commission for Scotland’s review of ward boundaries to begin before the end of 2004” (Scottish Executive 2003a, p 7). Secondary legislation containing new guidelines for the LGBCS would be required to be approved by Parliament, via the affirmative procedure, before the LGBCS could begin to draw up the new boundaries. Some respondents expressed concern that these guidelines were not included in the Bill for consideration. For example, Professor John Curtice commented in his submission to the Scottish Executive consultation that:

“The repeal of the existing rules is clearly necessary as they only provide for single member districts (though it might be noted that the current principles of population equality per councillor, identifiable boundaries and respecting local ties could be expected to form part of the new rules). Under the new rules meanwhile it will be especially important to lay down the criteria which the commission will be expected to follow in determining where three member wards are created and where four member wards are established. After all, the incidence of three member and four member wards will be crucial to the degree of proportionality provided by the proposed new electoral system and this means it would certainly be inappropriate to allow the commission to determine the size of wards without any statutory guidance on this subject …. As the size of the wards are the most important feature of any STV system (because they determine its proportionality) it would seem desirable that the Scottish Executive’s proposals in this respect should be subjected to the maximum legislative scrutiny” (Scottish Executive 2003k, p 1-2).

A number of local authorities indicated that they wished to see a greater prominence given to ensuring that ward boundaries more closely reflected natural communities and placed less emphasis upon ensuring parity in terms of the number of electors per ward. In addition some councils expressed a view that consultation with local authorities should form a key component of the LGBCS consideration, and that the timetable contained in the consultation document would not provide sufficient time for consultation. Alternatively, some respondents suggested that if a large number of appeals to boundary revisions were submitted to the LGBCS, this may mean that the 2011 local government election would be a more realistic date for the first elections using STV. Lastly, a number of responses suggested that existing wards should simply be merged in order to ensure that the wards would be in place for the 2007 elections.
**Timing of Elections**

At present local government elections are held on the same day as Scottish Parliament elections following the passage of the Scottish Local Government (Elections) Act 2002 (asp 1) during the previous parliamentary session. The following SPICE papers provide background information on the provisions of the Scottish Local Government (Elections) Act 2002:

- The Timing of Local Government Elections (Berry 2001a)
- Scottish Local Government (Elections) Bill (Berry 2001b)

A number of local authorities and representative organisations noted that this would result in three different electoral systems being used on the same day and suggested that local government and Scottish Parliament elections should be held on separate days. The response of the Association of Electoral Administrators highlighted concerns in this area as follows:

> “There is concern about the practical implications of the Scottish Local Government (Elections) Act 2002 which provides for combined elections for the Scottish Parliament and local authorities. It is felt that this may lead to confusion for voters who will be asked to vote three times (twice for the Scottish Parliament and once for the local authority) using three different electoral systems. … The Scottish Branch of the Association encompasses members from Northern Ireland who have experience of operating transferable voting arrangements. In their experience where elections using crosses and numbers are combined there is a greater incidence of voters marking ballot papers invalidly. It may be that the provisions of the Scottish Local Government (Elections) Act 2002 will require to be reconsidered” (Scottish Executive 2003l, p 1).

A further argument for decoupling the elections, according to some respondents, is the demands which would be placed upon election staff in completing the counts for the two elections. COSLA commented on this issue in the following terms:

> “STV is a time consuming process which will increase the time required to conduct counts. In Northern Ireland it can take approximately one and a half days to complete the counting process for a full Council election with 30 vacancies to be filled. It would be impossible to have a manual count for the two Scottish Parliament ballot papers on the night of the election and then proceed to an STV count the next morning. If STV is introduced and there continue to be combined polls with manual counts there will be no prospect of all the processes being finalised the day after the poll. There would have to be a reasonable gap between the Parliament and Council elections with the latter starting at the earliest on the Saturday after the day of poll” (Scottish Executive 2003c, p 5).

The Scottish Executive consultation also aimed to ascertain the views of respondents with regard to the use of electronic counting, although this proposal is not contained within the Bill. In general, respondents welcomed the idea of e-counting, and indeed e-voting, for STV elections. However there was a general view that the introduction of STV and e-counting “may be too big a step to take at the one time” (Scottish Executive 2003m, p 3). Instead there was support for the piloting of e-counting, possibly in tandem with manual STV counts, which would
also provide a framework for assessing the reliability and security of the e-counting systems. A number of respondents also highlighted the Electoral Commission (2003) recommendation that:

“There should be a statutory presumption that all local elections be run as all-postal ballots unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageous for a group or groups of electors” (p.6).

**Issues Regarding Implementation**

A wide range of respondents argued that a significant programme of voter education and training for electoral staff would have to accompany the implementation of the Bill. COSLA commented on this issue as follows:

“The change to the STV system will require significant changes to the current organisation of local elections, and the count itself will be very complex. The Scottish Executive will have to undertake to commit resources to training for returning officers and election staff in the practicalities of the conduct of the election and the count. Similarly there will have to be a commitment to fund and undertake a substantial voter awareness campaign to explain the complexities of STV and the Droop quota system” (Scottish Executive 2003c, p 5).

The Financial Memorandum (FM) (included in the Explanatory Notes) indicates that the Scottish Executive estimates that the cost of a major voter awareness campaign and of training for electoral administrators will be in the region of £1.5m prior to the first STV election. It also noted that local authorities may wish to undertake local campaigns and that the length of a manual count will result in additional costs for councils. However the FM comments that:

“Local authorities have not yet undertaken detailed assessments of the possible implications for their election procedures of introducing STV, and, until they do so, it is not possible to estimate to any extent whether there will be any increase or decrease in the costs of running local government elections in future” (p 11).

In addition a number of local authorities noted that the voting template devised for people with disabilities would also require to be revised for STV elections. Lastly, a number of local authorities argued that consideration would have to be given to the level of election expenses available to candidates campaigning in multi-member wards, as a consequence of the larger geographic size of the wards concerned.

**Drafting of the Bill**

Responses to the Scottish Executive consultation highlighted a number of issues regarding the drafting of the Consultation Bill (which are also relevant to the Bill as introduced). These are summarised below.

**Detail of the STV Counting Procedure**

A couple of respondents to the consultation claimed that the Bill was overly comprehensive with regard to the rules via which an STV count is conducted. These respondents considered that the approach taken may inhibit the passing of minor changes as experience with STV develops
as such changes would require the introduction of primary legislation. Instead it was suggested that the detailed rules concerning STV would be better placed in secondary legislation as had happened in Northern Ireland. For example, Fairshare commented:

“We were surprised at the level of detail included in the draft Bill, especially with regard to the counting procedure for the single transferable vote. The inclusion of so much detail in the primary legislation is a significant departure from previous practice in all UK legislation relating to STV. We would strongly recommend that the principles of STV-PR are set out in the primary legislation (the Bill), but the details of the counting procedure are left to secondary legislation. This approach would make it easier to effect minor changes in the detailed procedures should they become necessary, for example, if computerised counting were adopted or electronic voting introduced” (Scottish Executive 2003n, p 2).

Omissions from the Bill

A number of areas where clarification was needed were highlighted by a minority of respondents (principally the Association of Electoral Administrators and the Electoral Reform Society). These included that the Bill should:

- explicitly define what constitutes a ‘valid vote’
- define how by-elections (or multiple by-elections) will be dealt with. However Section 2 of the Bill refers to ‘contested elections’ which can therefore be considered as implicitly covering all elections including by-elections
- state the process that will be put in place for undertaking re-counts.

These issues may form part of the work of the STV Working Group and subsequently may be dealt with via secondary legislation.

PART TWO OF THE BILL

Part Two of the Bill (Sections 13-19) contains the vast majority of the remaining measures in the Bill. The Partnership Agreement (Scottish Labour Party and Scottish Liberal Democrats 2003), contained commitments to address the issues dealt with in Part Two of the Bill, stating:

“We will remove unnecessary political restrictions on standing for local authority election
We will lower the age limit for local government candidates to 18
We will establish an independent remuneration committee for councillors and bring forward severance and pension arrangements for local authority councillors” (p.47-48).

In order to support the implementation of the provisions of the Bill, should it be passed, the Scottish Executive has established two Working Groups (in addition to the STV Working Group – see above) relevant to Part Two of the Bill. These are the Widening Access to Council Membership Progress Group and the Councillors Remuneration Progress Group. The remit of the Widening Access Progress Group is to:
“take forward work on making council membership more attractive to a wider cross-section of the community, including the preparation of non-statutory guidance on the definition of politically restricted posts, and make recommendations on the training, development and support given to councillors” (Scottish Executive 2003b, p 3).

The membership of the Progress Group is listed in Table Two.

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rowena Arshad</td>
<td>Director of the Centre for Education for Racial Equality in Scotland, University of Edinburgh (Chairperson)</td>
</tr>
<tr>
<td>Leslie Evans</td>
<td>Scottish Executive</td>
</tr>
<tr>
<td>Claire Judson</td>
<td>National Union of Students</td>
</tr>
<tr>
<td>Susan Love</td>
<td>Federation of Small Businesses</td>
</tr>
<tr>
<td>Councillor Corrie McChord</td>
<td>Convention of Scottish Local Authorities</td>
</tr>
<tr>
<td>Fiona Smith</td>
<td>Scottish Youth Parliament</td>
</tr>
<tr>
<td>John Wilkes</td>
<td>Equalities Co-ordinating Group</td>
</tr>
<tr>
<td>A former Councillor</td>
<td>To be announced</td>
</tr>
</tbody>
</table>

Source: Scottish Executive (2003b)

**Section 13 – Disqualification of officers, employees etc. from remaining members of a local authority**

Section 13 of the Bill provides for the repeal of section 31(1)(a) of the Local Government (Scotland) Act 1973, which required an employee (or their partner) who is a paid employee or office-holder of a local authority, to resign when that person is nominated as a candidate for election as a councillor. The effect of Section 13 is to allow an employee to stand for election, whilst still being employed by the council, but requires that person to resign from employment on the first working day after the individual is declared to be elected. If the person concerned is not elected then they may remain an employee of the council. The Bill provides that the effect of an individual’s resignation is to terminate their employment with the council with immediate effect and thereby overrides any contractual provisions they have entered into with the council.

This proposal has been the subject of considerable consultation. The McIntosh Commission consulted widely on this issue albeit in a context which suggested that councillors within a council could also be employees of the council. The McIntosh Commission considered that the views of those they had consulted expressed the view that:

“this ban precludes a substantial section of the population, and one which must include many people who have a valuable contribution to make, from council membership” (Commission on Local Government and the Scottish Parliament 1999, p 35).

The view of the McIntosh Commission on the issue was that:

“provided there are adequate measures in place to prevent senior officers and others in politically sensitive posts also becoming members, and to deal with conflicts of interest, the present categorical ban on all employees from standing for election is unnecessarily restrictive” (Commission on Local Government and the Scottish Parliament 1999, p 36).
The Scottish Executive subsequently consulted, in November 2000, on proposals to allow council employees to stand for election as councillors. The consultation document noted that earlier consultation on the McIntosh report had found that:

“Of the respondents who commented on this point a clear majority felt that the ban should be retained, although in most cases they also supported some sort of relaxation in the law. Almost all these respondents supported a relaxation whereby candidates would be allowed to retain their employment at the point they were nominated for candidacy and would only be asked to resign their posts if successful at the ballot box” (Scottish Executive 2000, Part 4, p 1-2).

The consultation document (Scottish Executive 2000) also suggested that council employees that were standing for election should be given 10 working days leave, up to and including polling day, in order to allow time for campaigning and to avoid any apparent or potential conflict of interest between council duties and political campaigning. However, subsequent Executive documents and the Bill have been silent on this issue. The Renewing Local Democracy White Paper commented that the consultation on the issue had found “widespread support” (Scottish Executive 2002, p 6) for the approach advocated by the Scottish Executive. The White Paper also stated on this issue that:

“Ministers recognise that many local government officials may well have the skills and abilities needed to become effective councillors and that, in certain parts of Scotland where the local authority is a major employer, these restrictions may artificially limit the field from which candidates for election may be drawn. It is understandable that many council employees are reluctant to seek office as a councillor when they are, in effect, being asked to gamble their job against the uncertainties of the ballot box” (p.5).

The Scottish Executive consultation on the Draft Bill elicited substantial support for the measures proposed in Section 13. For example, East Dunbartonshire Council commented as follows:

“Council supports the removal of the requirement for a local authority employee to resign at the time of nomination for election, and its replacement by an obligation that the employee should only resign if successfully elected” (Scottish Executive 2003o, p 1).

The only minor concern regarding Section 13 was raised by the Association of Electoral Administrators who commented:

“The Association welcomes the change proposed regarding disqualification, however there is a minor concern about how this may operate in practice. Where a candidate (who is an employee of the local authority) is declared elected, the Bill places an obligation on the candidate elected to resign from his / her post with the local authority by a specified date. The question asked is: what happens if the successful candidate does not resign within the timescale envisaged?” (Scottish Executive 2003l, p 3).
Section 14 – Reduction of age qualification

Section 14 of the Bill amends Section 29 of the Local Government (Scotland) Act 1973 (c 65) in order to reduce the age at which an individual can be nominated, elected and hold office as a councillor from 21 to 18. Again, this issue has been widely consulted upon.

The Renewing Local Democracy Working Group (2000) commented on the issue of age qualification for standing in local government elections and made the following observations:

“We consider that the current age limit for standing as a councillor – 21 years of age – disenfranchises younger people. We consider that the effect of this age limit may be to make politics a more distant and unconnected issue for young people. We recommend that the age for standing for election should be brought into line with voting age – currently 18. We note that such consistency between the voting age and the age for standing is the norm in most European countries” (p 37).

The Renewing Local Democracy White Paper (Scottish Executive 2002) noted Kerley’s recommendation in this area whilst also recognising that a number of issues had been highlighted with regard to the lack of involvement of young people in local politics. The White Paper suggested that the discrepancy between the voting age and the age for standing as a councillor may not be a major factor inhibiting the involvement of young people in local politics. Nevertheless the Scottish Executive stated that:

“Ministers are, however, keen to remove what is essentially an artificial barrier to their involvement, and are committed to amending the existing legislation, when a suitable legislative opportunity arises” (p 5).

In general there was support, amongst respondents to the Scottish Executive consultation, for the reduction in the age qualification for standing as a councillor to 18. Some respondents, notably from trade unions, wished to see eligible age for candidature reduced to 16. In contrast, a number of respondents, principally from community councils, wanted to see the current age restrictions retained primarily due to concerns that Councillors elected at age 18 would lack the necessary ‘life skills’ and experience to perform effectively as a councillor. For example, Penicuik and District Community Council commented:

“We see no benefit in a reduction in the minimum age for councillors. While we are very much in favour of a greater involvement by young people in the political process we would question whether someone barely two years out of full-time education could have the experience necessary to carry out all the duties of a councillor effectively” (Scottish Executive 2003p, p 1).
Section 15 - Eligibility for membership: politically restricted posts

Section 15 of the Bill repeals sub-section 2(2) of the Local Government and Housing Act 1989 (c 42). This sub-section classified posts within a local authority as being ‘politically restricted posts’ if the salary level associated with the post was greater than a given amount (or for a part-time post if the salary exceeded the given amount on a pro rata basis).

The Scottish Executive (2000) consultation on political restrictions on council employees made the following comments on this issue:

“The political sensitivity of a given post is determined by the nature of its duties rather than the salary it receives, which serves only as a rough proxy for political sensitivity. … the salary threshold is an unfair way to determine whether a council employee should be politically restricted. The current threshold covers a wide range of posts, many of which will not encompass duties that could be considered political in nature. We also note the absence of any compelling rationale for deciding where a new threshold might be set. We have therefore decided to abolish the use of the salary threshold, making the nature of each post the sole determinant of political restriction” (part 4, p.4).

The Scottish Executive (2002) made a similar commitment in the Renewing Local Democracy White Paper. As noted above, the Widening Access to Council Membership Progress Group, established by the Scottish Executive, intends to prepare non-statutory guidance on the definition of politically restricted posts. Responses to the Scottish Executive consultation on the draft Bill broadly supported the proposal to remove the salary threshold for politically restricted posts. However, some local authorities indicated that the definition of politically restricted posts required further clarity. Section 2(3)(a) of the Local Government and Housing Act 1989 (c 42) refers to a post within a local authority as being politically restricted where the duties of the post involve:

“giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented”.

Edinburgh City Council, whilst welcoming the removal of the salary threshold, commented on this issue that:

“An officer clerking a committee meeting will often be involved in advising on issues relating to procedure and conduct of the meeting. In a politically charged situation, the perceived objectivity and integrity of that officer’s advice could be crucial. Under the Council’s political management arrangements, the officers who service Scrutiny Panels could be regarded as giving ‘advice’ and, ‘on a regular basis’. Many officers also attend meetings of Local Development Committees and respond to questions. Is this ‘advice’ and does regular attendance count as ‘on a regular basis’? The intention is still to prepare non-statutory guidance and this task has been allocated to the Widening Access to Council Membership Progress Group. The Council therefore re-submits the case for amendment of primary legislation” (Scottish Executive 2003q, p 3).
Section 16 – Prohibitions on appointment of councillors and ex-councillors to local authority posts

Section 67 of the Local Government (Scotland) Act 1973 (c 67) disqualifies a person who is a member of a local authority, or who has ceased to be a councillor, from being appointed to any paid office within the local authority (other than the posts of convener or depute convener). Section 29 of the Local Governance Bill provides for the amendment of the provisions of the 1973 Act to provide that former councillors are disqualified for a period of 3 months from being appointed to a non politically restricted post, and for a period of 12 months from being appointed to a politically restricted post. In addition, where a former councillor has, 12 months prior to ceasing as a councillor, participated in the appointment of persons to politically restricted posts then the former councillor is disqualified for 12 months from appointment to any local authority post (either politically restricted or not). Current councillors remain barred from obtaining any post within a local authority.

The Renewing Local Democracy White Paper (Scottish Executive 2002) noted that a number of respondents to the previous Scottish Executive (2000) consultation on politically restricted posts had suggested that council employees who had had to resign their employment in order to become a councillor should be able to return to employment with the council upon leaving office. The Scottish Executive (2002) made the following remarks with regard to this issue in the White Paper:

“There is a danger that people may question whether councillors can scrutinise the work of a council effectively and objectively if they might be employed by the council in the relatively near future. It might therefore be difficult simply to lift this restriction. At the same time, Ministers are aware that, particularly in areas where the council is a major employer, this restriction may cause real difficulties for retiring councillors seeking employment. There may therefore be a case for amending the existing legislation to alter the period over which former councillors are ineligible for employment by the council” (p 6).

Local authority responses to the draft Bill provided a variety of comments on this issue. Some local authorities suggested that there should be no change to the provisions of the 1973 Act. For example, Edinburgh City Council stated:

“The Council did not support any relaxation in the restrictions which apply to former Councillors who wish to seek employment with the Council. It is accepted that, in areas where the Council is a major employer, the restriction on retiring councillors taking up employment with the Council within one year of ceasing to be a councillor may cause difficulties. However, it is also in these same areas where local unemployment levels generate the keenest competition for Council employment. It is recognised that, in terms of ‘removing barriers’ in encouraging individuals to stand for election, it will be a disincentive to local government employees (e.g. teachers) if they are not allowed to return to employment for one year. However, the test of public perception, which is prominent throughout the new Councillors’ Code of Conduct, is equally relevant here. If a former councillor is given employment by the Council on which she or he served, within a relatively short period after leaving, there is clear scope for public perception that the post had not been obtained on merit but because of the former councillor’s ‘connections’. There could be further concern, if the former councillor had received a severance payment. The rationale for the partial relaxation proposed in Section 16 of the draft Bill is unconvincing” (Scottish Executive 2003q, p 3).

providing research and information services to the Scottish Parliament
Whilst a number of local authorities supported the provisions in the draft Bill, a number wanted to see the restrictions placed on former councillors seeking employment relaxed further. For example, Glasgow City Council argued for the restriction on those involved in the appointments process to politically appointed posts to be reduced to three months. Aberdeenshire Council considered that the wording of the Bill should be changed to prohibit only former councillors being appointed to a post within a local authority by a person in whose appointment the former councillor had previously participated. Lastly, Angus Council commented:

“In addition, the Council has concerns with regard to the period during which former councillors are unable to take up employment with the council after their period of service comes to an end. If this is to be retained at 12 months for councillors who have been involved in the appointment of council staff, this is, in the case of smaller councils like Angus, likely to involve all councillors in the context of their involvement in appointment panels” (Scottish Executive 2003r, p 3).

The COSLA position, in response to the Scottish Executive consultation, on Section 16 was as follows:

“We would seek further clarification as to the reasoning behind the proposal to retain the current twelve-month period for politically restricted posts and to councillors who have been involved in the appointment of council staff. This latter restriction could affect all councillors in councils where senior staff appointments are ratified at meetings of full Council” (Scottish Executive 2003c, p 2).

Section 17 – Pay, pensions etc. of councillors

Section 17 enables Scottish Ministers to make provision, by regulations, for the payment by local authorities of remuneration, allowances and expenses to councillors. The Bill also provides for Ministers to make remuneration via the provision of pensions for local councillors. Regulations relating to pensions can provide that pensions be provided through local authorities making contributions, or through local authorities utilising their own pension schemes or enabling councillors to contribute to existing pension schemes. Scottish Ministers, when making regulations regarding remuneration are required, under Section 17(4), to consider any information provided to them by the Scottish Local Authorities Remuneration Committee (see below – Section 19). Regulations made under this Section will follow the negative procedure. The Bill does not place any requirement upon the Scottish Local Authorities Remuneration Committee or Scottish Ministers to consult more widely, for example with local authorities, when making such regulations.

The McIntosh Commission considered the issue of remuneration and recommended that a pay and conditions package should be drawn up for councillors covering issues such as superannuation, childcare provision and allowances. The Commission suggested that in drawing up this package of measures:

“the normal expectation should be that council membership will be compatible with full-time employment or another full-time occupation, and that councils themselves will provide members with adequate support services, it would seem logical to retain the concept of a basic allowance, which does not purport
to be a salary but offers some reasonable recompense for what is in fact voluntary service” (Commission on Local Government and the Scottish Parliament, p 33).

The Commission also recommended that the current system of Special Responsibility Allowances (SRAs) be abolished and replaced with salaries commensurate with the responsibilities of the members of the councils with the heaviest workload. McIntosh also commented that only a limited proportion of councillors within a council should be entitled to higher levels of salary whilst also highlighting the role for employers (including the private sector) to assist employees to undertake public service through assistance such as the provision of career breaks.

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The Kerley Working Group considered the issue of remuneration in considerable detail. The Working Group highlighted a number of weaknesses with the current system of remuneration. These were:

"the basic allowance is set at a low level and, by reference to the responsibilities attracting an SRA, relates to relatively routine responsibilities;
the responsibilities attracting SRAs are very wide and, similarly, the level of SRA payments is very wide: this tends to lead to a complicated scheme which is poorly understood by the public;
there is inconsistency in the application of SRAs across councils – ranging from councils where one third of councillors receive an SRA, to others where all councillors receive an SRA” (Renewing Local Democracy Working Group, p 41).

Kerley set out a number of criteria which the Working Group considered should inform a remuneration system for councillors. The criteria were that the level of remuneration provided should make being a councillor financially viable, reflect the responsibilities that councillors are expected to carry out (including those with additional responsibilities) and, be fair and transparent. The Working Group then went on to make a number of detailed recommendations including that the salary paid to a councillor (not including additional responsibilities) should be £12,000 per annum.

The Renewing Local Democracy White Paper (Scottish Executive 2002) outlined a number of alternatives for dealing with the issue, including improving the allowances system, a salary scheme and the option of a combined salary and allowances scheme. Scottish Ministers committed in the White Paper “to establishing some form of pension provision for councillors” (p 18). Two alternative mechanisms were proposed. Firstly, for pension provision to be delivered in the salaries paid to councillors (in line with the Kerley proposals) and secondly, to give councillors access to the Local Government Pension Scheme.

For a discussion of the debates surrounding the issue of remuneration for councillors see SPICe Briefing 02/56 (Berry 2002).

The Policy Memorandum to the Bill provides the following rationale for the measures proposed:

“Available evidence suggests that councillors are not primarily motivated by the level and type of remuneration available to them, but there is no real way of knowing whether the current system of remuneration discourages some people from standing for election. It is clear however, that many councillors are finding
it increasingly difficult to combine their role as a councillor with other activities, such as, employment, childcare or caring responsibilities etc. This may be a factor in some people’s decision not to seek election. Research suggests that it is certainly a factor in some councillors’ decision to stand down from office, and it is possible that it is also a factor in preventing some in taking on more responsibility” (p.8)

The Financial Memorandum (FM) to the Bill (part of the Explanatory Notes) does not provide a costing for the remuneration proposals in the Bill in order not to inhibit the deliberations of the Scottish Local Authorities Remuneration Committee (see below). It notes that a new remuneration system “may have financial implications for local authorities” (p 12). However the FM notes that Kerley estimated that local authorities spent in excess of £14m on allowances for councillors and that this figure is likely to have increased since 2000. The FM then says:

“Local authorities would only therefore have to find any additional costs resulting from the introduction of a new system of basic remuneration for councillors over and above the current costs of councillors’ allowances. Indeed, depending on the recommendations of the Scottish Local Authorities’ Remuneration Committee, decisions taken in light of them, and how these are applied to individual councils’ circumstances, it is at least theoretically possible that the new arrangement could cost particular local authorities less than the current arrangements” (p 12).

With regard to pensions the FM notes that the costs of pension schemes could be “considerable” (p 12) and that it is not currently possible to assess the cost “in advance of the Scottish Local Authorities Remuneration Committee making recommendations” (p 12). In order to aid the implementation of the Bill the Scottish Executive has established a Councillors’ Remuneration Progress Group. The remit for the group is to:

“consider options for, and the associated costs of, a new system of remuneration for councillors. The Group will also consider the role which councillors fulfil, the part-time commitment required of the majority of councillors, and the salary which this should attract. The Group will also consider the practical implications of giving councillors access to a pension scheme and the options for a one-off severance scheme intended to recompense long serving councillors who will not be standing at the next election, the remit of the Remuneration Committee which the Local Governance (Scotland) Bill will establish and the skills and experience needed by its members” (Scottish Executive 2003b, p 2).

The membership of the Councillors’ Remuneration Progress Group is listed in Table Three.

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lord Sewel</td>
<td>Senior Vice-Principal, University of Aberdeen (Chairperson)</td>
</tr>
<tr>
<td>Tom Aitchison</td>
<td>Society of Local Authority Chief Executives (SOLACE)</td>
</tr>
<tr>
<td>Councillor Sam Campbell</td>
<td>National Association of Councillors</td>
</tr>
<tr>
<td>Leslie Evans</td>
<td>Scottish Executive</td>
</tr>
<tr>
<td>Ralph Garden</td>
<td>Scottish Public Pensions Agency</td>
</tr>
<tr>
<td>Professor Michael Horsman</td>
<td>Former Director, Office of Manpower Economics</td>
</tr>
<tr>
<td>Graeme Millar</td>
<td>Scottish Consumer Council</td>
</tr>
<tr>
<td>Councillor Pat Watters</td>
<td>Convention of Scottish Local Authorities (COSLA)</td>
</tr>
</tbody>
</table>

Source: Scottish Executive 2003b
In effect the provisions of the Bill are enabling in relation to remuneration and pensions with the detailed provisions to be determined by the Scottish Local Authorities Remuneration Committee (as proposed within the Bill) following on from the work of the Councillors’ Remuneration Progress Group.

Local authorities were the principal respondents to the Scottish Executive consultation on this issue. Whilst the majority of respondents, including local authorities, supported the general thrust of the Scottish Executive’s approach to remuneration and pensions a wide range of detailed concerns were raised many of which will fall within the remit of the proposed Scottish Local Authorities Remuneration Committee as opposed to the more general approach outlined in the Bill. COSLA welcomed the proposals to abolish the current system of basic and special responsibility allowances and to introduce a pension scheme to allow future service to count for pension purposes. COSLA did however express concern that:

“there could not be a ‘one size fits all’ national scheme since individual councils should retain discretion to determine the number of councillors eligible for additional payments in recognition of the diverse nature of councils in Scotland, their differences in size, political composition and political management structure” (Scottish Executive 2003c, p 2).

COSLA suggested that there should be an increased basic salary for all councillors with an additional element for councillors with additional responsibilities. COSLA also suggested that Councillors’ pay should be linked to MSP salaries and that Councillors could have an entitlement to join the MSPs’ pension scheme. A number of local authorities, as well as COSLA, criticised the remit of the proposed Councillors Remuneration Progress Group in relation to the question of whether a councillor’s workload is equivalent to a part-time or full-time post. In particular, a number of local authorities highlighted research commissioned by the Scottish Executive which found:

“On average, councillors spend 36 hours per week undertaking council work. Leaders, provosts and convenors spend more time than other elected members, recording around 50 hours per week time commitment” (Vestri and Fitzpatrick 2000, p 1).

Accordingly local authorities stated that remuneration for councillors should be determined on a basis which considers their role as being a full-time occupation. In addition, a number of local authorities considered that previous service as a councillor as well as future service should count towards pension provision. Lastly, a number of councils suggested that consideration should be given to providing incentives to employers to assist employees considering becoming councillors (in line with the McIntosh Commission report). For example, Comhairle nan Eilean Siar commented:

“It is requested that consideration be given to including incentives to employers to allow their employees time off for council duties. The Comhairle is of the view that people in employment are discouraged from standing for election where their employer could not reasonably be expected to cover for their necessary absences on Council business without some form of financial provision to provide adequate cover for such absences. It is suggested that such financial incentives be based on the number of days / hours that a councillor would require to be absent from his employment” (Scottish Executive 2003j, p 3).
In addition to local authority responses a common theme to emerge from some community council submissions to the Scottish Executive consultation was that any remuneration scheme devised for councillors should be performance related. For example, Musselburgh and Inveresk Community Council commented:

“Whilst we are not against the principle of paying councillors for their services, this is an area that needs to be treated with caution …. Councillors should ideally bring with them some experience as working members of the community they serve and thus have a better awareness of the impact of their policies. Pay structures should also be performance related in some way to reflect the fact that some councillors are more committed and involved than others” (Scottish Executive 2003s, p 3).

Section 18 – Severance payments for councillors

Section 18 of the Bill provides Scottish Ministers with powers to make regulations concerning severance payments for councillors who decide not to stand for re-election prior to the next local government elections, and qualify under the terms of any subsequent criteria contained within regulations issued by Scottish Ministers under the powers conferred by the Section. Section 18(2) stipulates that the regulations may make provision with regard to the amount of money severance payments will be worth, the methods underpinning the calculation of severance payments, and the procedure for applying and considering eligibility for such payments. Section 18(3) requires that where Scottish Ministers issue regulations relating to severance payments that they consider any information, advice or recommendations provided by the Scottish Local Authorities Remuneration Committee. The Bill does not require Scottish Ministers to consult any other bodies, such as local authorities, in devising these regulations. Section 18(4) provides that a councillor who has received a severance payment will not be eligible to stand for election (or hold office as a councillor) at any future local government election. Regulations made under Section 18(1) will be subject to the negative procedure.

The Renewing Local Democracy White Paper (Scottish Executive 2002) noted that a number of groups had suggested that a severance pay scheme should be introduced in recognition of the service provided by long-standing councillors. The Scottish Executive rejected the proposal in the White Paper for the following reasons:

“Ministers recognise that many long-serving councillors have been inadequately rewarded for the work they have done and that the allowances they have received will not have enabled them to make appropriate pension provision. They are also aware that a number of councils would welcome the introduction of severance pay scheme. Ministers are, however, reluctant to see large numbers of experienced councillors standing down at one time. Nor would they wish to enter into an open-ended arrangement which could be very expensive for the taxpayer. Ministers are not yet persuaded that in the current climate there would be public support for any such scheme” (p 19).

The Policy Memorandum makes the following comments with regard to the rationale for Section 18:

“The Scottish Executive also recognises that a number of councillors have represented their communities for many years. Councillors do not receive any

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form of pension and long-serving councillors may not have accrued rights in other pension schemes. The Bill therefore enables Ministers to make regulations relating to the payment of severance to councillors who cease to serve as a councillor, subject to meeting any criteria which may be set out in secondary legislation. The Scottish Executive has emphasised that it intends to offer severance on a one-off basis at the time of the next elections and prior to the introduction of pension arrangements for councillors” (p 7).

As with the remuneration and pension component to the Bill, the severance arrangements were generally welcomed by respondents to the Scottish Executive consultation. However concerns were expressed at the detail of the scheme. COSLA expressed concern that the scheme was a one-off scheme commenting that:

“The scheme is meant to compensate councillors who have not been able to benefit from a pension scheme. It may still be valid to offer a severance package in the run up to the local government election following the next one in order to compensate councillors who, by that time will only have been in a pension scheme for four years” (Scottish Executive 2003c, p 3).

Reflecting the concerns which the Scottish Executive expressed in the Renewing Local Democracy White Paper, some local authorities expressed concern that a one-off scheme would result in local authorities losing a significant number of experienced members at one election. A number of local authorities and non local government organisations, such as Unison, suggested that severance payments should be provided on the same basis as the scheme for MSPs. In other words, severance payments should be provided to councillors (and not just for one election) who lose their seats regardless of whether the councillor has agreed to stand down before the election or lost their seat at the local government election.

The Financial Memorandum (FM) (part of the Explanatory Notes) notes that councillors do not currently receive severance payments and that the costs of the policy could be considerable for local authorities. The Scottish Executive suggests that it is not possible to predict the costs involved without knowing the detail of the schemes. The detail of the schemes will be established by the proposed Scottish Local Authorities Remuneration Committee. The FM also notes that:

“In the case of severance pay in particular, the costs of a future scheme will also depend upon the number of councillors who pursue this option” (p 13).

**Section 19 – The Scottish Local Authorities Remuneration Committee**

Section 19 provides for the establishment of the Scottish Local Authorities Remuneration Committee. Sections 19(2) and 19(3) sets out that the role of the Committee will be to provide Scottish Ministers with information, advice and/or recommendations in relation to remuneration (including pensions), allowances, the reimbursement of expenses, and severance payments to councillors. Section 19(4) sets out that the Committee, when making recommendations, should make reference to criteria specified by Scottish Ministers. Section 19(5) requires the Committee to comply with any directions given to it by Scottish Ministers in the discharge of its functions. Section 19(6) introduces a Schedule to the Bill which establishes the constitution of the Committee. The Committee is to consist of 7 members who will be appointed by Scottish Ministers. Scottish Ministers will consult ‘such association of local authorities’ and other bodies prior to appointing members to the Committee. In effect, the Scottish Local Authorities
Remuneration Committee (SLARC) will establish the detail of the policies regarding remuneration, pensions, allowances, expenses and severance payments to councillors.

The Scottish Executive consultation paper on the Bill proposed that, should the Bill receive Royal Assent by Autumn 2004, the Scottish Local Authorities Remuneration Committee would be established before the end of 2004 and report on its findings by the end of 2005, with subsequent secondary legislation being put in place between the beginning of 2006 to Spring 2007.

Responses to the Scottish Executive consultation generally supported the introduction of the Remuneration Committee. Significant concerns were however expressed regarding the independence of the Committee and the remit of the Councillors’ Remuneration Progress Group concerning whether a councillor’s role is part-time or full-time. There were also concerns that severance schemes will apply only to the next local authority election. For example, COSLA commented that:

“COSLA welcomes the establishment of a Working Group to bring forward options for the new remuneration scheme and will participate fully in the work of the group. However, we are concerned that Ministers have tried to pre-judge and influence the findings of the group by suggesting that it should, firstly, have regard in their consideration of the remuneration package to the ‘predominantly part-time nature of the Councillor’s role’, and secondly, to the fact that the severance arrangement should be a one-off scheme, available to cover the period before pension arrangements can be introduced and only in the run up to the next local government elections” (Scottish Executive 2003c, p 3).

In a similar vein Glasgow City Council commented on the role of the Remuneration Progress Group as follows:

The independence of the Committee (from the Scottish Executive as well as local government interests) will be crucial to its credibility among councillors. Whilst the Council believes the Councillors’ Remuneration Progress Group will undertake its tasks in a considered way, the strong steer from Ministers to have regard to the ‘predominantly part-time nature of the Councillor’s role’ and the Scottish Executive’s indication that the severance arrangement should be a one-off scheme only, raises some questions as to how ‘independent’ the Group will be in practice” (Scottish Executive 2003t, p 3).

Local authorities also indicated that they wished to be consulted not just on the membership of the Remuneration Committee but also on the findings of the committee. COSLA asked for clarification on what the position will be if Ministers disagree with the recommendations of the Remuneration Committee. A number of local authorities highlighted that the timetable for the Remuneration Committee (as set out in the Scottish Executive consultation on the Bill). COSLA commented on this issue as follows:

“Given that this issue has been considered in depth by the Renewing Local Democracy Working Group and in two subsequent consultation exercises it can be argued that the Scottish Executive’s proposals constitute an unnecessary delay. There is no need to maintain a link between the issue of councillor’s remuneration and the proposals to change the electoral system and introduce legislative changes to remove barriers and widen access to council membership. The timescale for introducing these changes should be de-
coupled. The timescale for establishing and implementing a new remuneration scheme for councillors could and should be shortened. For example, why is the Remuneration Committee to be given one year to consider and make recommendations on issues which are the subject of the deliberations of the Remuneration Working Group?” (Scottish Executive 2003c, p 3).

The Financial Memorandum (part of the Explanatory Notes) states that:

“Given that the Committee will be independent, and that the Scottish Executive has no way of knowing how the Committee will choose to conduct its work, how often the Committee will need to meet, whether the Commission will wish to employ staff or whether the Committee will wish to commission research on councillors remuneration, it is difficult to predict its running costs. The Scottish Executive estimates that up to £100k should be allowed for the running costs of the Committee during the first period of its Committee’s existence, although it would expect these costs to be considerably less. It is estimated that the Committee will take around 15 months to carry out its initial work. Thereafter running costs will very much depend upon the frequency with which it is asked to consider further remuneration issues” (p 11).

Financial Memorandum – General Issues

The Financial Memorandum (FM) does not attempt to predict or estimate the costs likely to be associated with introducing a new system of remuneration, particularly with regard to introducing pensions and severance payments. The FM comments that:

“The detail of a new system of remuneration (including pensions and severance payments) will, however, have to be set out in secondary legislation which will come before the Parliament before the schemes are introduced. More detailed information about the costs of the various schemes can therefore be made available at that time. The Scottish Executive recognises that local authorities will be concerned about the potential costs to them of implementing the provisions in the Bill which relate to STV and councillors’ remuneration. While it is too early at this stage to estimate the possible costs involved, the Scottish Executive will wish to consider the detail of those costs in due course and how they should be met” (p 13).

The secondary legislation which would be placed before Parliament relating to remuneration and severance payments (Sections 17 and 18) are proposed within the Bill to proceed via the negative procedure.

PART THREE

The main provisions of Part Three are contained in Section 20 which relate to election expenses. The Section amends the Political Parties, Elections and Referendums Act 2000 (c 41) to extend the meaning of ‘election expenses’ and ‘candidate’ contained within this Act, and currently used for Scottish Parliament elections, to local government elections. Section 20 also repeals section 82(4) of the Representation of the People Act 1983 (c 2) thereby removing the requirement for a declaration of election expenses to be made before a Justice of the Peace or the proper officer of a local authority. The Policy Memorandum provides the following comments on the section:
“This change is in line with the arrangements already made for Parliamentary elections. The need for both changes has been raised by electoral administrators and political parties” (p 12).

Responses to the Scottish Executive consultation on this issue were supportive of this proposal.

EQUAL OPPORTUNITIES

Some respondents to the Scottish Executive consultation on the draft Bill suggested that the introduction of STV may assist in under-represented groups (such as women, ethnic minorities) becoming councillors. A couple of respondents intimated that the framework adopted to implement STV could be structured to assist this process. For example the Transport and General Workers Union (T&G) suggested that the Bill:

“should propose an STV system involving 2-member wards with one female and one male councillor to be elected in each” (Scottish Executive 2003u, p 2).

With regard to the aim of widening access to council membership a number of respondents argued that childcare provision for councillors should also form part of the consideration of the Scottish Local Authorities Remuneration Committee. For instance the T&G commented:

“Given our support for wider democratic participation and the equality agenda, we are concerned that the proposals fail to take up the previously made suggestions regarding the provision of childcare arrangements” (Scottish Executive 2003u, p 3).

The Policy Memorandum makes the following comments with regard to the Equal Opportunities implications of the Bill:

“Women, younger people, people with disabilities and minority ethnics are currently under-represented in Scotland’s councils. The provisions relating to the political restrictions on council employees, the electoral system and councillors’ remuneration will be important factors in encouraging a wider cross-section of the community to consider standing for election as a councillor. Of course, there are many other ways in which people from groups currently under-represented in councils can be encouraged to seek election. As noted above, these are being examined by the Widening Access to Council Membership Progress Group which will make recommendations to the Scottish Ministers around September 2004” (p 11).
 SOURCES


Scottish Executive. (2003u) Draft Local Governance (Scotland) Bill: Consultation. Response by Transport and General Workers Union. [Unpublished]


1. In order to assist the Committee in its consideration of the Financial Memorandum of the Local Governance (Scotland) Bill, written submissions have been received from the following organisations:

   National Association of Councillors
   Convention of Scottish Local Authorities (COSLA)

2. The Committee is invited to consider these submissions.

Jane Sutherland
December 2003
SUBMISSION FROM THE NATIONAL ASSOCIATION OF COUNCILLORS

Further to your letter of 27 November, please find my comments noted below.

Part 1
Local Government Elections

Electoral Wards
The NAC is opposed to having electoral wards which shall be represented by 3 or 4 councillors thereby losing the ward/member link. This would lead to cherry-picking by councillors of residents enquiries regarding service provision and of responsibilities to the electorate. There would be a diminution of accountability.

Single Transferable Vote
That the voter is being asked to vote for his/her first preference should be sufficient. The NAC favours the first-past-the-post system.

The system of second, third or more preferences is cumbersome and unlike the first-past-the-post system loses the benefit of one councillor accountable to the electorate.

The fact that 2 different systems of proportional representation is being proposed to be placed before the electorate on the same day seems even more confusing for the electorate.

Part 2
Membership of Local Authorities etc
The NAC welcomes the change which allows a local authority employee to resign on election rather than on nomination as a candidate in order that they can retain their employment should they be unsuccessful as a candidate.

We note the reduction in the age qualification for a councillor is reduced from 21 to 18.

The NAC welcomes the reduction from 12 months to 3 months restriction for those involved in the appointment to a politically restricted post.

Pay, Pensions etc of Councillors
On pay, the NAC is clear that all councillors should receive a basic salary and that the salary of an MSP be used for the purposes of comparison as indeed an MP’s salary is used for that of an MSP. Increases in salary should also be linked to that of an MSP. This link between MSP and councillor salary should be at the very least 50% of an MSP’s salary.

In order that the essential element of the government’s quest to renew local democracy is met, and to ensure that young people, women and ethnic minorities are able to stand for election in the future, there is an overwhelming need to provide a living wage for all to provide equal representation.

With this salary it is essential that all employee rights eg maternity leave etc be respected.
As with MSPs, those councillors with increased responsibility should be given an allowance which reflects this responsibility.

*Pensions*
On pensions, the NAC welcomes the Bill’s acceptance of a form of pension for councillors and that local authorities will make contributions towards the provision of such pensions.

The NAC favours the MSP pension scheme rather than the local government scheme as councillors, like MSPs, are accountable to the electorate and are required to put their names forward for election every 4 years and thereby may or may not find themselves in employment. Recent evidence shows clearly that councillors are in full time occupation as councillors owing to the unitary authority nature of local government in Scotland.

*Severance Payment for Councillors*
The NAC has been a strong advocate of severance payments for councillors and welcome this provision within the Bill. Councillors who have served their electorate for many years at present receive no pension or severance when they retire.

A severance payment which rewards length of service is preferred and we would draw the Scottish Ministers attention to that of Wales and the Republic of Ireland. The exception that the NAC would make to the Welsh provision is that councillors must have been in office for 16 years. This leads to the anomaly that many councillors are elected in their late forties or fifties and will not benefit from either a pension or a severance payment.

That a severance payment is a one-off occurrence is not the experience in the Republic of Ireland where, having legislated for a one-off severance payment, this legislation was altered to be an ongoing commitment. The reason for doing so being the positive aspect of widening access for those who wish to serve the electorate.

*The Scottish Local Authorities Remuneration Committee*
The NAC does not see the need for such a body should the Scottish Parliament link councillors’ salaries proportionately to that of MSPs.

Should the committee be formed, we are concerned by 19 (5) which states it will “comply with any directives given to it by the Scottish Ministers as to the discharge of its functions”. This tends to indicate that the committee will not be free to make independent decisions on salary.

The NAC being a non-party political body does not wish to comment further on areas which may offer different responses depending on the views of individual political parties. However the Association is keen to assist and participate in any consultative process of the Scottish Executive.

Councillor James Kelly
Regional Development Officer - Scotland
SUBMISSION FROM COSLA

Introduction
COSLA agrees with the overall objective of the Bill to strengthen local democracy and support its main provisions of establishing a new system of remuneration for councillors and widening access to council membership. However, we oppose the STV provisions in the Bill, as you will be aware.

The most immediate point to emphasise is that the Financial Memorandum concerns enabling legislation. We agree with the Executive that much work is needed on secondary legislation and the good practice guidance that will follow before costs can be properly estimated. COSLA is anxious that any additional costs of the legislation should be estimated at a realistic level, and fully funded by the Executive. What we therefore intend to do in our evidence is to flag up areas where costs could arise, from activities both included, and not included, in the Financial Memorandum.

Single Transferable Vote
It is unreasonable to suggest that we cannot estimate “.. to any extent whether there will be any increase or decrease in the costs of running local government elections in the future” (section 61 of the Financial Memorandum). There are clear costs pressures that can be anticipated, both for local government and the Scottish Executive. These are largely upwards.

Starting with the need for an extensive voter education / awareness campaign (para 59 Financial Memorandum). The awareness campaign around the Additional Member System for the Scottish Parliament has had limited success and experience from the recent Northern Ireland Assembly elections shows that the rate of spoilt votes has increased. An inadequately resourced campaign could result in a lower turn and a significant proportion of people being disenfranchised.

Awareness campaigns therefore will need to be well resourced, last for longer, and are a recurrent cost to be repeated in the lead up to future elections. While not able to say whether the £1.5m is adequate, we suggest the Executive should base its costs on those of the longer sustained awareness campaigns run intended to encourage behaviour change. COSLA agrees that local work will be needed, but it will need to be of a higher order than that ordinarily carried out, and will require additional funding.

The success of an STV awareness campaign and the vote itself will be limited if the election is combined with the Scottish Parliament one as there will be three voting systems running at the same time. Separating or de-coupling the timing of the Parliamentary election from local government is a way of dealing with this, but would increase costs by removing all the shared arrangements for running the election.

Keeping elections on a Thursday will inevitably mean that the wage costs for the count will increase as the count spills over into the weekend. There are possible savings to be achieved by shifting the elections to a Tuesday or Wednesday poll with counts on the following two days. But, it must be borne in mind that a weekend poll was favoured by a quarter of the non-voters in the recent ICM poll commissioned by the Electoral Commission.
Ranking, in order of preference, an average of perhaps 15 candidates will take considerably longer than simply putting a cross next to one name. The Association of Electoral Administrators (AEA) believes that many polling stations are already operating at capacity. The increase in time needed to cast votes will require extra polling stations or operating alternatives, again with associated costs to be funded by the Executive.

An STV count will take between 1½ to 2 days from a current level of 2½ to 4½ hours on the night of the poll. This tripling in time will not only cost the additional hours but may add to the difficulties in finding staff to do the work. We also anticipate the need for additional staff involved in and supervising the count, with additional training costs. The training costs will be recurrent.

**Remuneration**

It seems unhelpful for the Executive to suggest that the aim of the Bill can be met while reducing the level of financial support to councillors (para 63 of Financial Memorandum). Immediately the Financial Memorandum goes on to recognise the additional costs of severance and pensions, neither of which are currently paid for. COSLA believes that severance pay (section 18 of the Bill) should be available to all those councillors who fail to get re-elected even if they haven’t chosen to stand down, and that it should be available beyond the first round of elections after enactment of the Bill. It would make the arrangements for councillors similar to those for MSPs and MPs who have Resettlement Grants if they do not stand or fail to be re-elected. While this is something for the Remuneration Working Group and Committee to consider it seems reasonable to anticipate.

**Widening Access**

The Widening Access Progress Group has three main duties. Although the political restrictions guidance doesn’t appear to have any financial implications, the Executive appears to assume that neither do the other two areas (to take forward work on making council membership more attractive to a wider cross-section of the community and to make recommendations on the training, development and support given to councillors).

While it is recognised in the background papers that councillors with child and other care responsibilities could legitimately expect recompense for the work they do (para 25 & 26 of the Policy Memorandum), there is no specific commitment to funding carer costs.

Good practice examples of widening access are available – but they incur costs too. An awareness campaign “Get a (Public) Life” run by the DTI’s Women’s Unit and supported by the LGA in 2002 would be an example. If run in Scotland this sort of awareness campaign would probably be of a similar magnitude to the voter awareness training. To be effective it would need to be run twice, once to tie in with the party political processes and then before the formal nomination process for independents. It is also likely to be a recurrent cost.

A more ‘professional’ role for a councillor will have implications for the costs of member support services. As part of the strengthening local democracy push there is an increasing expectation that councillors would be more available to their
constituents. This gives rise to local office accommodation and staffing costs. It is also possible that with wards increasing three or four fold in size this could have a considerable impact on travelling costs for councillors in rural wards.

Lastly, and of general importance is the increasing training that people in such a role should expect to be offered. This can cover media training, how to use computer based council systems, the management of meetings, or just generally increasing their familiarity with the subjects being handled and undertaking courses of study relevant to their areas of interest as a councillor.

Anil Gupta
Policy Manager
COSLA
Finance Committee
Developing Budget Scrutiny

1. This short paper sets out some issues for discussion regarding the budget process. For several members this will have been their first budget exercise, and it is helpful to have a stock-taking exercise at this stage.

2. It now looks likely that Scottish Ministers will agree to further changes to the process, to assist the Committee in scrutinising the budget choices by increasing the transparency of information. We would expect to see a revised AER format which includes performance reporting against targets; and which would set out an assessment of the financial prospects for the 2004 Spending Review.

3. In addition, the Committee has recommended the inclusion of a rationale for the budget choices made in BABS and the Draft Budget; clear responses from Ministers to Committees’ recommendations; and better information on outputs.

4. The Committee now has an opportunity to review its experience of the budget process. Suggested topics for consideration are set out below. No doubt members will have other concerns. This year’s reforms will give Parliament a real opportunity to influence the budget choices, which in the context of tightening budgets, is necessary to ensure Scotland’s priorities are reflected in the Spending Review 2004.

   (a) Do members wish to investigate any aspect of the budget prior to the publication of the AER?

   (b) Are members content with the range of witnesses consulted, or does the Committee wish to vary this next year?

   (c) Are there any gaps in the information provided to the Committee from its officials which would strengthen its consideration of these matters?

   (d) Do members wish to commission research to inform the Spending Review? For example, independent assessments of progress in financing the strategic priorities of closing the opportunity gap and sustainable development could be produced.

   (e) Should the Committee be asking the Subject Committees to appraise key trends and issues within their functional responsibilities prior to the Spending Review?

5. Finally, there are three months between the publication of the Budget Bill and the AER, and the Committee could use this time to review the Executive’s targets, and ask whether these are the most suitable for addressing the cross-cutting themes in the budget. A trends paper will be produced in the New Year, covering
budgets and outputs since 1999, to begin the Spending Review Process. Additionally, the Committee may wish to organise a half-day conference to look at how the Executive can present its spending plans in a more accountable and transparent manner, as discussed at its meeting on 11 November. At that meeting various issues were highlighted that the Committee felt it should address. Specifically, the need for time series data, clearer information on the balance between capital and current expenditure, effective and transparent performance measurement, rationalising the number of targets and improving scrutiny of block allocations to health boards and local authorities.

6. It was felt that of those issues, the number of targets and block allocations were more contentious, and it may be that the Committee wants to discuss them further at the abovementioned conference. It is suggested that such a conference could perhaps take place at the beginning of March and that in addition to members of FIAG, the Committee could invite someone who would be able to speak on block allocations and an individual who has been involved with the Balancing of Funding Review to discuss targets.

7. The Committee is invited to consider the questions and suggestions in this paper.

Arthur Midwinter
Budget Adviser to the Committee

Susan Duffy
Clerk to the Committee